



Appeal Decision

Site visit made on 19 May 2023

by Tom Bristow BA MSc MRTPI AssocRICS

an Inspector appointed by the Secretary of State

Decision date: 24 May 2023

Appeal Ref: APP/W1145/W/22/3311767

Land adjacent to Beech House, Shebbear, Beaworthy EX21 5RU

- 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 Mrs Samantha Kimber-Halford against the decision of Torridge District Council.
 - The application Ref 1/0218/2022/FUL, dated 22 February 2022, was refused by notice dated 24 June 2022.
 - The development proposed is the erection of a detached dwelling.
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Decision

1. The appeal is dismissed.

Preliminary matters

2. Notwithstanding the history to the site, including the permitted change of use of Beech House from a surgery to dwelling,¹ and its current use by a local charity, I have assessed the proposal on its merits. In summary, that is to subdivide the open space by Beech House to provide for a new dwelling. The proposal was amended during the Council's determination. The current plans, the basis on which I have determined the appeal, are set out in the appellant's 'appeal submissions document'.

Archaeology

3. The appellant's Written Scheme of Investigation ('WSI'),² submitted following the Council's decision notice, indicates that Shebbear was a royal demesne at the time of Domesday, likely beforehand Saxon in origin. It is, accordingly, recorded via Devon Historic Landscape Characterisation work as an historic settlement. Although not a Conservation Area, much of the structure of, and buildings at, Shebbear trace back to the nineteenth century and before. There is therefore some potential for the site to contain archaeological remains.
4. However historic map regression shows nothing by way of buildings here as far back as 1884. Investigations nearby have also revealed nothing significant by way of archaeological interest,³ notwithstanding that Shebbear and its surroundings reflect a complex overlay of land apportionment and reorganisation. Consequently, were adherence to the WSI secured via condition, the proposal would suitably address any archaeological interest that may be encountered in construction.

¹ Planning permission ref. 1/1098/2019/FUL.

² Southwest Archaeology Ltd., 1 November 2022, ref. SLAB22WSIv1.

³ Notably, as referred to in the WSI, in respect of investigations by Devonport House and at Barn Close.

Policy context

5. Each proposal must be determined in accordance with the development plan unless material considerations indicate otherwise. Here the development plan includes policies of the North Devon and Torridge Local Plan 2011-2031 (adopted 29 October 2018). The site falls within the settlement of Shebbear, a local centre under Local Plan policy ST07. I have had regard to various other material considerations including the National Planning Policy Framework ('NPPF'). Whilst I note the points made by the appellant regarding the benefits of the scheme, to which I will return, there is neither indication nor argumentation that housing delivery or forecast supply here is faltering.

Main issues

6. The main issues are the effects of the proposals on (i) character and appearance (ii) the living conditions of neighbours with particular regard to privacy and outlook, and (iii) highway safety.

Reasons

The site and scheme

7. The application form gives the site as 0.07ha, some 700 square metres ('sqm'). That relates to Beech House and to the land around it,⁴ a slightly lower figure of 667sqm being cited in the appellant's 'Supporting Statement including Design and Access Statement' ('DAS'). The area intended to be occupied by the proposed dwelling and its plot is, however, smaller.⁵ The proposed dwelling would be located between Beech House and the access, parking and service yard associated with the Village Store, a Salon and recently-permitted dwelling to the east and south-east.⁶ It would be set close to the carriageway running centrally through Shebbear, broadly aligning with Beech House in that regard.
8. The DAS sets out how the proposed dwelling would be of white render, with a natural slate roof, window units of white uPVC, and rooflights and doors aluminium frames finished either grey or white. Whilst the DAS reflects an earlier iteration of the scheme, those materials, along with an understated contemporary aesthetic appear true of the current proposal also.
9. The proposed dwelling would be asymmetric. The roof form would be hipped relative to Beech House, gabled facing the Store. Internally the dwelling would be arranged over two storeys. Within the northern elevation facing the carriageway there would be a modest dormer, extending the principal elevation above the eaves.⁷ Within that elevation the two windows would be differently sized, the first floor window taller than that at ground floor, and a car port would be inset. The proposal has been reduced by some 750mm in height compared to the original scheme,⁸ such that overall the proposal would be broadly comparable to the main ridgeline of the Store.
10. The appellant's appeal statement indicates that the proposal would achieve 98sqm of accommodation. That would, by way of illustration, slightly exceed

⁴ Plan nos. 'K135 22 201' and 'K135 22 203'.

