

**GLOUCESTER CITY COUNCIL**

**COMMITTEE** : **PLANNING**

**DATE** : **7<sup>TH</sup> JULY 2015**

**ADDRESS/LOCATION** : **80 LONGFORD LANE, GLOUCESTER, GL2  
9HA**

**APPLICATION NO. & WARD** : **15/00330/FUL  
LONGLEVENS**

**EXPIRY DATE** : **5 MAY 2015**

**APPLICANT** : **MR M BOURNE**

**PROPOSAL** : **CHANGE OF USE OF EXISTING  
OUTBUILDING TO A SEPARATE  
DWELLING. (RESUBMISSION OF  
APPLICATION REFUSED PLANNING  
PERMISSION UNDER APPLICATION  
NO.13/00875/FUL)**

**REPORT BY** : **JON SUTCLIFFE**

**NO. OF APPENDICES/  
OBJECTIONS** : **1. SITE LOCATION PLAN  
2. 2014 APPEAL DECISION**

**1.0 SITE DESCRIPTION AND PROPOSAL**

- 1.1 The application site is located on the northern side of Longford Lane, approximately 40 metres to the west of its junction with Innsworth Lane.
- 1.2 No.80 Longford Lane comprises a detached 2 storey dwelling house set away from its boundaries and back from the road, behind an 'open plan' area, which provides a parking area to serve no.80. The property is enclosed to the side by a brick wall to its western edge, adjacent to which is a separate driveway which provides access to the rear of the property and an outbuilding which has been constructed.
- 1.3 To the immediate rear of the house is a garden area which is enclosed by a brick wall with close boarded fencing set between piers to the upper parts. This enclosed garden area provides an amenity space to the original dwelling house and measures approximately 19 metres in depth from the back wall of the house and is 9 metres in width.
- 1.4 Beyond this enclosed garden area is a pitched roof single storey outbuilding which has been built and is the subject of this application.

- 1.5 This application seeks planning permission for the change of use of the outbuilding to a self contained dwelling comprising two bedrooms, a bathroom, kitchen/diner and living room. The proposed conversion would require minimal works to the external appearance of the building, which would principally comprise the replacement of the garage door to the front (southern) elevation with a window and main entrance door, the blocking up of the existing entrance door on the western elevation, and the formation of partitions inside.
- 1.6 The building would benefit from its own separate vehicular access between nos.80 and 82 Longford Lane and a turning area in front of the building. To the rear the proposal would provide a private garden area which would be approximately 11.1 metres deep. The access to the site, and the site boundaries, are formed of wooden fencing up to a height of 2 metres. There is also some vegetation climbing that fencing.
- 1.7 The access road between numbers 80 and 82 is surfaced with stone chippings, with two parallel lines of paving flags running down to provide a firmer surface for vehicle tyres to run on. The turning area at the south of the building is currently also stone chippings but the application indicates this would receive a paved surface.
- 1.8 The application has been brought to Committee at the discretion of the Development Control Manager. Previous proposals on this site were considered by Committee.

## **2.0 RELEVANT PLANNING HISTORY**

- 2.1 The application site has been subject to several planning applications which are summarised below:

14/01306/FUL - Change of use of existing outbuilding to a separate dwelling – Application returned; planning authority declined to determine it.

13/00875/FUL - Change of use of existing outbuilding to self-contained residential dwelling. Application refused, and appeal against that decision dismissed.

12/00512/LAW - Outbuilding to rear – Grant Lawful Development Certificate (not implemented)

11/01118/FUL - Alterations to existing vehicular access and construction of a front boundary wall – Grant

11/00646/FUL - Two storey extension to rear and single storey extension to front – Grant

11/00392/LAW - Extension of driveway and hard standing with detached double garage and outbuilding (garden room, hobby room, gym, bathroom) to rear - Refused Lawful Development Certificate

10/00932/FUL - Erection of a detached chalet style dwelling with associated vehicular access and parking - Refused - Appeal Dismissed

10/00004/FUL - Erection of bungalow with detached garage and provision of parking facilities in association with No.80 Longford Lane – Refused

### **3.0 PLANNING POLICIES**

3.1 The statutory development plan for Gloucester remains the 1983 City of Gloucester Local Plan. Regard is also had to the policies contained within the 2002 Revised Deposit Draft Local Plan which was subject to two comprehensive periods of public consultation and adopted by the Council for development control purposes. The National Planning Policy Framework and Guidance has been published and is also a material consideration.

In the Framework, Paragraph 17, Bullet point 4 states:

*'Within the overarching roles that the planning system ought to play, a set of core land-use planning principles should underpin both plan-making and decision-taking. These 12 principles are that planning should...:*

*always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings;...*

Paragraph 53 of the Framework states that:

*'Local planning authorities should consider the case for setting out policies to resist inappropriate development of residential gardens, for example where development would cause harm to the local area'.*

Paragraph 56 advises that

*"The Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people."*

Paragraph 58 advises that

*"Local and neighbourhood plans should develop robust and comprehensive policies that set out the quality of development that will be expected for the area. Such policies should be based on stated objectives for the future of the area and an understanding and evaluation of its defining characteristics. Planning policies and decisions should aim to ensure that developments:*

- *will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;*

- *establish a strong sense of place, using streetscapes and buildings to create attractive and comfortable places to live, work and visit;*
- *optimise the potential of the site to accommodate development, create and sustain an appropriate mix of uses (including incorporation of green and other public space as part of developments) and support local facilities and transport networks;*
- *respond to local character and history, and reflect the identity of local surroundings and materials, while not preventing or discouraging appropriate innovation;*
- *create safe and accessible environments where crime and disorder, and the fear of crime, do not undermine quality of life or community cohesion; and*
- *are visually attractive as a result of good architecture and appropriate landscaping”*

3.2 For the purposes of making decisions, the National Planning Policy Framework sets out that, policies in a Local Plan should not be considered out of date where they were adopted prior to the publication of the National Planning Policy Framework. In these circumstances due weight should be given to relevant policies in existing plans according to their degree of consistency with the National Planning Policy Framework.

