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## Appeal Decision

Site visit made on 13 June 2019

**by Mrs Chris Pipe BA(Hons), DipTP, MTP, MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 15 July 2019**

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**Appeal Ref: APP/P3610/W/19/3225603**

**Aviary Court, 138 Miles Road, Epsom KT19 9AB**

- 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 S Scammell & P Ginger against the decision of Epsom and Ewell Borough Council.  
The application Ref 18/01325/FUL dated 11 December 2018, was refused by notice dated 6 February 2019.
  - The development proposed is described as replacement of existing garage and hardstanding with 1 No 1 bed 2 storey dwelling and associated car parking.
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### Decision

1. The appeal is allowed and planning permission is granted for the replacement of existing garage and hardstanding with 1 No 1 bed 2 storey dwelling and associated car parking at Aviary Court, 138 Miles Road, Epsom KT19 9AB in accordance with the terms of the application, Ref 18/01325/FUL dated 11 December 2018, and the plans submitted with it, subject to the following conditions:
  - 1) The development hereby permitted shall begin not later than the expiration of 3 years from the date of this permission.
  - 2) The development hereby permitted shall be carried out in accordance with the following approved plans and thereafter maintained as such for the lifetime of the development: Drawing Nos. 1890/1 Ground Floor Plan; 1890/2 First Floor Plan, 1890/3 Front Elevation to Miles Road, 1890/4 Rear Elevation, 1890/5 West Side Elevation, 1890/6 East Side Elevation, 1890/7 Block Plan & Street Elevation and the Location Plan.
  - 3) No development shall take place until details of the materials to be used in the construction of the external surfaces of the dwelling hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
  - 4) Notwithstanding the hereby approved plans the site shall not be first occupied until details of the boundary treatments, have been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the details approved as part of this condition before first occupation and retained as such thereafter.

## **Main Issues**

2. The main issues in this appeal are the effect of the proposed development on (i) the character and appearance of the area; (ii) the living conditions of the occupiers of the neighbouring properties; and (iii) the living conditions for the occupiers of the development.

## **Reasons**

### *Character and Appearance*

3. The site is within a predominantly residential area. Dwellings are typically semi-detached or detached and of a traditional two storey form. There is a strong architectural rhythm along the majority of Miles Road.
4. The site is located at the end of the road on a regular shaped plot, near the junction with Hook Road, adjacent a detached garage and commercial buildings which does not form part of the prevailing rhythm of the area. Opposite a detached property (75 Miles Road) faces the site, which whilst a newer build does share some characteristics with the adjacent properties.
5. The rear of the properties on Hook Road within close proximity of the site, share main features with one another, such as projecting two storey gables, however they are not uniformed, for instance, in terms of single storey extensions, window detailing or dormer roof projections. Modern houses on Hook Road are also clearly visible to the rear of the appeal site.
6. Overall the area is diverse in terms of building form. Although roof types vary, the height of buildings in the area are similar.
7. The proposed development would introduce a contemporary design into the area, however due to the location of the site, and the different features of the surrounding buildings the simple and high quality design would not be incongruous to the streetscene.
8. The residential properties on Miles Road are set back from the highway, with a large proportion accommodating a car parking space, parallel to the highway. Miles Road has a slight curve which limits the view of the building line from the junction with Hook Road.
9. The adjacent commercial building, 138 Miles Road is set back from the highway compared to the neighbouring residential properties. The proposed development would be closer to the highway than the neighbouring buildings, however given the differences in the immediate area and location of the site I do not consider this arrangement would be an alien feature.
10. I conclude that the proposed development would not harm the character and appearance of the area. There is no conflict with Policy DM10 of the Epsom and Ewell Borough Council, Development Management Policies Document (2015) (the DMP), Policy CS 5 of the Epsom and Ewell Borough Council, Core Strategy (2007) (the Core Strategy), and the National Planning Policy Framework (2019) (the Framework) which amongst other things seek developments to contribute to the character and local distinctiveness of an area, respecting the scale, form and pattern and be of good design.

*Living conditions of neighbouring residents*

11. The proposed development would be hard up to the shared boundary with Nos. 106 and 108 Hook Road. The proposed development would be limited to a single storey on the boundary with 106 Hook Road, however the majority of the proposed building along the shared side boundary of 108 Hook Road would be at two storey.
12. The proposed development due to its orientation would overshadow part of the rear garden of 108 Hook Road. Despite this overshadowing the proposal would still accord with the overall amenity protection and design aims of Policy DM10 of the DMP. Due to the length of the garden and low profile roof I do not consider this arrangement unsatisfactory or that the proposed development would be overbearing.
13. I conclude that the proposed development would not harm the living conditions of occupiers of the neighbouring properties.
14. The second reason for refusal contends that there would be conflict with Policy CS 5 of the Core Strategy in terms of introducing a development which would have an overbearing and overshadowing effect on a neighbouring property. However, I consider that not to be the case, Policy CS 5 relates to the quality and design of development and does not reference the protection of the living conditions of the occupiers of the neighbouring properties.

*Living conditions for occupiers of the development*

15. The Council have confirmed that the proposed development meets the space standards required for internal and external space.
16. The ground floor layout includes a bedroom which would have two windows facing Miles Road. This could cause a privacy issue given the proximity of the windows to the highway, however there are means to ensure privacy is retained for instance by appropriate means of enclosure, boundary planting or by placing blinds/curtains at the windows.
17. The proposed development has the main living accommodation on the first floor, with a balcony projecting towards Miles Road providing external space. The balcony would reduce the amount of natural daylight to the ground floor bedroom windows. However, given the layout and the use of the ground floor room I do not consider that the balcony and the proposed development in general would harm the living conditions of the occupiers of the development.
18. There is no conflict with Policies DM10 and DM12 of the DMP which amongst other things require new housing developments to comply with internal and external space standards and ensure the living conditions of future occupiers are protected.

**Conclusion and Conditions**

19. For the above reasons I conclude that this appeal should be allowed.
20. The Council were given the opportunity to provide conditions should the appeal be allowed, however these were not provided. I have imposed a standard condition relating to the commencement of development. I have included a condition specifying the relevant plans as this provides certainty. In the interest of safeguarding the character and appearance of the area I have

imposed conditions relating to details of the external materials and boundary treatments.

*C Pipe*

INSPECTOR