



Appeal Decision

Site visit made on 15 August 2023

by K Reeves BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 September 2023

Appeal Ref: APP/X1165/D/23/3320565

7 Cliff Park Avenue, Paignton, Torbay TQ4 6LT

- 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 & Mrs Franklin-Baker against the decision of Torbay Council.
 - The application Ref P/2022/1326, dated 8 December 2022, was refused by notice dated 3 February 2023.
 - The development is replacement fencing to north and east boundary including new pedestrian gate onto highway.
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Decision

1. The appeal is allowed and planning permission is granted for replacement fencing to north and east boundary including new pedestrian gate onto highway at 7 Cliff Park Avenue, Paignton, Torbay TQ4 6LT in accordance with the terms of the application, Ref P/2022/1326, dated 8 December 2022, subject to the following conditions:
 - 1) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan (drawing number 1633-22-040) and As Current & Proposed (drawing number 1633-22-041).
 - 2) Within six months of the date of this permission, the section of fencing coloured red on drawing number 1633-22-041 shall be reduced to a height of up to 1.1 metres (measured from the ground level of the adjacent pavement). The fencing shall be retained as such thereafter.

Procedural Matters

2. I noted on my site visit that the fence and gate have been erected. However, I have judged the appeal on the submitted plans before me rather than what has been erected on site.

Main Issue

3. The main issue is the effect of the development on the character and appearance of the area.

Reasons

4. 7 Cliff Park Avenue is located in a residential cul-de-sac within Paignton. The road is made up of detached houses with generous gardens. The houses are typically set back from the road with open frontages and low boundary features of varying types. Where the gardens of properties abut the road, there are typically higher boundary features, sometimes in the form of a fence.

5. The fence has been constructed along a long section of the property boundary with Cliff Park Avenue. A single pedestrian gate has been inserted within the fence. The fence is shown on the submitted plans as being 2 metres high. It is constructed of vertical timber boarding with a natural finish. Previously, I understand there was a 1.8 metre high fence along part of the boundary with a hedge along the rest of the boundary.
6. The appellant has set out that they intend to lower the height of the section of fencing directly in front of the house. The submitted plans show that the reduction in the overall height would be 2 metres to 1.1 metres.
7. The reduction in height of the fence directly in front of the house would reinstate the openness to the front of the property, which would be in keeping with the general character of the street. It would also substantially break up the massing and bulk of the fence, in turn reducing its visual impact.
8. The retained taller fence would be around the garden of the property and this would not be dissimilar to properties further into the cul-de-sac that have fences of a similar height. I note that the Council have questioned the lawfulness of some of these other fences and therefore I can only attribute limited weight to their presence. However, it is also acknowledged that the fence is not seen as a wholly unusual structure in the context of the characteristics of the surrounding area as a whole.
9. The appellant's house is on higher ground level than the fence and gate, and there is a general backdrop to the development of houses on higher ground level. This means that when viewing the development from the road, it sits as a relatively subservient feature within the street scene and does not have a harmful enclosing or dominating effect.
10. Additionally, the timber of the fence and gate has weathered to a light grey. As such, the harshness of the development has softened, and this has lessened the visual intrusion that existed when the development was first erected.
11. Having regard to the above reasons, I conclude that the development does not cause material harm to the character and appearance of the area. Consequently, the development accords with Policy DE1 of the Torbay Local Plan and Policy PNP1(c) of the Paignton Neighbourhood Plan, which collectively seek, in part, for development to be well designed, in keeping with its surroundings and relate to the surrounding built environment in terms of its scale, height and massing.

Conditions

12. As the development has commenced there is no need for me to impose the standard time limit condition. For the purpose of certainty, I have imposed a condition specifying the relevant drawings.
13. The reduction in height of the section of fencing directly in front of the dwelling would need to be secured through a condition requiring the works to be carried out within a suitable period of time. This would be in the interests of safeguarding the character and appearance of the area. I consider six months to be sufficient for the appellant to have the works carried out.
14. The Council have suggested a condition requiring the materials of the development to match those of the existing building. As the development has

already been carried out and I am satisfied with the materials that have been used, I do not consider that such a condition would be necessary.

Conclusion

15. For the above reasons, and having regard to all other matters raised, the development would not cause harm to the character and appearance of the area. As such, the development accords with the adopted development plan, when taken as a whole. Accordingly, I conclude that the appeal should be allowed.

K Reeves

INSPECTOR