3.3 The policies within the 1983 and the 2002 Local Plan remain therefore a material consideration where they are consistent with the National Planning Policy Framework.

3.4 From the Second Stage Deposit Plan the following policies are the most relevant:

H.4 (Housing proposals on unallocated sites); The development of previously used sites and buildings within the built-up area of the city for residential purposes, will be permitted provided that:

1. The site is not allocated or protected by a Policy of this Plan for other purposes;
2. The scale of the development or its location does not threaten the development priorities of the Plan (see Strategy Policy ST.12);
3. The development will provide an acceptable environment for future residents; and
4. The development would not have an unacceptable impact on the amenities of adjoining dwellings or highway safety.

H.13 (Sub-division of Plots for Infill Development): The sub-division of plots for the construction of additional dwellings will be permitted provided that:

1. the proposed development would not have an unacceptable effect on the character of the locality, the appearance of the street scene, or the amenities enjoyed by the occupiers of neighbouring dwellings,
2. adequate off-street parking and access arrangements can be provided for both the existing and proposed dwellings, and
3. the proposed development does not prejudice the potential for comprehensive development of adjacent land where this appropriate.

BE.21 (Safeguarding of Amenity): Planning permission will not be granted for any new building, extension or change of use that would unreasonably affect the amenity of existing residents or adjoining occupiers.

TR.31 Highway Safety: Planning permission will be granted for development that deals satisfactorily with road safety issues.

- 3.5 In terms of the emerging local plan, the Council has prepared a Joint Core Strategy with Cheltenham and Tewkesbury Councils which was submitted to the Planning Inspectorate on 20<sup>th</sup> November 2014. Policies in the Submission Joint Core Strategy have been prepared in the context of the NPPF and are a material consideration. The weight to be attached to them is limited by the fact that the Plan has not yet been the subject of independent scrutiny and do not have development plan status. In addition to the Joint Core Strategy, the Council is preparing its local City Plan which is taking forward the policy framework contained within the City Council's Local Development Framework Documents which reached Preferred Options stage in 2006.
- 3.6 On adoption, the Joint Core Strategy and City Plan will provide a revised planning policy framework for the Council. In the interim period, weight can be attached to relevant policies in the emerging plans according to
- The stage of preparation of the emerging plan
  - The extent to which there are unresolved objections to relevant policies; and
  - The degree of consistency of the relevant policies in the emerging plan to the policies in the National Planning Policy Framework.
- 3.7 All policies can be viewed at the relevant website address:- Gloucester Local Plan policies – [www.gloucester.gov.uk/planning](http://www.gloucester.gov.uk/planning); and Department of Community and Local Government planning policies - [www.communities.gov.uk/planningandbuilding/planning/](http://www.communities.gov.uk/planningandbuilding/planning/).

#### **4.0 CONSULTATIONS**

- 4.1 Environmental Protection were consulted on this application, and have advised that they are not in a position to recommend approval of the application. They have considered the noise report submitted by the applicant, which concludes that noise from the proposal would not cause demonstrable

harm. However, Environmental Protection point out that the report omits relevant noise sources; categorises vehicle noise in a different manner than would be expected; and has used parameters for noise monitoring and modeling which may be misleading or erroneous.

## **5.0 PUBLICITY AND REPRESENTATIONS**

5.1 The application has been publicised through notifying neighbouring properties by letter. Seven representations have been received, of which six raise objections to the proposal, and one is in support. The main points raised in these representations are summarised below.

### Comments in support

- Housing is much needed in the area
- The building already exists and requires minimal alteration
- Additional noise will not be a problem

### Comments in opposition

- The circumstances have not changed since the appeal decision
- Increased traffic on Innsworth Lane means tranquillity of rear gardens is more valued
- Proximity of the building to other rear gardens
- Impacts on privacy
- Impact of noise from motor vehicles
- Quality of life and living conditions of immediate neighbouring properties would be adversely affected
- The proposed changes are superficial and make an insignificant difference
- Screening itself has an adverse effect in terms of overshadowing and overbearing effect
- Vegetation is deciduous so in winter there is a loss of privacy
- Neighbouring gardens and windows overlooked by windows in the property
- Adverse effects on enjoyment of gardens
- Emergency services would be unable to use the driveway
- Driveway is not wide enough for vehicles to pass so can lead to vehicles obstructing the pavement or reversing onto the road
- Adverse impact on the spacious character of the area
- Property is already being used as a dwelling

5.2 In addition, ward councillor Kathy Williams has written to object to the proposal. The main points raised are summarised below.

