



Appeal Decision

Site visit made on 26 April 2022

by G Bayliss BA (Hons) MA MA MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 30 June 2022

Appeal Ref: APP/P4605/W/22/3291183

7 Stowell Road, Birmingham B44 8EA

- 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 Ellie Liggins-Hughes, Cerda Planning, against the decision of Birmingham City Council.
 - The application Ref 2021/07601/PA, dated 27 August 2021, was refused by notice dated 9 December 2021.
 - The development proposed is retrospective planning permission for the change of use of land formerly used as residential garden land (Use Class C3) and its continued use as a building contractors storage yard (sui generis) together with the retention of 3No. storage containers and metal palisade security fencing.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The development has already taken place and this appeal relates to a refusal for retrospective planning permission.
3. Ellie Liggins-Hughes of Cerda Planning was named as the applicant rather than Mr Jim Mullarkey, Bickford Construction, and this was not corrected during the application process. The right of appeal is only given to the original applicant and Ellie Liggins-Hughes of Cerda Planning has confirmed that the appeal can proceed in their name, on behalf of Bickford Construction.
4. Since the Council refused planning permission, the Development Management in Birmingham Development Plan (DMB) (2021) has been adopted. However, my attention has not been drawn to any relevant policies which have been superseded by the DMB. Neither party, therefore, has been prejudiced by this change in policy circumstances.
5. An amended site plan was submitted during the course of the application, but the Council considers that this plan is still incorrect as it includes part of the public footpath within the red line and there is no written confirmation that the applicant has right of access over the service route to and from the public highway.

Main Issues

6. The main issues are:
 - the effect on the character and appearance of the area.

- whether the development is an acceptable location having regard to the vitality and viability of the Hawthorne Road Local Centre.

Reasons

Character and appearance

7. The appeal site is located to the rear of 7 Stowell Road and is a roughly rectangular parcel of land accessed via a service road running from Stowell Road through to Hawthorn Road. The road primarily services the rear of commercial properties on Hawthorn Road and gives access to a car dealership on Kingstanding Road. When accessing the service road from Stowell Road there are long residential gardens to the left-hand side wrapping around the appeal site continuing along the southern side of the car dealership. The gardens are not easily visible from the service road due to the dense hedge.
8. The service road provides parking at the rear of premises on Hawthorn Road and accommodates a range of small outbuildings, commercial bin storage areas and service yards. The yards to many of the premises are enclosed by steel palisade fencing, including gated access to the service road itself from both Stowell Road and Hawthorn Road, and additional palisade fencing and gates enclosing part of the appellant's main premises at 198 Hawthorn Road.
9. The appeal site is enclosed from the service road by palisade fencing with access gates at either end and this continues along the boundary with the car dealership. At the rear, adjoining the residential gardens, only a section of palisade fencing was visible as the containers on the appeal site and vegetation obscured most of the boundary and only a glimpse of the gardens beyond was possible. Through this glimpsed view I saw that the gardens were at a lower level than the appeal site and saw several outbuildings. The Google Earth images supplied with the appellant's statement show large, domestic outbuildings running directly behind most of the storage containers on the appeal site.
10. The boundary with the rear garden of No.7 was a tall, mature hedge with no apparent views through to its garden. Along the side of the site, adjacent to the car dealership, and along part of the front, large metal screens were secured against the fencing, and in places were of differing heights. Within the site the ground was roughly levelled with gravel and scrubby vegetation, and in the L-shape formed by the three containers a slabbed area had been laid on which was a skip of building debris. Elsewhere within the site, building materials were leant up against the fencing and containers, with materials stacked in piles, and the level of vegetation suggested that some had been there for a period of time.
11. The site was not visible from the entrance on Stowell Road but was clearly viewed on approaching the bend in the service road and was very visible when approaching from the Hawthorn Road direction. Despite the palisade fencing and metal screen panels, the contents of the compound were clearly visible.
12. Whilst the appeal site has previously been garden land, the evidence before me suggests that the site had been unused for some time, becoming scruffy and unkempt and attracting antisocial behaviour. The site is now predominantly screened from the adjoining garden land by mature hedging and the garden buildings, and I was not aware of any connecting access. The appeal site,

therefore, has a much closer visual connection with the service road and activities associated with the rear of the commercial premises on Hawthorn Road and the car dealership. Its location is also quite distant from the residential properties themselves due to the long rear gardens. Consequently, I consider that the main issue with regard to character and appearance is how the appeal site relates to the adjoining commercial properties and the service road, rather than its visual relationship with nearby residential properties.

