



Appeal Decision

Inquiry Held on 16, 17, 18 and 23 May 2023

Site visit made on 18 May 2023

by G D Jones BSc(Hons) DipTP DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26th June 2023

Appeal Ref: APP/Y3425/W/23/3315258

Stafford Education and Enterprise Park, Weston Road, Stafford

- 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 Serco Ltd against the decision of Stafford Borough Council.
 - The application Ref 22/35765/FUL, dated 28 March 2022, was refused by notice dated 27 July 2022.
 - The development proposed is change of use from student accommodation to asylum seeker accommodation.
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Decision

1. The appeal is allowed and planning permission is granted for change of use from student accommodation to asylum seeker accommodation at Stafford Education and Enterprise Park, Weston Road, Stafford in accordance with the terms of the application, Ref 22/35765/FUL, dated 28 March 2022, subject to the conditions contained within the Schedule at the end of this decision.

Preliminary Matters

2. The appellant seeks planning permission for a temporary period only, until the end of July 2029. I have considered and determined the appeal on this basis.

Main Issues

3. Although they are the same as those I identified at the start of the Inquiry, I have re-ordered the main issues to better reflect how the main parties' cases were presented. Accordingly, the main issues are the effect that the proposed development would have on fear of crime, on social inclusivity and on local public health resources.

Reasons

Fear of Crime

4. It is common ground between the main parties that fear of crime is capable of being a material consideration, however, they differ over whether it should be in this case. I have treated fear of crime as a material consideration for the purposes of making my decision. I have not found it necessary to set out the reasons for this, as it does not alter the outcome of the appeal due to the result of the planning balance, which can be found towards the end of my decision below.

5. Nonetheless, in this case, the fear of crime and actual crime attract no more than limited weight. This is principally because there is limited evidence to support the Council's case in this respect and that of interested parties who have made representations, including those who spoke at the Inquiry. It is clear though that very many local people hold genuine, strong concerns regarding how the proposed development might affect crime and over how residents of the site might behave.
6. It is an unfortunate reality that crime and fear of it form part of our society. While regrettable, it is unsurprising, therefore, that criminal cases and anti-social behaviour involving asylum seekers does occur, as cited in many of the submissions before me, including as raised by those who spoke during the Inquiry.
7. There is no compelling evidence, however, that criminal activity is more prevalent or extreme amongst asylum seekers than amongst the wider population. For instance, as one of the Council's witnesses accepted, the Freedom of Information response from Staffordshire Police referred to during the Inquiry does not establish any kind of relation between asylum seekers and criminal activity.
8. Nor has it been demonstrated that, were the proposed development to proceed, those living at the appeal site would pose a significantly greater threat compared to the current situation in terms of potential criminal activity, notwithstanding the circumstances of those asylum seekers, including their culture, wealth / income, mental health and that a high proportion of them may be single males. So, while I recognise that these fears are real, based on the information before me, they do not appear to be well-founded.
9. There is also no planning requirement, statutory or policy based, that new development shall guarantee an absence of criminal activity amongst its residents. Moreover, while I note the submissions regarding the asylum seekers already living in Stafford, there is no compelling evidence of criminal behaviour amongst them. In this regard the activities referred to either do not appear to have been criminal acts, such as congregating in public, or were not clearly criminal acts, such as the photograph of two men holding balloons. In any event it is also unclear whether the instances cited necessarily involved asylum seekers.
10. The appeal site is located close to family homes, schools and a nursery, as well as to recreational and other community facilities and infrastructure used by children. Parents, teachers and the wider community understandably and quite rightly want to ensure the wellbeing and safeguarding of children. Nonetheless, notwithstanding any cultural differences, there is no compelling evidence before me to indicate that when compared to the wider population asylum seekers, including single men, pose a greater risk to children or indeed any other group. No such concerns have been expressed by the management teams of local schools, the local education authority or the police.
11. The police have raised no wider objection to the appeal scheme either. Although they have made recommendations regarding the proposals, there is no good reason to believe that these imply that the development would have any significant effects, including on crime or fear of crime. Rather, they appear to be intended to mitigate risk through proportionate security measures tailored to the proposed scheme, as might be the case with other planned