- Not suitable as an independent dwelling
- Impact on amenity space of neighbouring properties
- Longford Lane is narrow and has narrow paths so there are safety concerns
- Parking issues and impacts
- Potential precedent for similar developments

- 5.3 The full content of all correspondence on this application can be inspected at Herbert Warehouse, The Docks, Gloucester, or via the following link, prior to the Committee meeting:

<http://planningdocs.gloucester.gov.uk/default.aspx?custref=15/00330/FUL>

## **6.0 OFFICER OPINION**

- 6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 provides that where regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts, the determination must be made in accordance with the plan unless material considerations indicate otherwise.
- 6.2 This application is a resubmission of a previous application for the same development (13/00875/FUL) that was refused by Planning Committee, and a subsequent appeal was then dismissed by an Inspector. The applicant did then submit an application in 2014 (14/01306/FUL), but the Council declined to determine that application using powers under Section 70A of the Act. The current application is accompanied by Advice from Counsel which sets out that as the application contains further information and amendments to address the reasons for the appeal being dismissed the application should be considered. This application is therefore in front of Committee to be determined.
- 6.3 The principle changes to the application are to relocate the main access door into a different elevation of the building; and to pave surface the vehicle turning area in front of the building. The applicant has submitted additional information in terms of a noise assessment which concludes noise impacts identified by the Inspector would not be significant. This will be discussed further later in this report. The application also sets out the presence of low-level lighting along the site access, activated by movement sensors, and an analysis of car headlight beam settings to demonstrate that light would not have an adverse effect on neighbours. The drawings submitted with the application do not show a roofed canopy that has been erected to 'square-off' the southern elevation of the building over the existing garage entrance (and proposed new entrance door to the building). Revised drawings showing this element have been requested.
- 6.4 This report will begin by considering the potential impacts of the development. It will then outline the findings of the Inspector in the most recent appeal decision. It will go on to consider the effects and impacts of the proposed changes to the development which form part of this application.

### Potential impacts of the development

- 6.5 While it is acknowledged that in some circumstances outbuildings can be occupied for example as an annexe it is considered that this level of occupation and association with the principal dwelling house would result in a

significantly lesser level of activity than a self contained dwelling, particularly as in this instance where the change of use would result in a substantial 2 bedroom dwelling with a comparable residential floor area to the dwelling previously dismissed at appeal.

- 6.6 Planning permission for a chalet bungalow at the site was refused in November 2010. This was the subject of an appeal which was subsequently dismissed. While the current outbuilding is now in place and is single storey in height and approximately 1.9 metres lower to the highest part of the roof than the previously proposed dwelling. I consider the assessment and conclusions of the Inspector to be pertinent in the consideration of this application, particularly in her assessment of the impacts of a dwelling at the site upon the character of the area and the amenities of the occupiers of neighbouring properties.
- 6.7 In considering the appeal for a dwelling at the site the Inspector discusses the impacts of a 'fall back' position comprising the construction of an outbuilding (which has now been constructed and is the subject of this application) and clearly differentiates the impact associated with a 'permitted development' outbuilding to that of a self contained dwelling concluding that *'Ancillary structures could be built over one half of the appeal garden without the need for planning permission. In visual terms this would reduce the open character of the garden but these structures would be no higher than 4m and would be, by definition, be in low key ancillary use...'* it is therefore inferred that the use of a building at the site as a dwelling would be unacceptably intensive.
- 6.8 Similarly the unacceptable impacts of a new 'back land' dwelling and associated 'intensification' were discussed at another recent appeal for an 'infill dwelling' at no.1 Tuffley Lane, Gloucester. In this instance the inspector was presented with a 'fallback position' of an outbuilding (which was granted a lawful development certificate - but had not, unlike in this instance been constructed). That outbuilding comprised a building of the same footprint as the appeal dwelling. The Inspector drew a clear difference between a building which was permitted and was used in conjunction with the main dwelling house and a separate dwelling such as is being proposed in this case. The inspector concluded that *'...while a building intermittently used in conjunction with the main house and sharing the garden of that house might not have an unacceptable effect on the character of the area, a self contained dwelling would appear cramped and thus be unacceptable'*.
- 6.9 This decision echoed an Inspector's assessment for a new dwelling to the rear of no.45 Tewkesbury Road where the appellant presented a 'fall-back' of an outbuilding with a greater footprint than the dwelling which was the subject of that appeal. The Inspector concluded that an outbuilding *'...would not bring with it any of the change resulting from additional domestic activity and ... on balance, it would have a less detrimental effect than would the proposed development'*.
- 6.10 It is considered that the change of use of the outbuilding to a self-contained dwelling, by its nature, would introduce a significant intensification of this



tranquil back garden area as a result of the increased comings and goings and general activity from future occupiers. Paragraph 16 of the Inspectors report for the dwelling to the rear of no.80 elaborated further on the negative impacts of a new/additional dwelling (over and above that associated with a single household) and concluded that: *'Cars and service vans, as well as the future occupiers and their visitors on foot, would be likely to pass 82 at close quarters to the side boundary, near to parts of the house and garden where relative peace and quiet is currently found. The increased disturbance from the noise and activity on the driveway and in the turning area would be especially intrusive at night. I therefore conclude that the living conditions of the occupiers of this property would be unacceptably harmed'*.

