



Appeal Decision

Hearing Held on 4 February 2020

Site visit made on 4 February 2020

by Thomas Hatfield BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 February 2020

Appeal Ref: APP/P4605/W/19/3231439

Land adjacent to 314-320 Tile Cross Road, Birmingham, B33 0ND

- 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 Tom Collins against the decision of Birmingham City Council.
 - The application Ref 2018/05865/PA, dated 16 July 2018, was refused by notice dated 20 February 2019.
 - The development proposed is use of land for the stationing of caravans for residential purposes and erection of single storey detached building.
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Decision

1. The appeal is allowed and planning permission is granted for the stationing of caravans for residential purposes and erection of a single storey detached building at land adjacent to 314-320 Tile Cross Road, Birmingham, B33 0ND in accordance with the terms of the application, Ref 2018/05865/PA, dated 16 July 2018, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this Decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 18_932_001; 18_932_002; 18_932_003 B; 18_932_005.
 - 3) The parking spaces and turning areas indicated on drawing No 18_932_003 B shall be surfaced and made available for use prior to the first occupation of the development and shall thereafter be retained.
 - 4) No more than 2 caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 as amended (of which no more than 1 shall be a static caravan) shall be stationed on the site at any time.

Procedural Matters

2. The description of development given above is taken from the Council's Decision Notice rather than the planning application form, as this provides a more complete description of the development. The application was also determined on this basis.
3. At the hearing, the Council acknowledged that the development was not contrary to Policy TP34 of the Birmingham Development Plan simply by virtue

of being outside the 2 gypsy/traveller site allocations. Accordingly, it withdrew this element of its case. I have therefore not considered this matter in any further detail.

4. The gypsy status of both the appellant and the wider family group is not in dispute. From the information before me, I am satisfied that all members of the family group fall within the definition of 'gypsies and travellers' set out in the Annex to the Government's Planning Policy for Traveller Sites ('PPTS'). The PPTS is therefore a material consideration.
5. It is common ground that the Council is able to demonstrate a 5 year supply of deliverable gypsy and traveller sites.

Application for Costs

6. At the Hearing an application for costs was made by Mr Tom Collins against Birmingham City Council. This application is the subject of a separate Decision.

Main Issue

7. The main issue is the effect of the development on the character of the area.

Reasons

8. The appeal site consists of a small backland site within the urban area that was previously used as a garage court. It is largely surrounded by housing and is accessed via a narrow driveway along the side of Nos 318-320 Tile Cross Road. The surrounding area is characterised by a variety of dwelling types and styles, including semi-detached houses, terraces, and flats.
9. The appeal site has limited visibility from the street, and it is only partially visible from along a short section of Tile Cross Road. Its contribution to the character of the surrounding area is therefore limited, and it is currently in a disused state. The proposed use would be residential which would be compatible with the character of the area. The single storey structures would also be similar in height to both the previous garage block buildings and the single storey commercial building immediately to the south. Given the variety of building types and styles in the vicinity, and the proximity of commercial uses, it would fit comfortably into the grain of the area in my view. Whilst I am not aware of any other backland developments in the surrounding area, that does not necessarily preclude such developments on appropriate sites. In this regard, I note that the Council's Places for Living Supplementary Planning Guidance (SPG) states that "*backland development within an established area may often be acceptable*".
10. The Places for Living SPG also states that in general development should consist of "*active fronts and private backs*". However, aside from the access driveway, no part of the site would have a street frontage. In any case, this part of the SPG makes no specific reference to gypsy/traveller pitches and its provisions read as being intended to apply to traditional bricks and mortar housing only.
11. For the above reasons, I conclude that the development would not significantly harm the character of the area. It would therefore accord with Policies PG3 and TP27 of the Birmingham Development Plan (2017), Paragraph 3.14C of the Birmingham Unitary Development Plan (2005), and guidance contained within

the Mature Suburbs SPD (2008) and Places for Living SPG (2001). These policies and guidance seek to ensure, amongst other things, that new development is designed to respond to site conditions and the local context, and contributes to sustainable neighbourhoods.

Other Matters

12. The development would include a static caravan, a touring caravan, and a utility/day room that would be adapted to meet the appellant's healthcare needs. This is a fairly typical arrangement for a single gypsy/traveller pitch. In this regard, the proposed utility/day room is small in size and is clearly not intended to be used as separate accommodation.
13. The submitted drawings illustrate that the site is capable of accommodating 2 caravans, a utility/day room, sufficient vehicle parking and manoeuvring space, and outdoor amenity space. In my view, it is of a sufficient size to comfortably accommodate a single gypsy/traveller pitch.
14. The appeal site is next to a small supermarket and post office, and a convenience store and petrol filling station are located nearby. A bus stop is positioned directly opposite the site entrance with regular services to Birmingham city centre. There are also a number of schools in the surrounding area. Accordingly, I am satisfied that the appeal site is in an accessible location for the purposes of Policy TP34 of the Birmingham Development Plan.
15. The proposed access point would have good visibility in both directions and would be a safe and suitable access in my view. I further note that the Highway Authority has not objected to the development on these grounds.
16. The site was formerly used as a garage block and contains large areas of hardstanding within it. It clearly consists of previously developed land.
17. The proposed building and caravans would be single storey only and so would not result in any significant overlooking or loss of privacy to neighbouring gardens. The level of activity associated with a single pitch is also unlikely to differ significantly from a residential dwelling.
18. There is no evidence that the proposal would give rise to an increase in anti-social behaviour or crime in the area.
19. It is a long-established principle that the planning system does not exist to protect private interests such as the value of land and property.

Conditions

20. The Council suggested a number of conditions, some of which I have edited for clarity and enforceability. In addition to the standard time limit condition, I have imposed a condition that requires the development to accord with the approved plans. This is necessary in the interest of certainty. A condition requiring that the proposed parking spaces and turning area be installed prior to first occupation is also necessary in order to ensure that those facilities are available to future occupiers. A further condition restricting the number of caravans at the site is necessary in order to prevent its subdivision, to provide adequate living conditions for future occupiers, and to protect the character and appearance of the area.

21. The Council also suggested a condition that would make the permission temporary. However, it is unclear why a 'trial run' is necessary in this case or that the planning circumstances will change significantly at the end of the temporary period. Another suggested condition would have required the submission and approval of samples of external facing materials. However, details of the proposed materials are already provided on the submitted plans, and in any case, the proposed utility/day room would be largely screened from view from the surrounding area. The Council also suggested a condition that would have removed permitted development rights from the development. However, it is unclear why that is necessary in this case or what harm would arise from their use.

Conclusion

22. For the reasons given above I conclude that the appeal should be allowed.

Thomas Hatfield

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

P Brown	Planning Consultant
T Collins	Appellant
M Collins	

FOR THE LOCAL PLANNING AUTHORITY:

G Forest	Birmingham City Council
V Mahmood	Birmingham City Council

DOCUMENTS SUBMITTED AT THE HEARING

- 1 Letter of support from the Parish Priest, St John the Baptist Parish.
- 2 Letter of support from Alliance Care Ltd.