



## Appeal Decision

Site visit made on 10 December 2024

by **K Townend BSc MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 15 January 2025

**Appeal Ref: APP/E3335/W/24/3349292**

**23 Deacon Road, Bridgwater, Somerset TA6 4QJ**

- 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 Mark Fursland against the decision of Somerset Council.
- The application Ref is 08/23/00298.
- The development proposed is a new build dwelling.

### Decision

1. The appeal is dismissed.

### Preliminary Matter

2. The Government published a revised National Planning Policy Framework (the Framework) on 12 December 2024. Those parts of the Framework most relevant to this appeal have not been substantially amended. As a result, I have not sought submissions on the revised Framework, and I am satisfied that no party's interests have been prejudiced by taking this approach.

### Main Issues

3. The main issues are:
  - the effect of the development on the character and appearance of the area;
  - the effect of the development on the living conditions of the future occupiers of the proposed dwelling and the effect of the development on the living conditions of the occupiers of 70 Sydenham Road, with particular regard to loss of privacy; and
  - the effect of the development on highway safety.

### Reasons

#### *Character and appearance*

4. The appeal site comprises the existing garage and side garden to the host dwelling, 23 Deacon Road. It lies on the corner of Deacon Road and Sydenham Road. The site is within Bridgwater which is recognised in the Sedgemoor Local Plan – Adopted Version, 2011-2032 (the LP) as a Principal Town. It is also close to a bus stop which provides access to the facilities and services in the town. The principle of new housing development in the area is acceptable.
5. The houses on Deacon Road and the streets immediately surrounding the appeal site are all of the same design, scale, and materials. They are set in short terraces facing the road with gaps provided on the corners and junctions. The roofs are

hipped with hanging tiles at first floor, and the ground floor is either timber cladding, render, or brick. The windows are all of a similar design and proportions and most of the properties have chimneys. The Council has described these as “Cornish” units.

6. After the junction with Chamberlin Avenue the house type changes to short terraces and pairs of semi-detached, two-storey, houses with rendered walls and hipped roofs. There are clearly two distinct character areas and house types across the estate. The appeal site lies within the area with the “Cornish” units.
7. Both main parties have referred to a previous approval for a two-storey side extension to the host dwelling. I have been provided with copies of the plans, officer report and decision notice for this permission. The approved two-storey side extension would be physically attached to the host dwelling and would retain an open area between the extension and Sydenham Road. It would be subservient to the host dwelling in that the front and rear elevations would be set back, and the ridge and eaves of the roof would be set down. Furthermore, the design of the windows, roof shape and the materials proposed would match the host dwelling. The extension would be of an appropriate scale, design and detailing that would respect the form and character of the existing building and the identity of the locality.
8. The fall-back position is a material consideration and there is a realistic possibility that the development, as approved, would take place should the appeal before me fail. I have, therefore, given substantial weight to the fall-back scheme in considering this appeal.
9. Nevertheless, the appeal before me is materially different to the fall-back position. Although the proposal is residential, it is for a detached, three-bedroom, dwelling with a pitched roof, rendered walls, and windows that are of a different size, shape, and design to the “Cornish” units. The appeal proposal would have a deeper footprint than the fall-back scheme and would be positioned closer to Sydenham Road, resulting in built development on more of the open corner. The position, size, shape, design, and materials of the proposed dwelling would be significantly different to the fall-back scheme.
10. The proposed development would appear as an incongruous addition and would visually conflict with the prevailing pattern of development, and the character and appearance of the houses immediately around the site. The differences between the proposed dwelling and the surrounding houses would be stark and harmful to the character and appearance of the area. The appeal before me would, therefore, be significantly more harmful to the character and appearance of the area than the fall-back position and the fall-back position would not justify the appeal proposal.
11. A condition to require the submission of the materials would not result in a dwelling that would appear similar to those surrounding the site as the design, shape and position of the proposed dwelling would continue to be different.
12. The appellant has drawn my attention to an approved development adjacent to 78 Sydenham Road (No. 78) for a new dwelling. However, that development would be physically attached to No. 78 and, therefore, designed as a continuation of the short terrace. It also continues the roof shape, materials, and design proportions of No. 78 and would reflect the “Cornish” units to fit in with the street scene. Furthermore, that scheme retains an open area on the junction. The approval at

No. 78 is, therefore, materially different to the appeal before me and, although it is an example of building on one of the open corners of the estate, it is not a comparable example of the development proposed within this appeal.

13. The recent housing development off Chamberlin Avenue, albeit accessed off a road where the houses are of the “Cornish” unit design and materials, is situated on the edge between the two different character areas and house types on the estate. These new dwellings relate as much to the pairs of semi detached houses on Bayford Road which are of a similar design and appearance to the new houses. The views of this recent development, from Chamberlin Avenue or from the play area, would be read with the backdrop of the houses on Bayford Road and are, therefore, in keeping with the character of the area in which they have been built.
14. For the above reasons, I find that the proposal would be harmful to the character and appearance of the area and, therefore, contrary to Policy D2 of the LP which, amongst other matters, seeks to promote high quality, sustainable and inclusive design and deliver places that are; amongst other matters, responsive to and reinforce local context, character, scale, and distinctiveness of place.

