

## **Appeal Decision**

**Site: 320 Chessington Road West Ewell Surrey KT19 9XG**

**Proposal: Demolition of existing dwelling and erection of two pairs of semi-detached dwellings providing 3-bed units with associated car parking and landscaping**

**Application Number: 16/01214/FUL**

**Decision: Appeal dismissed**

**Grounds for Refusal:**

- 1. The close proximity of the proposed buildings (particularly at Plot 3 and Plot 4) to the protected Yew and Pine trees will have an adverse impact on the living conditions of the occupants of the proposed houses due to excessive tree shade and nuisance and is therefore likely to result in future pressure to remove or heavily prune trees to the detriment of the visual amenity of the locality. This would be further exacerbated by the need to retain the boundary hedge, which is necessary to protect the privacy of the adjacent property. The development would also result in potential root damage to trees as during the construction of the proposed dwellings. The application is therefore contrary to the requirements of Policies CS1 and CS5 of the Core Strategy (2007) and Policies DM5, DM10 and DM12 of the Development Management Policies (2015).***

**The Inspector upheld the ground for refusal stating that.**

“The proposed development would introduce new dwellings in very close proximity to the protected trees, around 4.3m at the closest point according to the submitted Arboricultural Report (2016) and within the identified Root Protection Area (RPA). Measures are set out to investigate the presence of roots and to deal with them sensitively if and when they are discovered during construction. However, these investigations have not yet taken place and it seems to me, given the close proximity, highly likely that roots will be impacted by the proposed buildings, particularly plots 3 and 4. No detailed information about specialist foundations has been provided and the information available suggests that it is likely that roots will be cut. In my view, there is a very real prospect that this would be to the detriment of the trees health and longevity.

In addition to these concerns, the sheer size and scale of the protected trees in such proximity to the rear of plots 3 and 4 would undoubtedly have an uncomfortable and overbearing impact on future residents, whose outlook from rear windows would be directly onto the trees. I note the potential to include additional windows to the side and have had regard to the plan contained at Appendix 4 of the appellant’s statement but this would not alter the relationship with the large opening in the rear living room, albeit that it may

assist in allowing light to penetrate. This situation would be further compounded by proposals to retain the large Beech tree to the front of plots 3 and 4, leading to a similarly constrained relationship in views out of front windows.

With regards to light, the submitted Amenity Sunlight Assessment (2017) finds that 60% of the most affected rear garden would receive at least 2 hours of direct sunlight on 21 March in accordance with BRE Guidance<sup>1</sup>. Even if this was the case, taking account of likely growth and notwithstanding previous consents to carry out works to the trees, much of the garden would remain in shade. In my view, and contrary to that of the appellant's, it does not necessarily follow that under these circumstances the proposed dwellings would receive sufficient light and the analysis of garden impacts does not persuade me that suitable living conditions would be achieved.

On top of these issues, the large height and canopy spread of the protected trees and their attendant overshadowing of the garden, coupled with their inherent tendency to drop detritus would make the closest rear gardens somewhat uninviting and in part potentially unusable.

All of these issues together lead me to conclude that there would be a very real likelihood of loss or damage to the trees as a result of the development. Even if, as the appellant suggests, the trees were adequately protected and retained there would likely be a strong and persistent pressure from residents for their future removal or substantial pruning in light of the constrained and uncomfortable relationship between the trees and the proposed dwellings. These impacts would severely undermine the standard of the living accommodation, resulting in inadequate and undesirable living conditions for future occupants".

The Inspector noted the potential benefits of the development, including the provision of three additional family sized dwellings but stated that these did not outweigh the harm that I have identified in regards to the main issue

Conclusion:

When assessing an application it is important for Planning Officer's to understand how important trees and other types of screening could possibly affect the amenities of future occupants of the development.