⁵ Plan no. 'K135 22 204D'.

⁶ Via permission ref. 1/1286/2021/FUL, at an advanced stage of construction during my site visit.

⁷ Plans no. 'K135 22 301A' and 'K135 22 211A'.

⁸ Plan no. 'K135 22 206A'.

the nationally described space standards for a dwelling arranged over two storeys capable of accommodating 3 bedrooms and 5 persons. That may be true, notwithstanding that there appears to now be far more limited head height internally given the change in roof form.⁹ There is no clear enumeration in the information before me as to the extent of any outside space associated with the dwelling. It would, however, be highly limited.

Character and appearance

11. There are, on occasion, individually-designed properties dotted about Shebbear which have emerged incrementally over time. Some historic properties have also been modified successively, such that there is some architectural variety. Even historically, advantage has evidently been taken of the somewhat varied layout of properties adding to the foregoing (for example the historic infilling between the Devil's Stone Inn and neighbouring no. 2 the Square).
12. Natural slate roofs, render, and what the DAS terms 'cottage style' windows, commonly with white casements, prevail at both historic and more modern properties. In that context, in terms of materials and in some respects in terms of design, the proposed dwelling would take certain cues from its surroundings. There are occasionally properties whose footprints and plots are comparably modest as the scheme proposed, for example some off Ackland Close.
13. The Village loosely displays a typical English building hierarchy; taller buildings are typically set closer to carriageways with smaller properties and buildings behind. As such, and also given the relationship between the ridgeline proposed and the neighbouring Store, the proposal would have some affinity with the broad arrangement of the Village.
14. Nevertheless, the prevailing plot size of properties nearby is substantially greater. Given the need to enclose the site, as illustrated on the supporting plans by 1.8 metre high close-boarded fencing, the proposed dwelling would appear unduly cramped within its plot. Oftentimes, such as at Old Village Cottages and Balkwill's Cottages, although the footprint of existing dwellings is broadly similar, there is nevertheless a lesser sense of enclosure by virtue of dwellings been set back from the carriageway, with planting and vegetation as boundary features.
15. The historic origins of Shebbear are particularly apparent a short distance westwards of the appeal site around the Square by the grade II* listed Church of St. Michael. Albeit I saw that little by way of a true vernacular remains, properties there tend to be loosely symmetrical and traditional in terms of form and proportions. That is the case, for example, of Church Farmhouse, Nos. 1 and 2 the Square, the Devil's Stone Inn, Tyrella House and 'The Lawn'.
16. Symmetry and traditional proportions are also present in the form of properties moving eastwards of the appeal site, including Devonport House, at Balkwill's Cottages, and also emulated in recently-constructed properties off Ackland Close. As is typically the case of domestic architecture, windows decrease rather than increase in height at first floor level relative to those at ground floor. Albeit 'modern' and reflecting its time and the function for which it was created, the northern and western elevations of Beech House are similarly

⁹ Yet a figure of 98.8sqm is quoted in the DAS based on the earlier scheme.

symmetrical. Despite some variety described above, symmetry and traditional proportions and arrangements lend the area a relatively harmonious character.

17. That is also broadly true of simple, understated, roof forms. They tend to prevail. Albeit that properties have gabled elements of facades from time-to-time, dormers are not particularly commonplace. I was unable to identify any in the vicinity of the appeal site directly comparable to that proposed here in terms of size or location. I was also unable to identify any car ports at properties nearby. That latter feature, appearing effectively as a symptom of an excessively constrained plot, adds to the asymmetry of the northern elevation of the dwelling, complicating its form and appearance.
18. Inherent in my reasoning above is that there are some moderating factors in terms of design consistency. Nevertheless the proposal is for a dwelling that would diverge in plot size, sense of enclosure, form and design relative to the typical nature of properties here. By consequence it would appear discordant. New buildings are inevitably informed by site constraints. Nevertheless in this instance it appears that the design has been arrived at giving those constraints primacy, as opposed to being led by the character of the area.
19. I therefore conclude that the proposal would be detrimental to local character and appearance, in conflict with the relevant provisions of Local Plan policies ST04 and DM04 and also with NPPF paragraph 130.c). In brief, amongst other things, and with varying emphases, those policies and provisions seek to ensure that development integrates appropriately with its surroundings.

