



Appeal Decision

Site visit made on 14 December 2021

by M Cryan BA(Hons) DipTP MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25th March 2022

Appeal Ref: APP/B5480/W/21/3273584

Land adjacent to 1 Torrance Close, Hornchurch RM11 1JT

- 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 Oleg Rudenko of Omega Design and Build Ltd against the decision of the Council of the London Borough of Havering.
 - The application Ref P1928.20, dated 18 December 2020, was refused by notice dated 1 March 2021.
 - The development proposed is the erection of a detached one-bedroom one-person bungalow.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The Government published a revised National Planning Policy Framework ("the Framework") on 20 July 2021, replacing the version published in February 2019. Given the timing of this, both main parties had the opportunity to address the revised Framework as part of their appeal representations (at appeal statement stage for the Council, and at "final comments" stage for the appellant). Where I have referred in my decision to specific paragraphs of the Framework, the numbering used is that of the July 2021 version.
3. The Council adopted the new Havering Local Plan ("the HLP") on 17 November 2021. At the same time the 2008 Core Strategy and Development Control Policies DPD, the policies of which had been referred to in the decision notice, was withdrawn. The main parties were afforded the opportunity to comment on the relevant new policies, and in my reasons below I have referred to the policies of the HLP.
4. The Housing Delivery Test ("HDT") results for 2021 were published by the Government on 14 January 2022. These show that the Council had met only 46% of its housing requirement over the three-year period to 2021. The Council's appeal statement had referred to the HDT results published in 2020, which showed a delivery against target of 33% over the three-year period to 2019. The HDT results published in January 2021 – which for whatever reason were not referred to in either main party's appeal submissions – showed delivery at 36% over the three years to 2020. The Council therefore remains under the same "presumption" status as previously. I address the implications of this later in my decision; however, as the latest results have not materially changed the position, I have not sought further comments on this matter from the main parties.

Main Issues

5. The main issues are:

- The effect of the development on the character and appearance of the area;
- Whether or not the proposed dwelling would provide acceptable living conditions for future occupiers, with particular regard to the quality of external amenity space; and
- The effect of the proposal on protected trees within the appeal site.

Reasons

Character and appearance

6. The appeal site is a plot of land sited between No 1 Torrance Close and Hornchurch Road. Hornchurch Road is a reasonably busy road, connecting Hornchurch town centre with the centre of Romford and other areas to the west. The site contains various vegetation and trees; most of the trees are small self-set ash, although there are three mature oaks. To the west of the appeal site is a broad grassed and landscaped verge between Torrance Close and Hornchurch Road, while to the east (beyond the mature planted garden of No 37 Hornchurch Road) is the open green space of Harrow Lodge Park. The site is described in the Design and Access Statement as unmanaged, but while it is perhaps somewhat "rough and ready" when compared to the more formally laid out spaces to either side, nevertheless I saw that it makes a valuable contribution to the pleasant character and verdant appearance of this part of Hornchurch Road.
7. The proposal is to erect a detached bungalow on the site. This would have a gross internal area of around 37m², with an open-plan kitchen and lounge area, bathroom and a bedroom providing accommodation for a single occupier. It would have a hipped roof of red clay tiles, with an eaves height of around 2.4m and a ridge height of around 4.4m. The walls would be finished with red facing brickwork to plinth level, with white render above. Vehicular access would be from Torrance Close, with a driveway providing two off-street car parking spaces on hardstanding to the south of the dwelling.
8. Existing dwellings within the area around the appeal site predominantly have two storeys, although within this there is some variety of form and design; dwellings are detached, semi-detached and in short terraces, and both hipped and gable-ended roofs are used. However I saw on my site visit that the proposed dwelling would principally be viewed from Hornchurch Road, from where it would be seen against the existing dwellings on Torrance Close itself; here, the buildings are uniformly of two storeys with gabled roofs. Seen in this context, the small scale of the proposed bungalow would be emphasised by the use of hipped roofs, and the overall effect would be of a diminutive dwelling sitting somewhat incongruously alongside the generally larger dwellings which make up the surrounding streetscape.
9. The appellant drew my attention to other bungalows or 1.5 storey dwellings in the surrounding area, some of which I was able to view at the time of my site visit. However, the vast majority of these were on side roads off Hornchurch Road, where such properties are a reasonably common part of the streetscene. That consideration does not apply to the appeal site, which is seen in the

context of a busier road with a different developed character. The other bungalows to which the appellant referred did include No 122 Hornchurch Road. However, while this is very much an exception to the prevailing pattern on Hornchurch Road, the footprint and alignment of No 122 are nevertheless in keeping with its immediate neighbours, which could not be said of the proposal in this case. In my view none of these other examples adds significant weight in support of the appeal proposal.

10. I conclude that, as a result of its scale and design, the proposed dwelling would be harmful to the character and appearance of the area. The proposal therefore conflicts with Policies 26 and 27 of the HLP which, among other things, seek to ensure that development proposals complement the distinctive qualities, identity and character of the area, including by responding to the established scale, massing and rhythm of buildings. The proposal also conflicts with the requirements of the Framework in respect of achieving well-designed places, notably Paragraph 130 which among other things seeks to ensure that developments will function well, add to the overall quality of the area, and are sympathetic to local character.

