



# Appeal Decision

Site visit made on 28 February 2023

**by Tamsin Law BSc MSc MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 16 August 2023**

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**Appeal Ref: APP/V3310/W/22/3309555**

**Spring Cottage, Venns Gate, Cheddar, Somerset, BS27 3LW**

- 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 K Falcon against the decision of Sedgemoor District Council.
  - The application Ref 17/21/00085, dated 31 August 2021, was refused by notice dated 29 April 2022.
  - The development proposed is described as "construction of a new dwelling."
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## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. In the interests of fairness and to ensure there would be no prejudice to interested parties, I have not taken the amended plans submitted by the appellant prior to the determination of the application into account. The Council did not determine the application on their basis and no consultation was carried out on them. Further, they represent a significant departure from the scheme as it was considered by the Council.

## Main Issue

3. The main issues are the effect of the proposed development on the character and appearance of the area and the living conditions of nearby residents, with particular regard to privacy.

## Reasons

### *Character and Appearance*

4. The appeal site comprises a detached two storey dwelling, two storey building comprising holiday lets and two single storey outbuildings with a large rear garden. The surrounding area is primarily characterised by dwellinghouses, some with similarly substantial rear gardens. While some of the surrounding properties have development to the rear, this is predominantly smaller scale single-storey outbuildings within their rear gardens. There are limited examples of back land residential development in the immediate vicinity, where dwellings are located to the rear, they are in close proximity to the frontage development and appear smaller in scale and subservient to frontage development.
5. The appeal site slopes down away from the host dwelling. Whilst the appellants statement suggests that there would be no alteration to existing levels, the submitted drawings detail that finished floor levels would be increased in some areas to accommodate the construction of both the dwelling and associated garage. The proposed dwelling would cover an area of approximately 178

square metres and measure approximately 9.8 metres in height. This would be of a height and form that would be much greater in scale compared to existing dwellings in the immediate vicinity, it would also be substantially larger than the existing outbuildings and would thus also be incongruous in this back land context.

6. The height of the scheme would also detract from the openness of this area. The combination of height and scale would result in a large building to the rear of frontage dwellings. This would be an uncharacteristic form of development that would run contrary to the existing pattern and grain of development in the area.
7. While I agree that the surrounding area represents a sustainable location for residential development, the proposed height and scale of the dwelling would nonetheless be uncharacteristic of the surrounding pattern of development.
8. The appellant has drawn my attention to properties within broader area of the appeal site, in particular a dwelling adjacent to Maes y De. This dwelling appears as frontage development along Venns Gate where dwellings and buildings are larger in scale. As such, larger buildings in frontage locations are more in keeping with the prevailing pattern of development.
9. For the above reasons, I conclude that the proposal would cause unacceptable harm to the character and appearance of the surrounding area. The proposal would therefore conflict with Policies D2 and D9 of the Sedgemoor District Council Local Plan 2011-2032 (2019) (LP) which seeks, amongst other things, to ensure that development responds positively to and reflects the particular local characteristics of the site and the identity of the surrounding area. The proposed development would also be at odds with paragraph 130 of the National Planning Policy Framework (the Framework) which seeks to ensure developments are visually attractive and sympathetic to local character.

#### *Living Conditions*

10. Due to the orientation of dwellings on Venns Gate and the adjoining Mewswell Drive, and the provision of open gardens and agricultural land in this area there is little mutual overlooking between properties immediately adjoining the appeal site. This means that dwellings, particularly rear gardens, and rear-facing rooms, benefit from a high level of privacy and openness. The occupiers of No's 4, 5 and 6 Mewswell Drive and the occupiers of the host dwelling, Spring Cottage, therefore benefit from a private open garden space consistent with prevailing levels of privacy here and would have a reasonable expectation that this would be preserved.
11. Whilst dwellings along Venns Gate, including the appeal sites host dwelling, are partially visible from Mewswell Drive, they are located a considerable distance from these properties, which combined with their orientation results in windows that face towards their own garden and would only offer transient glances between them rather than any sustained opportunity of overlooking.
12. The proposed development would introduce a large two-storey dwelling into an area of garden that, apart from single storey outbuildings, is largely free from development. The proposed dwelling would have a first-floor bedroom window that would face the rear of properties on Mewswell Drive. First floor bedroom windows would also face towards the rear windows and rear garden of Spring

Cottage. In addition, a wraparound balcony would be located at first floor to the north and west elevation. There would therefore be the potential for direct overlooking of rear garden and windows of properties on Mewswell Drive and Spring Cottage for sustained periods of time. The elevated position of the balcony heightens the sense of overlooking and so differs significantly from the relative privacy which is currently afforded to the occupiers of properties on Mewswell Drive and Spring Cottage. Given my reasoning above, relative to the prevailing baseline of privacy here, in my view the privacy of these occupants would be materially adversely affected.

13. Accordingly, the development would have an unacceptable effect upon the living conditions of neighbouring occupiers. This would be contrary to LP Policy D25 which seeks to ensure that proposals do not have unacceptable impacts relating to the loss of privacy and overlooking. The proposal is also at odds with the advice set out in paragraph 130 of the Framework that seeks high standards of amenity for existing users.

### **Other Matters**

14. In respect of the North Somerset and Mendip Bats Special Area of Conservation (SAC), Habitats Regulation 63(1) states that a competent authority, before deciding to give permission, must make an appropriate assessment of the implications of the development on that site. Given my reasoning in respect of the main issues and that the appeal is dismissed, there is therefore no requirement upon me in that regard and have not considered the matter further.
15. The appellant has stated that the proposal would be for a self-build dwelling. Such proposals would need to be secured via a planning obligation and one has not been submitted as part of the appeal for consideration. As such, I have no mechanism to secure the proposed dwelling as self-build and can only afford this limited weight.

### **Conclusion**

16. For the above reasons given above, having considered the development plan as a whole, there are no relevant material considerations, including the approach of the Framework and all other relevant consideration, which would indicate a decision otherwise in accordance with the development plan. It is for this reason that the appeal should be dismissed.

*Tamsin Law*

INSPECTOR