Living conditions

20. In terms of privacy, were the site to be partially bounded by a 1.8m close-boarded fence, there would be no meaningful potential for additional overlooking towards neighbouring properties or land through ground floor windows at the proposed dwelling, or from within its modest outside space.
21. There would be no first floor windows facing westwards towards Beech House. There would, however, be one first floor window within the northern, southern and eastern elevations apiece. However, on account of the separation distance across the carriageway, the offset angle, and as there is inevitably a lesser degree of privacy in respect of windows facing carriageways than elsewhere, the proposal would not result in an unacceptable loss of privacy in respect of Little Devonport.
22. It would be possible to obtain views through the first floor window within the southern elevation towards the plot of Beech House. However such views would be at an acute angle, thereby limited. The natural outlook there would be instead broadly southwards across the roofs of the single storey Salon, and towards the garage of the newly-constructed dwelling. However, and recognising that a sense of privacy is in large part contingent on perception, any potential increase in overlooking in that respect could be obviated by way of obscure-glazing condition (were the scheme otherwise acceptable).¹⁰
23. There is discussion in the evidence before me as to the nature and ownership of land between the appeal site and Village Store and South View, the Store

¹⁰ As ventured in the appellant's final comments submitted at appeal.

being beneath the latter. At the time of my site visit the land between the two was essentially open, albeit there were various tree stumps. The site has evidently been left to its own devices from time. I note, however, that on the site layout plan related to the permitted change of use of Beech house that area is shown as, in part, occupied by trees and a 'grass/ planted area'.

24. Setting the foregoing aside, however, there is a relatively close interaction between the first floor east-facing window proposed and first floor westwards-facing windows at South View. Unimpeded views between the two would reduce privacy, albeit that the privacy from which South View currently benefits is tempered by virtue of comings and goings to the Store. In that context, similarly, undue adverse effects in terms of privacy to the east could be avoided by way of an obscure-glazing condition.
25. Summarising the foregoing, I am not of the view that the proposal would entail unacceptably adverse effects in respect of privacy (or, more accurately, could be conditioned to that effect). Nevertheless obscuring two of three first floor windows reinforces my reasoning in the first main issue, namely that the scheme has been advanced principally to make use of the site rather than carefully designed relative to its surroundings.
26. Neither the appellant's appeal statement, nor final comments, appear to deal expressly with the Council's objection to the scheme in terms of enclosure or outlook.¹¹ Nevertheless, for 3 principal reasons, adverse effects would occur in that respect. Given the nature of the scheme and its surroundings, unlike in respect of privacy, those effects cannot be addressed via conditions.
27. First, I have set out above how the relationship of the proposed building to its plot would be cramped and how there tends to be a greater plot-to-footprint ratio in respect of properties elsewhere about the Village. Whilst I accept there is some variety in the scale and proximity of buildings to one another, I was unable to identify comparable close interactions between single and effectively two-storey properties in the immediate vicinity.¹²
28. Secondly, although Shebbear has an essentially linear form, as a rule the level of density reduces towards the fringes of the settlement heading away from the Square. That, in my view, sets a prevailing baseline in terms of openness here, which is a far looser pattern than would result were the dwelling to be built. Thirdly the aspect from windows at, and the plot of, Beech House is already highly qualified. There are two storey properties a little distance to the west, there is no meaningful outlook northwards across the carriageway, and the plot of Beech House to the south is modest and enclosed by a line of substantial trees. That accords some importance to maintaining that openness which remains relative to the prevailing baseline here.
29. In that context the proposal would result in a dwelling of far greater height than Beech House being set very close to it. There would be only sufficient separation at the nearest point between the two to allow for a narrow pedestrian walkway. Coupled with the gently rising topography heading eastwards, the proposal would result in an uncharacteristic level of enclosure.

¹¹ The second reason for refusal in the Council's decision notice referring to 'overbearing'.

¹² Notwithstanding that the appellant describes the scheme as having 'the illusion' of reduced height.

Given the existing constraints of the surroundings to Beech House, that would be clearly detrimental to outlook.

30. Consequently I conclude that the proposal would fail to ensure appropriate living conditions for the occupants of Beech House by virtue of resulting in an adverse sense of enclosure. The proposal would thereby conflict with criterion (b) of Local Plan policy DM01 and NPPF paragraph 130. f), which seek, in summary, to avoid 'significant harm', and to ensure a 'high standard of amenity' respectively.