Living conditions

11. The proposed bungalow would be set towards the southern boundary of the appeal site, close to the garage of No 1 Torrance Close. The garden would mainly be to the east and north of the bungalow, and the submitted drawings indicate that most of the external amenity space would be beneath the canopy of the three large oak trees. Although the size of the space would be generous for such a small dwelling, the significant overshadowing from the trees would be likely to result in it being a gloomy and oppressive space, which in my view would seriously diminish its usefulness as a functional amenity space.
12. The appellant has referred to large trees within and at the boundaries of gardens being a characteristic feature of the area, and drew my attention to several examples of this nearby. I do not disagree that mature trees have considerable amenity value, and can contribute to the desirability of a neighbourhood; I have already commented above on the pleasant and verdant appearance of the area. However, in my view there is a considerable difference between trees within and bounding gardens, which is a common feature in the surrounding area (including in the examples the appellant provided), and a site which is almost entirely overshadowed by trees. The latter would be the case here, and in my view the mature trees would cover such a large proportion of the site that they would detract from, rather than enhance, living conditions for future occupiers.
13. I conclude that, because of the overshadowing of the external amenity areas arising from the canopies of the mature trees on the appeal site, the proposed development would not provide acceptable living conditions for future occupiers. The proposal therefore conflicts with Policies 7 and 26 of the HLP, which among other things seek to ensure that development is well-designed and provides future occupiers with a high-quality living environment, including high quality and usable amenity spaces. It would also fail to comply with the requirements of the Framework in respect of achieving well-designed places, notably Paragraph 130 which among other things seeks to ensure a high standard of amenity for existing and future users.

Trees

14. The three mature oak trees within the appeal site are protected by a Tree Preservation Order ("TPO")¹. I note that the submitted Tree Survey Report concluded that the three protected trees could be "usefully retained and adequately protected from any major adverse impact that may result from the change of use to residential"². Although the same report warned that "the root protection area of T1 & T2 [the westernmost and middle of the three oaks], and to a much lesser extent T3, would be compromised by the proposed building footprint"³, the Council did not find that the construction phase of development would directly threaten the protected trees; none of the evidence before me leads me to a different view on that aspect of the proposal.
15. However, although the trees would continue to be protected by a TPO, given the extent to which they would overshadow a significant part of the appeal site, including most of the external amenity area, I do not agree with the appellant's assessment that the trees would be appreciated by future occupiers as an aesthetic garden feature. It seems highly likely to me that, in the longer term, the effects of overshadowing, leaf and branch drop, and bird fouling would be such that there would be considerable pressure for significant works to, or ultimately the removal of, the trees.
16. I therefore conclude that the proposed development would have a harmful effect on the protected trees within the appeal site. The proposal therefore conflicts with Policies 7, 26 and 27 of the HLP, which among other things seek to ensure that development is well-designed, provides a high-quality living environment for residents, and retains and enhances existing landscape features (such as trees) which contribute positively to the site and the character of the local area. It would also conflict with the requirements of paragraph 131 of the Framework which seek to retain existing trees wherever possible.

Other Matters

17. Both main parties drew my attention to a previous appeal decision in respect of the site (PINS Ref APP/B5480/W/20/3250431⁴), while the Council also provided an even earlier appeal decision (PINS Ref APP/B5480/W/17/3175801⁵). While I do not know the full details of these earlier schemes, both related to proposals for a detached two-bedroom dwelling on the site although I understand that there were differences between the two schemes. The earlier appeals addressed slightly different matters in respect of character and appearance, and living conditions, and I have reached my conclusions here based on the evidence before me and my observations on site. My conclusions in respect of the third main issue, the effect of the proposed development on protected trees, are entirely consistent with my colleagues' earlier decisions.
18. The appellant's evidence asserted that as the Council did not have an up-to-date local plan it could not demonstrate a five-year housing land supply. The adoption of the new HLP in November 2021 means that the Council now has a five-year supply of deliverable housing land. However, the development would

¹ London Borough of Havering (Land adjacent to 1 Torrance Close) Tree Preservation Order (No 8) 1999

² RGS Arboricultural Consultants *Tree Survey Report* December 2020 – Para. 5.1.1

³ Ibid.

⁴ Relating to LPA ref P1750.19, application dated 15 November 2019

⁵ Relating to LPA ref P0188.17, application dated 6 February 2017

nevertheless make some contribution, albeit a very modest one, to boosting the supply of housing in the borough.

Planning Balance and Conclusion

19. Although the Council is now able to demonstrate a five-year housing land supply, as I have already explained above the 2021 HDT results mean that the most important policies for determining the appeal should be considered out of date, and the presumption in favour of sustainable development set out in paragraph 11d) of the Framework applies. As such, planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
20. The proposed development would provide a single new dwelling, in an area which is well-located for access to shops, other services and transport links. There would be some additional benefits in terms of employment and use of local businesses during the construction phase, although given the very small scale of the scheme these would represent in total a limited social and economic benefit. However, the development would be harmful to the character and appearance of the area, would fail to provide acceptable living conditions for future occupiers, and would threaten the future of protected trees. It would therefore conflict with the requirements of the Framework which seek to achieve well-designed places, in particular Paragraphs 126 to 134, for the reasons which I have set out above.
21. Overall, the harm from the development significantly and demonstrably outweighs the benefits when assessed against the Framework taken as a whole. The proposal would not amount to sustainable development in the terms set out in the Framework. The appeal is therefore dismissed.

M Cryan

Inspector