13. Aware of the surrounding use of palisade fencing and the need for security, I found the fencing around the appeal site to be in keeping with the general character of the area. However, within the compound, the site had a makeshift and untidy appearance with the large containers appearing randomly sited and the rough ground, open skip storage and loose building materials around the site were particularly unsightly and very visible in the immediate area.
14. Although the general environment around the service road is functional and utilitarian in its appearance, most ancillary buildings and storage is contained neatly within the curtilages and relates in scale and appearance to the main use of those sites. In contrast, the appeal site is remote from the appellant's main premises and therefore stands in a prominent and isolated location. I note that the containers within the car dealership adjoining the appeal site do not have planning permission, a matter not disputed by the appellant, and their presence does not justify further containers alongside. I was also not aware of any other containers of a similar size or appearance in the area.
15. Several businesses nearby have large, metal roller-shutter doors at the rear of their premises and in places metal sheeting is used as partitions, but these are integral to existing buildings and within their curtilages, they are distinctly different to the free-standing metal containers and metal screens which are clearly read as such and are not associated with any adjoining use. I consider also that parallels cannot be drawn with the large outbuildings in nearby domestic gardens as these are not viewed in conjunction with the appeal site and the case before me centres on open, public views which can be obtained from the service road and the need to conserve the character and appearance of the immediate area.
16. Therefore, although I consider that the fencing causes no harm, the containers, metal screens and open storage are visually harmful to the character and appearance of the area. The development is therefore contrary to Policy PG3 of the Birmingham Development Plan (2017) (BDP) and Section 12 of the National Planning Policy Framework (the Framework) which, amongst other things, seek to improve the design quality of all new development.

Location

17. The appellant's main business occupies the nearby corner property on Hawthorn Road with a retail frontage, and parking and building materials are stored in the adjoining yard fronting Stowell Road. The appeal site lies within the Hawthorn Road Local Centre and Primary Shopping Area, which supports a diversity of uses, and I can see no planning policy or guidance in the Shopping and Local Centres Supplementary Planning Document (2012) which states that the use for which permission is sought cannot take place in this area.
18. The Council has also cited the Loss of Industrial Land to Alternative Uses Supplementary Planning Document, but I have not been provided with the

relevant extract and in any event the reference provided only mentions that builder's merchants can be located on industrial land, and it does not follow that a local centre setting is necessarily inappropriate. I recognise also that Annex 2: Glossary of the Framework does not list a building contractor's storage yard as a main town centre use but again it does not necessarily preclude that use.

19. The main business has a well-established retail presence within the Hawthorn Road Local Centre and the appellant states that the use of the appeal site is essential to the everyday operations of the business, reducing the need to travel to obtain key equipment and materials to undertake their work. If approval is not given it is suggested that the business may have to relocate, and this would have a detrimental impact on the vitality of the Local Centre with the prominent corner premises potentially becoming empty. It may also lead to the relocation of over ten jobs from the local area.
20. Although the appeal site is physically disconnected from the main business premises, it is located just a short distance away along the service road at the rear of their premises and I would therefore regard this as ancillary to it. I have already noted that this road services the rear of commercial premises predominantly on Hawthorn Road and despite the appeal site's physical separation from its main use, from what I have seen on site and read, I have no reason to consider that the use itself is unacceptable.
21. I therefore conclude that the development is an acceptable location having regard to the vitality and viability of the Hawthorn Road Local Centre. It is therefore in accordance with Policy PG3 of the BDP which seeks to make efficient use of land. I note also that the Council's delegated report references Policies TP21 and TP24 of the BDP, but these have not been cited in the Decision Notice. However, these policies, together with the Supplementary Planning Guidance Documents and Section 7 of the Framework, relate to supporting the vitality and viability of town centres, and I find compliance with these policies also.

Other Matters

22. I have had regard to other concerns raised by interested parties principally relating to emergency access and vehicles blocking the access. However, as I am dismissing the appeal on the effect on character and appearance for the reasons given above, I have not pursued these matters further.

Conclusion

23. Despite finding that the development is in an acceptable location this does not outweigh the significant harm to the character and appearance of the area.
24. I therefore conclude that the development is contrary to the development plan as a whole and material considerations do not lead me to decide otherwise. For these reasons, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

G Bayliss

INSPECTOR