- 6.11 The Inspector continues at Paragraph 17 *'...I have taken into account that a drive and parking area could be provided further into the site at present, without the benefit of planning permission, but in reality visitors' cars, service vehicles and even vehicles used by the occupiers of 80 would still be likely to be parked on the front garden, so the impact of this possible arrangement would be less than from the comings and goings of a separate dwelling'*.
- 6.12 The narrowness of the driveway between no.80 and 82 as well as the brick boundary wall and flank walls to the dwellings are likely to create a 'canyon effect' with noise reflecting and spilling beyond the site boundaries. It is therefore considered that the movement of residents, visitors and service vehicles will still be apparent within the otherwise quiet back garden area, particularly when considering the length of the driveway which extends along the side garden to no.82 and in close proximity to that property.
- 6.13 It is also noted that the turning area in front of the outbuilding is laid out with gravel which itself is likely to generate significant noise from vehicles manoeuvring as well as pedestrian access to the property if the surface was to stay as gravel/stone chippings, This application seeks to surface this area and this will be assessed later in this report.
- 6.14 The applicant contends that the building is 'in situ' and the change of use would not result in any impacts upon the character of the area. While it is acknowledged that there are numerous (albeit significantly smaller) outbuildings and garages within the area. The current building has a garage door facing down the access track towards the street and as a result has a similar appearance to other garages within the area and therefore does not in itself appear significantly out of keeping.
- 6.15 The current application proposes the installation of a window and main entrance door in place of this garage door, forming a more domestic appearance to the building which would appear alien in this back garden area. Reference is made later in this report to the reasons for relocation of the proposed entrance door and its impact on the character of the area. It is however considered that the use of the building as a separate self contained dwelling would be at odds with and detrimental to the mature and traditional character of the area.

## The findings of the Inspector

- 6.16 On 16 July 2014 an Inspector dismissed the appeal against the Council's refusal of application 13/00875/FUL, following a hearing into the case. He concluded that:  
*"Despite my findings in relation to character and appearance, the proposal would cause harm to the living conditions of the occupants of neighbouring properties, which I consider demonstrably outweighs the benefits of the proposal. Having regard to all other relevant matters raised, I conclude that the appeal should be dismissed."*

### Effects and impacts of the proposed changes

- 6.17 The applicant considers that information submitted with this new application overcomes the reasons the Inspector gave for dismissing the appeal. I will now go on to consider this issue.
- 6.18 The first thing to note from the quote in Para 6.16 above is that the appeal Inspector decided that the proposal *"would not result in any harm to the character and appearance of the area, as it now stands..."*. Obviously, assessing any impact on character of an area is a subjective test. The Inspector had been referred to other appeal decisions involving similar developments in the locality, but in considering that appeal on its merits he chose to reach the above conclusion. On the basis of this point therefore the applicant has sought to provide information to address the points where the Inspector found harm and conflict with Policy. Consideration of these 'amenity' issues will be found later in this report.
- 6.19 In seeking to address the impact of noise from persons using the entrance to the building (which was on the western elevation), the applicant now proposes to relocate the entrance door to the southern elevation, where the garage entrance currently exists. While it is likely that the new location of the door will reduce noise impacts on residents to the west of the site, it is my view that the further 'domestication' of the outbuilding by having a 'front door' on the southern elevation, in full view of the street and public viewpoints, has an additional impact over and above that which was considered by the Inspector. In addition, the Council has, since the Hearing into this matter, received a later appeal decision relating to a proposal for a dwelling on land to the rear of nearby 26 Innsworth Lane. The Inspector there considered the proposal would have material harm to the character and appearance of the area. While it is fully understood that each case has to be considered on its individual merits, this recent appeal decision does appear to support the Council's consistent position with regard to the current application site. I consider therefore that the proposal will cause material harm to the character and appearance of this area, and consequently is contrary to the Framework and to Policy H.13 of the Local Plan.
- 6.20 A matter that the Inspector for this Longford Lane appeal did decide was unacceptable was harm to the living conditions of the occupants of neighbouring properties. His report identified this harm as principally being

from intrusion from vehicle headlights accessing and turning within the application site; and noise disturbance from the opening and closing of car doors, stereos and the engine noise of vehicles themselves. I will go on to consider noise issues but firstly will refer to light pollution.

