



Appeal Decision

Site visit made on 11 September 2025

by **B Pattison BA (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 16th October 2025

Appeal Ref: APP/C3620/W/25/3362647

3 The Meads, Fir Tree Close, Leatherhead, Surrey KT22 8RH

- 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 Gary Simmons and Isabelle Fry against the decision of Mole Valley District Council.
 - The application Ref is MO/2024/1842/PLA.
 - The development is described as demolition of existing Bungalow and erection of proposed detached replacement dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal submission includes additional details such as a Sunlight & Daylight Assessment (SDA) (February 2025), and a supporting letter prepared by the appellant's Arboricultural Consultants (March 2025).
3. I have considered the SDA and letter taking into consideration the principles established by the Courts in *Holborn Studios Ltd*¹. This evidence provides additional detail in relation to the living conditions for future occupiers of the proposal, rather than any amendments to the design of the proposal. Given that the Council and other interested parties have had an opportunity to comment on the additional information, I have accepted it in line with the Holborn principles.

Main Issues

4. The main issue is the impact of the proposal on protected trees on the site.

Reasons

5. The appeal site is located within a low-density residential area, generally consisting of large, two-storey detached dwellings, typically set back from the road within generous plots. Mature trees and tall hedgerows contribute significantly to the area's leafy appearance and enhance its overall visual amenity. The appeal property itself comprises a modest single-storey bungalow situated within a substantial plot.
6. Several mature trees are present within the site which are subject to a Tree Preservation Order² (TPO). Of particular note are the groups of large mature trees comprising Beech and Lime (labelled as T8, T10, G11, T13, T14 and G15 within

¹ *Holborn Studios Ltd v The Council of the London Borough of Hackney* [2017] EWHC 2823 (Admin)

² TPO/117/1/J

the appellant's Arboricultural Report) located within the appeal site's south-western corner. The trees together contribute significantly to the character and appearance of the area, emphasising its space and verdant quality.

7. The Council refer to the potential for significant pressure from future occupiers for the removal or works to the trees on and around the site. A previous appeal (Ref: APP/C3620/W/23/3330674) was dismissed in 2024, partly due to the adverse impact of the proposed development on the TPO-protected trees. The current proposal differs from the previous appeal scheme in that the orientation of the proposed dwelling has been altered, and it is positioned further from the protected trees. The rear elevation and windows would now face towards the south-east portion of the garden, thereby directing views away from the south-west corner of the site where the protected trees are located.
8. The appellant has directed me to guidance in BS 58379³ which identifies at section 5.3.4(a) that shading can be desirable to reduce glare or excessive solar heating, or to provide for comfort during hot weather. Alternatively, the Council highlights wording within that section of the guidance which outlines that shading from trees can impact natural light, particularly in habitable rooms and that proposed buildings should be designed with consideration for existing trees.
9. Despite the re-orientation of the dwelling, the proximity to the trees has the potential to cause shading to the replacement dwelling and its garden area. At ground floor level the kitchen/family room would be served only by windows on the rear elevation, as such there is the potential for shading of this room. The shading could also affect a bedroom at first floor level which is located closest to the group of trees.
10. The appellant's SDA provides a range of daylight, sunlight and sun on ground assessments which the appellant indicates have been produced in accordance with BRE's 'Site layout planning for daylight and sunlight: a guide to good practice' (BRE guidelines).
11. The SDA confirms that the trees on-site were modelled in accordance with the appellant's tree survey. However, G2.3 of the BRE guidelines outlines that when measuring skylight or sunlight in new dwellings, calculation models should account for the obstruction to daylight caused by the trees by modelling a representative shape of the trees. Often trees are irregularly shaped and simple modelling, using height and spread data and assuming a circular tree will give inaccurate results. Consequently, a special survey on site is generally necessary to produce the required data on the tree profile. From the submitted evidence, it is unclear whether such a survey took place.
12. Furthermore, Note 1 in section 5.2 of BS 58379 outlines a method to plot the path of the sun indicating the shadow pattern from the trees through the main part of the day. Without this information, it is not possible to confidently ascertain that the proposal would not have a harmful effect on future occupiers' living conditions due to shading of the rear windows or garden.
13. While the appellant may currently accept the potential shading, it is not unreasonable to assume that dissatisfaction with shade, could well grow with experience. If the development were to be allowed therefore, there would be a risk

³ BS 5837:2012 Trees in relation to design, demolition and construction

of that leading to pressure for substantial reduction or complete felling of the trees which, despite the comments of the appellant, could be difficult for a reasonable local planning authority to resist. As a consequence, the site would become more urbanised and the verdant nature of this area would be eroded.

14. I note that the aerial photograph provided by the Council appears to show more trees than were present during my site visit. It also does not include a specific date stamp or detail the time of day it was taken. Regardless, for the reasons outlined above I conclude that it has not been demonstrated that the proposed development would not have a detrimental impact on the trees covered by the TPO.
15. I therefore find that the proposal conflicts with Policies EN4 and EN9 of the Mole Valley Local Plan (2024) insofar as the policies require proposals to maximise opportunities to protect existing tree cover, and ensure that future occupiers' amenity is not significantly affected, including in terms of loss of sunlight, daylight, overshadowing or the need for artificial light.

Other Matters

16. I acknowledge that residential development in this location is acceptable in principle and the proposal may be compliant with various provisions of the development plan.
17. However, it has not been demonstrated that the proposal would avoid potential harm to the health of the TPO trees bringing it into conflict with the development plan as a whole.

Conclusion

18. The proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. Therefore, the appeal is dismissed.

B Pattison

INSPECTOR