Highway safety

31. By virtue of its location close to the carriageway, the proposed dwelling would reduce access visibility westwards of the store. The appellant gives the width of the carriageway as around 5.5m, albeit that varies. The carriageway is not demarcated as two-way, and there are neither dedicated footways nor parking restrictions here. At the time of my site visit a number of cars parked along the southern side of the carriageway close to the appeal site, reducing the space available to drivers and also limiting visibility in relation to the access to the Store, Salon and recently-constructed dwelling to the rear. There is nothing to indicate that observation is atypical.
32. Whilst a reduction in visibility is not in dispute between the main parties, the implications thereof are. The appellant argues that the adjoining carriageway is rural, lightly trafficked, that drivers here will likely have a high degree of familiarity with the area, that comparable arrangements exist in many locations,¹³ and that there is no evidence of existing arrangements posing an issue in terms of highway safety.¹⁴
33. The carriageway may be characterised as rural or semi-rural. Commensurate with its function, principally serving the Village as opposed to acting as a logical route to other areas, I also accept that many drivers here are likely to have some familiarity with the environment. Those factors, the narrowing of space available to drivers that may occur as a result of parked vehicles, and the presence of accesses to properties elsewhere off the carriageway which do not comply with modern visibility standards, will likely mean that drivers instinctively moderate their speed to some degree.
34. However, for five principal reasons the information before me is insufficient to reach a conclusion that access arrangements would be acceptable. Firstly there is no evidence before me of observed vehicular speeds here; not all drivers will be familiar with the prevailing layout of the area or location of site accesses. Secondly, there appears to be no indication of the visibility splay that would result westwards, when exiting, were the scheme effected (relative to present circumstances). The scheme would inherently serve to reduce visibility significantly westwards in addition to existing limited visibility eastwards.
35. Third, that many accesses in Shebbear and elsewhere do not conform to modern standards is not a strong rationale for allowing further substandard

¹³ Citing paragraph 10.5.9 of the Government's Manual for Streets 2 (published 2010) in that context.

¹⁴ Noting that I am told that visibility exiting the Village Store parking area eastwards stands around 8.25 metres, below the 9 to 22 metre splay recommended in slow speed environments via the Government's Manual for Streets 1 (published 2007), and with reference to the Devon County Collision Map.

provision. Many existing arrangements are, after all, historic. There is, fourthly, no clarity on the parameters applicable to safety data drawn from the County Council's collision map, for example the timeframe of that data. Fifth, any existing data inevitably reflects only existing arrangements.

36. I cannot therefore conclude that the scheme would be acceptable in terms of highways effects in accordance with the relevant provisions of Local Plan policies DM05 and DM06 (criteria (1) and (1)(c) respectively) or NPPF paragraphs 111 and 112 (criterion c)). In summary those policies and provisions seek to ensure safe and well designed vehicular access and walking routes, that unacceptable impacts on highway safety are avoided, and that development results in places which are safe and where the scope for conflict between pedestrians, cyclists and vehicles is minimised.
37. The foregoing is a finding reached independently based on the evidence before me; the appeals brought to my attention addressing matters of access inevitably turn on their specifics (notably given the difference between existing circumstances and the effect of the development proposed in each instance).¹⁵

Other matters

38. The proposal would have certain benefits including resulting in an incremental numerical contribution to housing in Torridge, making efficient use of land within an existing settlement (with reference to NPPF paragraph 124). On account of its relatively modest scale, I acknowledge that the proposal would likely command a lower open market value than many other properties at Shebbear, or in comparable locations. There are pressing needs for housing and lower cost housing, including in rural areas.¹⁶ There would be economic benefits during construction, and future occupants would also bring trade and add to the vitality of the local community.
39. Nonetheless, inherently the foregoing benefits arising from one new home would be limited. Returning to my reasoning in paragraph 5 of this decision, there is nothing to indicate that housing delivery or forecast supply is faltering. I also note that, in terms of Shebbear specifically, new housing elsewhere is allocated through the Local Plan. Moreover neither the support in the development plan nor NPPF for new housing is at the expense of ensuring that development is appropriate for its context. In this instance, in summary, the benefits arise only by virtue of a poorly designed scheme. Consequently, and even were the scheme otherwise acceptable, no other material considerations justify allowing the appeal relative to the harm that would result.

Conclusion

40. For the above reasons, having taken account of the development plan as a whole along with all other relevant material considerations, I conclude that the appeal should be dismissed.

Tom Bristow
INSPECTOR

¹⁵ The Council having cited appeals ref. APP/X1118/W/15/3135262 and APP/W1145/22/3301274 in that respect.

¹⁶ Notwithstanding that the proposal is not for affordable housing as defined in the glossary to the NPPF.