- 6.21 The applicant is accompanied by an analysis of car headlight beam angles and the distances to neighbouring properties. It is also noted that low-level, in fact almost ground-level lights have been installed along the access driveway, which are apparently operated only by movement sensors so are only illuminated when a vehicle or person moves along the access. The application states that this would mean vehicles would not need to use headlights at all and so *“without the need for headlights the potential for intrusion on neighbouring amenity in this regard is removed”*. It has to be noted however that it is simply not possible to be certain that no headlights would be turned on, particularly on vehicles arriving at the site in hours of darkness.
- 6.22 It is also noted that the boundary with the neighbouring property (82) is formed by a 2 metre high timber fence. While the fence does appear to have occasional small gaps between pieces of timber, it is considered unlikely that a significant degree of light pollution would be likely to occur through that fence. As such, it is felt unlikely that the impact of light from the low-level lights would be likely to have a significant detrimental impact on the amenity of residents at that property.
- 6.23 The site boundary on the eastern side of the building is less substantial, and residents have suggested it is less effective as a screen in winter months. The applicant provides calculations of headlight angles, and makes suggestions about the locations within the site which cars would utilise. Given that Para 6.21 above sets out the applicant’s view that headlights would not be used at all along the access to the property, it is perhaps unlikely that cars entering the site with headlights illuminated on Longford Lane would then turn them off on entering the access, but then turn them on again in order to turn in front of the building (which does not appear to be illuminated as the access is). The calculations used by the applicant in terms of likely proximity to site boundaries are not robust, and utilise imperial measurements. As such it is not considered that the information provided is not sufficient to be certain that impacts from light pollution can be dismissed. Therefore the proposal is contrary to the Framework and to Policies H.4 and BE.21 of the Local Plan.
- 6.23 Moving now to noise issues, the applicant has provided an Environmental Noise Report which concludes that *“The proposal is considered acceptable in relation to environmental noise emission. On this basis, the noise emission levels are considered such that the proposed development does not cause demonstrable harm in terms of noise.”*
- 6.24 The views of Environmental Protection are such that this conclusion is not accepted. As summarised in Section 4 above, it is considered that the report omits relevant noise sources; categorises vehicle noise in a different manner than would be expected; and has used parameters for noise monitoring and modeling which may be misleading or erroneous. As such, it is considered

that the applicant has failed to provide sufficient information to enable the Council to properly consider whether the amenity impacts identified by the Inspector at the appeal can be overcome. As such the proposal is contrary to the Framework, and to Policies H.4 and BE.21 of the Local Plan.

## CONCLUSION

6.25 For the reasons set out above, it is considered that the proposed change of use is unacceptable and contrary to Paragraphs 17, 53, 56 and 58 of the National Planning Policy Framework; Policies H.4, H.13 and BE.21 of the Second Deposit City of Gloucester Local Plan (2002). Therefore it is recommended that planning permission is refused.

## 7.0 RECOMMENDATIONS OF THE DEVELOPMENT CONTROL MANAGER

That, planning permission is refused for the following reason:

### Reason for Refusal

The subdivision of the site and creation of a separate dwelling unit would represent an unacceptable and inappropriate 'tandem', back-land layout that would be wholly unrelated to the existing pattern and character of residential development in the locality. Furthermore, the proposed change of use would result in an unacceptable intensification of this quiet suburban back garden area, in close proximity to adjoining properties and private gardens which would result in a serious loss of amenity to the occupiers of the neighbouring properties. The proposal is therefore contrary to Paragraphs 17, 53, 56 and 58 of the National Planning Policy Framework; Policies H.4, H.13 and BE.21 of the Second Deposit City of Gloucester Local Plan (2002).

### Note

#### Statement of Positive and Proactive Engagement

In accordance with the requirements of the NPPF the Local Planning Authority has sought to determine the application in a positive and proactive manner by offering pre-application advice, publishing guidance to assist the applicant, and publishing to the council's website relevant information received during the consideration of the application thus enabling the applicant to be kept informed as to how the case was proceeding.

Decision: .....

Notes: .....

.....

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Person to contact:

Jon Sutcliffe (Tel: 396783.)

