



Appeal Decision

Site visit made on 13 August 2024

by Elizabeth Lawrence BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27th August 2024

Appeal Ref: APP/X1165/D/24/3347977

Edwinstowe, Middle Warberry Road, Torquay, TQ1 1RN

- 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 Phillip Stafford against the decision of Torbay Council.
 - The application Ref is P/2024/0192.
 - The development proposed is described as temporary retention of 1.7m front boundary fence, associated planting and permanent retention of front 2m security gate.
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Decision

1. The appeal is dismissed.

Preliminary matters

2. On the application form the description for the development states that the gate is 2 metres high, whereas the council refer to it as being 2.5 metres high. Whilst not dimensioned on drawing No. A3/001, when measured against the linear scale bar on that drawing the proposed gate appears to be approximately 2.5 metres high including the top rails. I confirm that this decision is based upon the drawing upon which the council based its decision.
3. As stated in the council's delegated report there is another fence located to the rear of some of the front boundary hedging. Whilst it is located within the application site it is not included on any of the submitted drawings. Also, the appellant has only referred to fencing being required until a young Laurel hedge to the side of the mature hedges has grown to screen the garden. As such I agree that the fence to the rear of the mature Laurel hedge falls outside the scope of this appeal and the appeal has been determined on this basis.
4. The proposed gate and fence have already been installed and some of the planting is in place. The proposed planting of a Laurel hedge to the front of the proposed fence had not been carried out at the time of the appeal site visit.

Main Issue

5. The main issue is the effect of the proposal on the character and appearance of the street scene and Warberries Conservation Area (WCA).

Reasons

6. Warberries Conservation Area is primarily characterised by detached villas which are set within a tiered and expansive landscaped setting. Many of the

- dwelling occupy large plots which are enclosed by limestone boundary walls and include groups and individual trees and shrubs, which provide a foil to the villas.
7. These features, together with the extensive use of period detailing and use of stucco, natural stone, brick, slate, terracotta and cast iron features all contribute to the character, appearance and significance of the WCA.
 8. Whilst the appeal property is not listed it is identified in the Warberries Conservation Area Appraisal as a key building of architectural importance and an important building within the WCA. It comprises a large Victorian villa which occupies a substantial sized and elevated plot. Its large front garden includes numerous evergreen and deciduous trees and shrubs which screen the villa. The garden is enclosed by a traditional stone wall, which continues along the frontages of the adjacent properties.
 9. Whilst most entrances include stone piers few have entrance gates. Where there are gates they typically comprise visually lightweight ornate metal railings, which reflect the traditional character and appearance of the WCA. There are also a number of timber gates of various heights, which generally blend in with the well treed street scene. As stated by the appellant the appeal property previously had tall timber wooden gates.
 10. Within the vicinity of the appeal site there are two sets of tall solid metal gates with a small railing detail along the top. Whilst visually hard and utilitarian, they are located to the front of an intensively developed row of buildings located close to the road, which provide a more urban environment. Notwithstanding this, they are visually hard and utilitarian.
 11. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (LB&CA Act) requires that when assessing proposals for new development within a conservation area, special attention shall be paid to the desirability of preserving or enhancing its character or appearance. Policy SS10 of the Torbay Local Plan 2012–2030 (LP) is consistent with this.
 12. Collectively paragraphs 205, 206 and 208 of the Framework, state that when considering the impact of a development on the significance of a designated heritage asset great weight should be given to its conservation. This is irrespective of whether any potential harm amounts to substantial or less than substantial harm to its significance. Any harm to a heritage asset requires clear and convincing justification. Where a proposal would lead to less than substantial harm to a designated heritage asset, this harm should be weighed against the public benefits of the proposal.
 13. Together and amongst other things LP Policies DE1 & SS10, policy TH8 of the Torquay Neighbourhood Plan (TNP) and paragraph 135 of the Framework, seek to ensure that developments are well designed and reflect and enhance areas and buildings of historic interest. LP Policies DE1–4 and SS11-5 state that Development should be designed to reduce fear of crime by the promotion of safety and security and minimising opportunities for community conflict and anti-social behaviour.
 14. The proposed gate is prominent within the immediate street scene when approaching from the east. It is visually oppressive and utilitarian in appearance and detract from the informal and verdant setting of the dwelling

and the street scene. Whilst the visual impact of the proposed fence is not as severe, it is nonetheless unattractive. Due to its height and position close to the back of the stone wall it has a degrading impact on the street scene. Currently the fence is partially screened from the street by deciduous planting, although this would provide little screening during the winter months.

15. For these reasons currently the proposed gate and fence detract from the setting of the host dwelling and the street scene.
16. The proposal also includes the planting of a row of 150/170cm high Laurel trees set at a minimum of 60cm centres. Laurel is a fast-growing tree in the right growing conditions. Due to the narrow border depth between the wall and the fence I am concerned that the growing conditions would not be ideal and there would be insufficient space for the hedge to grow and mature in the same way as the existing Laurel hedge. As such I am not confident that the proposed Laurel hedge would be both fast growing and would mature in the same way as the existing hedge.
17. For these reasons the proposed gate, fence and associated planting would have a materially adverse impact on the character and appearance of the appeal property, the street scene and the WCA as a whole. Whilst the resultant level of harm to the significance of the WCA would be modest and thus less than substantial it nonetheless needs to be weighed against any public benefits that would result from the proposal.
18. The proposed gate and fence provide additional security for the property, thus helping to minimise opportunities for community conflict and anti-social behaviour. In this respect the proposal would comply with LP Policies DE1-4 and SS11-5. These are benefits of the scheme to which I give considerable weight. However, the overall proposal would fail to respect and would have a degrading impact on the character, appearance and significance of the WCA. As required by paragraph 208 of the Framework great weight should be given to the conservation of heritage assets. Also, minimal evidence has been submitted to demonstrate that more sensitively designed metal or wooden gates and fences would be unable to achieve acceptable levels of security.
19. Accordingly, I find that the harm to the significance of the WCA that would be caused by the proposal would outweigh the public and associated personal benefits for the appellant that would result from the proposal. Further, such harm could not be satisfactorily addressed through the imposition of conditions.
20. I conclude on the main issue that the proposal would unacceptably harm the character and appearance of the host property and the street scene. It would fail to preserve or enhance the character or appearance of the WCA and the harm the proposal would cause to the significance of the WCA would not be outweighed by any public benefits. Accordingly, the proposal would conflict with LP Policies DE1 & SS10, TNP Policy TH8 and paragraphs 205, 206 and 208 of the Framework.

Other matter

14. The appellant has raised concerns relating to the handling of their planning application and enforcement proceedings with the council. These matters are not material to my consideration of the planning merits of the proposal. They are a matter that would need to be pursued directly with the council.

Conclusion

15. Having regard to the conclusion on the main issue, and all other matters raised the appeal is dismissed.

Elizabeth Lawrence

INSPECTOR