#### *Living conditions*

15. 70 Sydenham Road (No. 70) lies next to the appeal site and has a first floor window facing over the site. The appeal proposal would include two bedroom windows in the rear elevation facing towards No. 70. Due to the depth of the proposed dwelling, the distance between these windows would result in unacceptable levels of overlooking between the two properties. This would, therefore, have an unacceptable effect on the living conditions of both the future occupiers of the proposed dwelling and the occupiers of No. 70, with particular regard to overlooking.
16. The fall-back position proposed a window serving an office in the rear elevation. Even if I were to accept that an office might be occupied more during the daytime than the bedrooms proposed in the current scheme, the fall-back scheme was set back from the rear elevation of the host dwelling and also attached to the host dwelling. The office window in the fall-back scheme was, therefore, sited to face over the rear garden of No. 70 which is already overlooked by the windows in the rear of the host dwelling.
17. The appeal proposal, due to the depth of the dwelling and its position on the site, would be closer to No. 70 and the windows would be directly in line of sight of each other rather than off-set at an angle. Consequently, the appeal before me would result in a greater effect on the living conditions of the occupiers of both the proposed and existing dwelling at No. 70 than the fall-back scheme.
18. Moreover, the window in the end of No. 70 would also overlook the garden of the proposed development. Although this window already faces over the garden of the host dwelling there are parts of the garden to the host dwelling that are not directly overlooked. The appeal proposal would result in a dwelling with a small rear garden that is wholly overlooked by the neighbouring property. I have not been provided with any compelling evidence of dwellings on the estate with similar sized gardens that are equally overlooked. The appeal proposal would, therefore, result in poor living conditions for the future occupiers of the proposed dwelling in that they would have little to no garden that is private.

19. I, therefore, find that the appeal proposal would harmfully affect the living conditions of the future occupiers of the proposed dwelling and the occupiers of 70 Sydenham Road, with particular regard to loss of privacy. The proposal would, consequently, conflict with Policies D2 and D25 of the LP which, taken together, seek to ensure that development respects the amenity value of the occupiers of nearby buildings, and advises that development that unacceptably impacts upon the residential amenity of occupants of nearby dwellings, and any potential future occupants of nearby or proposed dwellings, would not be supported.

#### *Highway safety*

20. The submitted plans do not indicate any access or parking for either the host dwelling or the proposed development, even though the appellant's information suggests two parking spaces would be provided. The appeal site lies close to the junction between Deacon Road and Sydenham Road and is, therefore, close to where vehicles would be manoeuvring, and drivers need to be focused on the junction. Any vehicle access close to a junction has the potential to increase the risk of conflict between vehicles using the junction and accessing/leaving the site. Any such conflict would adversely affect highway safety, even though traffic speeds are likely to be low.
21. Without a site plan showing the position of the access and provision of appropriate parking for both properties I cannot be certain that the appeal proposal would not result in vehicles waiting on the highway, close to the junction. Consequently, I cannot be certain that the development of the site would not result in an increase in the risk of conflict which would result in adverse highway safety conditions.
22. It would not be appropriate to condition the requirement to submit the details of parking and access, as suggested by the appellant, as this may result in the need to amend the layout of the proposal to accommodate a scheme that complies with the Council Standing Advice.
23. For the above reasons, I cannot be certain that the appeal proposal would not cause unacceptable adverse effects on highway safety. Without the required details the proposal conflicts with the requirements of Policy D14 of the LP which requires development to, amongst other matters, provide safe access to roads of adequate standard, ensure that the expected nature and volume of traffic and parked vehicles generated by the development would not compromise the safety and/or function of the road networks, and ensure car parking at levels appropriate to the development, and in accordance with the parking standards detailed within the Somerset County Council Parking Strategy.
24. Although the proposal would not result in severe residual cumulative impacts on the road network when assessed against paragraph 116 of the Framework, the scheme would result in increased vehicle movements and adversely affect highway safety, taking into account the advice in Policy D14 of the LP. Accordingly, the proposal would be contrary to the advice at paragraph 115 of the Framework, which seeks to ensure that a safe and suitable access to the site can be achieved for all users.

#### **Other Matters**

25. The appeal site, even with the garage, would not constitute previously developed land, as asserted by the appellant, as it forms garden land within a built-up area

and is, therefore, excluded from the definition of previously developed land set out in Annex 2 of the Framework. Consequently, this matter does not weigh in favour of the development. Moreover, even though the development would make effective and efficient use of the land, would add to the supply of housing in Bridgewater, and would have social and economic benefits both during and after construction, these matters would not outweigh the harm I have identified in the main issues.

26. The Council has not referred to the Framework in any of the reasons for refusal. This does not, however, mean that the proposal complies with the Framework. The Council has determined the proposal against the development plan. The Framework is a material consideration in the determination of planning applications, it does not need to be referred to and the proposal clearly conflicts with the development plan for the reasons set out.

### **Conclusion**

27. The proposal would conflict with the development plan as a whole, and there are no other considerations, including the provisions of the Framework, which would outweigh this. Therefore, I conclude that the appeal should be dismissed.

*K Townend*

INSPECTOR