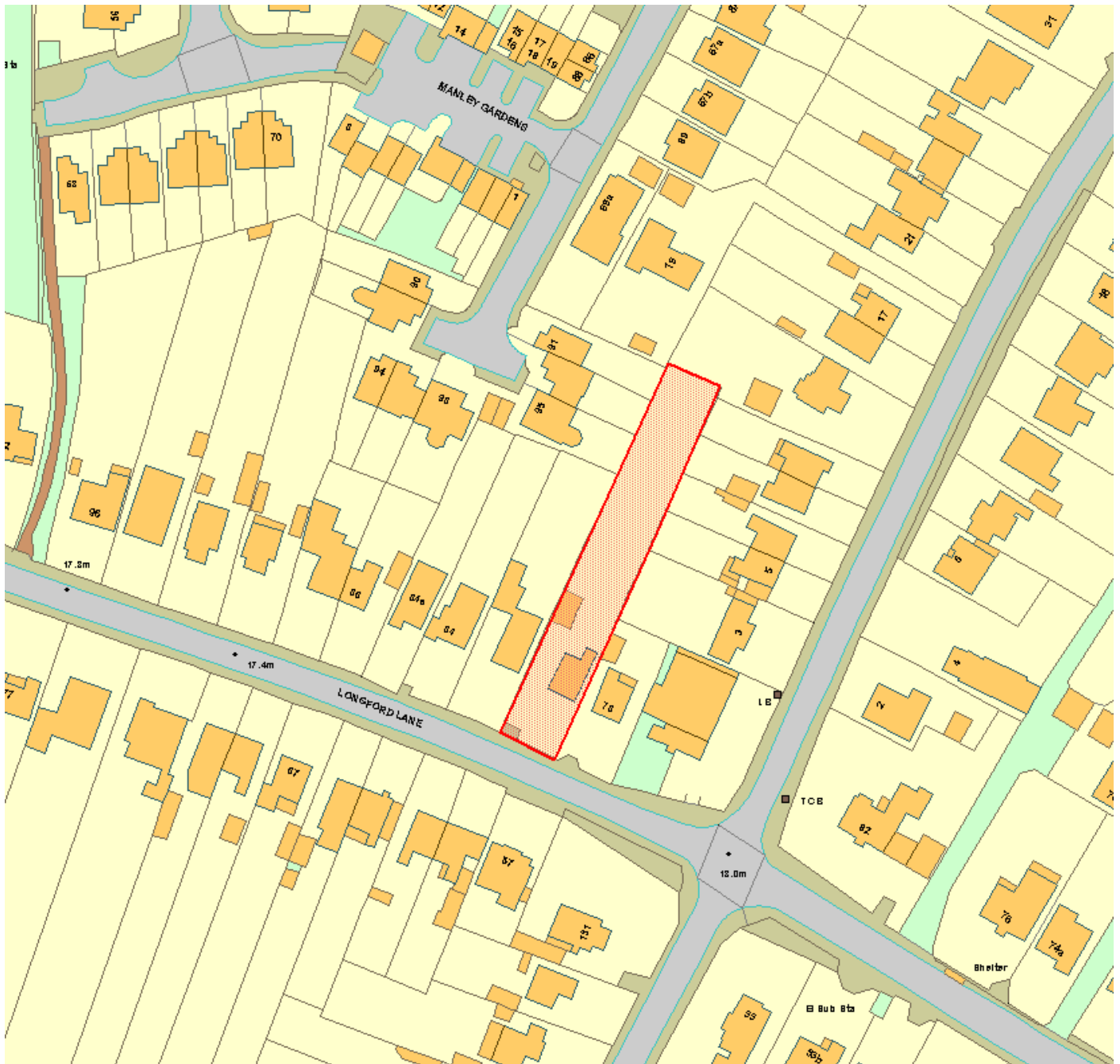
15/00330/FUL

80 Longford Lane

Gloucester

GL2 9HA

Planning Committee 07.07.2015



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## Appeal Decision

Hearing held on 10 June 2014

Site visit made on 10 June 2014

**by Jonathan Manning BSc (Hons) MA MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 16 July 2014**

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**Appeal Ref: APP/U1620/A/14/2216266**  
**80 Longford Lane, Gloucester, GL2 9HA**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr M Bourne against the decision of Gloucester City Council.
  - The application Ref 13/00875/FUL, dated 19 August 2013, was refused by notice dated 4 October 2013.
  - The development proposed is change of use of existing outbuilding to residential dwelling.
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### Decision

1. The appeal is dismissed.

### Application for costs

2. At the Hearing an application for costs was made by Gloucester City Council against Mr M Bourne. This application is the subject of a separate Decision.

### Procedural Matters

3. The appeal site has a planning history which includes a previous appeal (APP/U1620/A/10/2141874, dated 30 March 2011) against a decision for the erection of detached dwelling to the rear of 80 Longford Lane. The appeal concerned a relatively similar proposal to that subject of this appeal and I have considered the previous Inspector's findings and decision based primarily upon the grounds of the proposal's effect on the living conditions of the occupants of neighbouring properties and on the character and appearance of the area. Whilst the nature of the proposed development is similar to the previous proposal, circumstances on the appeal site have changed, whereby the appeal site now accommodates a large outbuilding which is the subject of this appeal and a separate driveway that serves the outbuilding. I have therefore given the previous Inspector's findings and decision moderate weight.
4. The Councils decision notice makes reference to Policy A.4(a) of the Gloucester Local Plan (1983), which remains the statutory development plan. However, Policy A.4(a) is not saved and the Council set out at the hearing that it was included in error, therefore I have afforded it no weight. The Council has also referred to Policies H.13 and BE.21 of the Second Deposit City of Gloucester Local Plan (2002) (the LP), which has been adopted by the Council for development control purposes. The previous Inspector and the Inspector of a nearby appeal at No 90 Longford Lane (APP/U1620/A/13/2197991, dated 17

October 2013), with the latter being post publication of the National Planning Policy Framework (the Framework), both afforded the policies considerable weight. I consider that Policies H.13 and BE.21 are broadly consistent with the Framework and I have therefore afforded the policies considerable weight. I acknowledge the other appeal decisions provided by the appellant, where a different view on the weight to be attached to these policies were taken. However, these were all some time ago, before the more recent appeals referred to above.

5. The appellant has set out that the Council has behaved unreasonably when declining to determine a previous application on the appeal site, undertaking pre-application discussions and determining the planning application subject of this appeal. However, such matters are not for me to consider as part of this appeal.

### **Main Issues**

6. The main issues of the appeal are the effect of the proposal on the living conditions of the occupants of neighbouring properties and the effect of the proposal on the character and appearance of the area.

### **Reasons**

#### *Living conditions*

7. The appeal site currently forms part of the rear garden of 80 Longford Lane and accommodates a substantial single storey outbuilding and a separate driveway that have both been constructed under permitted development rights. The area surrounding the appeal site is made up of the rear gardens of neighbouring properties. The appeal site shares common boundaries with 82 Longford Lane, six properties in Innsworth Lane and three properties in Little Normans. I observed that this creates a relatively peaceful and quiet environment around the appeal site.
8. The outbuilding is in ancillary use to the host dwelling and I observed that it is currently being used for storage and accommodates a games room. The separate driveway is also used by the appellant to park vehicles at the rear of No 80. The proposal would result in the change of use of the building to a self-contained 2 bedroom dwelling. The Council acknowledge that the outbuilding meets the provisions of Schedule 2, Part 1, Class E, of the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2008. Given the presence of the ancillary outbuilding and the separate driveway, which the Council do not contest is unlawful, there is a fallback position. It is evident that the ancillary use of the outbuilding and separate driveway would continue should this appeal fail. Therefore, I afford the fallback position considerable weight in the determination of the appeal.
9. Whilst I afford the fallback position considerable weight in the planning balance, given that the outbuilding is currently in ancillary use incidental to the host property there would be an intensification of the use of the building and the separate driveway from that which currently exists. The appellant maintains that any increase in noise and disturbance would not be significant. I accept that the outbuilding in theory could be used as an annex and occupied separately from the host dwelling by an elderly relative or a carer, however,



- there would still be a close relationship with the host dwelling and would generate less comings and goings than a separately occupied dwelling.
10. I am also mindful that the previous Inspector concluded that a 1.5 storey chalet style dwelling and its separate driveway that were both set in a very similar location within the appeal site was unacceptable and would have caused harm to the living conditions of the occupants of No 82 Longford Lane, 3 Innsworth Lane and 95 Little Normans in terms of noise and disturbance.
  11. The separate driveway on the appeal site runs in very close proximity to the side elevation of No 82. The property has a first floor window on its side elevation and two first floor windows at the rear that look out over the private driveway. Additional vehicles (including service vehicles) from that currently experienced, as well as potential future occupiers of the building and their visitors on foot, would pass No 82 at close quarters to the side boundary, near to parts of the house, rear patio and garden, which currently enjoys relative peace and quiet. I also consider that No 82 would be subject to additional noise and disturbance from the turning/parking area, especially at night where the headlights of vehicles would be particularly intrusive.
  12. The appellant maintains that the driveway and turning/parking area could be used by the occupants in a similar manner to which it would be used by the proposal. However, I am not persuaded by this argument and I concur with the Council that the rear turning/parking area is a significantly greater distance from No 80 than the parking area located in the front garden of the property, which would consistently present itself as a more desirable place to park. I am also mindful that the previous Inspector when considering the possibility of this arrangement concluded that *'...in reality visitors' cars, service vehicles and even vehicles used by the occupiers of 80 would still be likely to be parked on the front garden, so the impact of this possible arrangement would be less than from the comings and goings of a separate dwelling'*.
  13. I note that a close boarded fence, with a second fence behind has been erected along the boundary with No 82 that the appellant considers provides an acoustic effect. However, there is no evidence to demonstrate the effectiveness of the fence, which I observed in numerous places had gaps between the vertical wooden boards. I observed other similar developments in the area which were separated from the neighbouring property with standard fencing, however, these differed in that they were not in such close proximity to the neighbouring property. The possibility of an acoustic fence along the boundary with No 82 with an acceptable specification that could be secured by a condition was accepted by the appellant, however, I cannot be absolutely sure that the provision of an acoustic fence would suitably mitigate any harm.
  14. The front door of the outbuilding is located within approximately 2 metres of the rear garden area of No 95 Little Normans. I consider that there would be increased noise and disturbance generated from additional comings and goings to the front door, which would be particularly intrusive at night. I therefore share the concerns of the previous Inspector that a stand alone dwelling in this location with a front door that would be located in close proximity to the rear garden of No 95 would cause harm to the living conditions of its occupants.
  15. The turning/parking area is located further into the appeal site than the previous appeal scheme and is now immediately adjacent to the rear gardens of No 3 and No 5 Innsworth Lane. I consider that the increased activity in this

area of additional vehicles manoeuvring over what may occur from the fallback position would cause unacceptable noise and disturbance to the living conditions of the occupants of No 3 and No 5. I acknowledge that the occupants of No 3 have shown support for the proposal, however, I am mindful that the proposal would be there in perpetuity and any potential future occupants of No 3 may not share such views.

16. I accept the Council's concerns with regard to the noise caused by the gravelled surface of the turning/parking area could be addressed via a planning condition to require a change of materials. I also note the presence of the paved tyre tracks on the driveway. However, I do not consider that this addresses the noise generated from the opening and closing of car doors, stereos and the engine noise of the vehicles themselves.
17. The appellant has made reference to appeals on other sites and to several other developments in the local area. I have carefully reviewed the details of each and in all of the cases there are differing individual circumstances. In particular, they do not share the same setting as the appeal site, in very close proximity to the side elevation of No 82 or the appeal site's close proximity to a significant number of neighbouring gardens, which form an area of relative peace and quiet around the site. In each of the above cases the Inspector or Council determined that each respective proposal was acceptable, however, this was based on the specific circumstances of those sites, which would have included the proximity to neighbouring properties and current uses of the site. Furthermore, I am mindful that each proposal should be considered on its own merits.
18. In conclusion, I consider that the previous Inspector's concerns have not been overcome and the proposal by virtue of increased noise and disturbance above what could be experienced from the fallback position would cause harm to the living conditions of the occupants of No 82 Longford Lane, 95 Little Normans, No 3 Innsworth Lane and No 5 Innsworth Lane. The proposal is therefore contrary to Policy BE.21 of the LP, which sets out that development should not unreasonably affect the amenity of existing residents or adjoining occupiers. I also consider that the proposal would be contrary to Paragraph 17 of the Framework which within one of its core planning principles identifies that development should always seek to secure a good standard of amenity for all existing and future occupants of land and buildings.

#### *Character and appearance*

19. The appeal site is located on Longford Lane, which is characterised by predominantly two storey detached and semi-detached properties. The wider area is largely residential. I observed that the outbuilding is relatively well screened. The proposal would result in only minor external alterations to the outbuilding in the form of replacing the garage door with windows and solid panels.
20. I accept that the previous Inspector determined that a dwelling on the appeal site would harm the attractive suburban garden character of the area. I also acknowledge that a similar change of use of an existing outbuilding at No 90 Longford Lane was refused at appeal and the Inspector considered that the proposal would have been out of keeping with the character and appearance of the local area due to the prevailing pattern of development in the area. However, I am mindful that circumstances on the appeal site have changed

since the previous appeal and a substantial ancillary outbuilding are now in place. The appeal at No 90 also included solar panels which contributed to the Inspector's conclusion and in the case of this proposal only minor alterations would be made to the outbuilding. Given the fallback position, which I have afforded considerable weight, there would be a negligible difference in appearance of the appeal site as a result of the proposal to that which currently exists. Therefore, I do not consider that there would be any significant harm to the character and appearance of the area, as it now stands.

21. The Council set out that they consider the alterations to the outbuilding when viewed from Longford Lane to result in the unacceptable domestication of the appeal site. However, at the hearing the Council acknowledged that there would be no impact on the street scene and the proposed alterations could be undertaken via permitted development in any event.
22. I consider that the appeal decision at 16 Kingsley Gardens, Cheltenham is not directly comparable. The proposal at No 16 was located within a Conservation Area, where the Inspector determined that dividing fences and the resulting small gardens would have been uncharacteristic of the Conservation Area. I also acknowledge the Inspector's view in regard to the permanence of the dividing fence should a stand alone dwelling be permitted. However, in the case of the proposal before me, there is no set pattern of dividing fencing and the gardens of No 80 and the proposed new dwelling would be of an acceptable scale when considering others in the immediate area. Therefore, there would be no harm caused in this regard. I am also mindful that the dividing wall is already in place and there is no evidence to suggest that it would be removed should this appeal fail and could remain in place for a considerable time.
23. In conclusion, the proposal would result in only minor external changes to the outbuilding that could in any event be undertaken by permitted development rights. Therefore, I consider that the proposal would not result in any harm to the character and appearance of the area, as it now stands and complies with Policy H.13 of the LP. The policy seeks to ensure that the subdivision of plots does not have an unacceptable effect on the character of the locality. I also consider that the proposal complies with Paragraphs 17, 56 and 58 of the Framework in this regard.

#### *Other matters*

24. The proposal would make a contribution to the Council's housing targets. Nevertheless, I am mindful that the contribution would be modest and would have very little effect on the overall supply of housing land. In addition, I accept that the appeal site is sustainably located, close to local services, facilities and public transport. The appellant has set out that the proposal would make active use of an under-used building. However, given that it has only recently been constructed and I observed that it was in use for ancillary purposes, I do not consider that it should be considered as under-used.
25. I consider that there is sufficient access to the separate driveway from Longford Lane. There is a turning area in front of the existing outbuilding that allows the manoeuvring of a vehicle, to ensure that vehicles can leave the appeal site in a forward gear. Therefore, I consider that the proposal would not result in any harm to highway safety. However, I do not consider that any of the matters set out above individually or in combination outweigh the harm that has been identified above.

26. The appellant has set out that there is a presumption in favour of sustainable development, however, given the harm identified above, I do not consider that the proposed development can be considered as sustainable.

*Conclusion*

27. Despite my findings in relation to character and appearance, the proposal would cause harm to the living conditions of the occupants of neighbouring properties, which I consider demonstrably outweighs the benefits of the proposal. Having regard to all other relevant matters raised, I conclude that the appeal should be dismissed.

*Jonathan Manning*

INSPECTOR

## **APPEARANCES**

### FOR THE APPELLANT:

Mr Michael Bourne	Appellant
Mr Simon Firkins MRTPI	SF Planning Limited

### FOR THE LOCAL PLANNING AUTHORITY:

Mr Bob Ristic	Planning Officer, Gloucester City Council
Louise Follett	Senior Planning Officer, Gloucester City Council

## **DOCUMENTS SUBMITTED AT HEARING**

1. Email from a Planning Inspectorate Quality Assurance Officer, with regard to 16 Kingsley Gardens, Cheltenham. Submitted on behalf of Mr Bourne
2. Planning – What is the Fall back? Additional information on the Zurich Case and Samuel Smith case. Submitted on behalf of Mr Bourne
3. Planning Policy Sub-Committee Report: Local Planning Policy – Gloucester City Position. Submitted on behalf of Mr Bourne
4. Delegated Decision Report APP.NO. 10/00004/FUL. Submitted on behalf of Mr Bourne
5. Delegated Decision Report APP.NO. 09/1073/FUL. Submitted on behalf of Mr Bourne
6. Delegated Decision Report APP.NO. 12/00265/FUL. Submitted on behalf of Mr Bourne
7. Appeal Decision APP/B1605/A/11/2151714, 156a Arle Road, Cheltenham. Accompanied by location and floor plans. Submitted on behalf of Mr Bourne
8. Proposed Block Plan and Proposed Elevations and Floor Plans drawings for APP.NO. 10/00932/FUL and Appeal Decision APP/U1620/A/10/2141874. Submitted on behalf of Gloucester City Council