- residential accommodation. They are also matters that could be secured and controlled via planning conditions.
12. Concerns have been expressed by interested parties regarding the size of the rooms that would be provided for residents of the appeal property, including that this may lead to asylum seekers congregating off-site. The Council, however, has not objected to the scheme on the basis of room size. I also note that the proposed accommodation would exceed what would be required were it to be subject to Housing in Multiple Occupation licencing. Although residents would be free to come and go from the premises, the courtyard area is substantial and would offer a pleasant, spacious environment for them to spend time outside without having to leave the site.
 13. The appellant has also indicated that it would facilitate activities for residents on-site and the asylum seekers would also be able to use existing facilities in the area. Residents' very modest income would be likely to significantly constrain their transport options and, therefore, the range of facilities that could be reached, as well as the services and facilities they could afford. There would, nonetheless, appear to be a reasonable range of facilities that residents could access off-site. This would include access to health services, including in respect to mental health.
 14. A planning condition, the wording of which is largely agreed between the Council and the appellant, has been put to me which would control details of a 'site operational management plan'. Such a condition, in combination with other conditions that might be imposed were planning permission to be granted, would help ensure that the appeal use would be well-managed, including via the establishment of a multi-agency forum and the provision of support to residents.
 15. My attention has been drawn to other appeal decisions, particularly in respect to the fear of crime as a material consideration. While I am not familiar with all of the circumstances of those other cases, they do appear to differ in notable respects to those of the appeal scheme. For instance, not all of them appear to have related to asylum seeker accommodation. Furthermore, where fear of crime was considered, in contrast to this case, there appears to have been clear evidence of existing crime and anti-social behaviour at another hostel. Moreover, each application for planning permission must be determined on its individual merits. Consequently, although I have taken them into account, none of these other cases have had a significant bearing on my decision.
 16. Notwithstanding their circumstances, including any cultural differences, language barriers, limits to their wealth / income and effects associated with the reasons why they are seeking asylum, it seems most likely that residents of the development would wish to be well-behaved and avoid criminal activity. To do otherwise would be likely to jeopardise their status as asylum seekers and could lead to deportation.
 17. Concerns have also been expressed regarding non-residents of the appeal premises, including any effects resulting from protests that might take place at the site and in respect to asylum seekers potentially being targeted by parties intent on exploiting them. However, there is also little evidence to indicate that such activity would necessarily occur or, if it were to, that it could not be reasonably managed and mitigated.

18. Consequently, any effect that the appeal use might have on the behaviour of local people as a result of fear of crime would either be likely to be limited or short-lived once the use had started and its real, rather than feared, effects had been experienced and understood. Accordingly, it would also be unlikely to have a significant effect on engagement with activities that promote healthy and sustainable lifestyles, such as walking and cycling.
19. For the forgoing reasons, therefore, the effect that the proposed development would have on fear of crime and on crime can attract no more than limited weight. Moreover, in these respects, there would be no conflict with paragraphs 92(a) & (c) and 130(f) of the National Planning Policy Framework (the Framework).

Social Inclusivity

20. As both main parties identify, there is some overlap between this main issue and that concerning fear of crime. I recognise that there are concerns locally and as expressed by the Council regarding the number of asylum seekers that would be housed at the site. It seems likely that the use would operate to its capacity of 481 residents given the apparent need for asylum seeker accommodation.
21. Nonetheless, there is also no good reason to believe that that number of asylum seekers would have a significant effect on social inclusivity bearing in mind the matters discussed in the foregoing sub-section, particularly once the existing community had experienced and understood the effects of the use in practice. Indeed, the development seems likely to offer the kind of opportunities for meetings between people who would not otherwise come into contact with each other as envisaged by Framework paragraph 92 (a).
22. I note the submissions that other approaches to housing asylum seekers might be preferable to what is proposed here, such as 'pepper-potting' or larger self-sufficient establishments. No such proposals are before me for determination, however. In any event, I must determine the appeal scheme as it is made, on its individual merits rather than by comparison to perceived alternatives or to an approach taken to accommodating asylum seekers elsewhere.
23. No directly funded support for the development to be secured via planning obligation has been proposed by the appellant. However, no public service providers or agencies have expressly stated that any such payments for services / facilities would be necessary in order to make the proposed development acceptable. The evidence indicates, nonetheless, that the Home Office would provide additional funding to the Council, as set out in the planning balance section below. This funding, direct from the Home Office, could be used to support social inclusivity.
24. Consequently, there is no good basis to conclude that the appeal development would have a significant effect on social inclusivity or conflict in that regard with Framework paragraphs 92 and 130.

Local Public Health Resources

25. The asylum seekers that would be housed at the appeal premises would be categorised as either Initial Accommodation (IA) or Dispersed Accommodation (DA) residents.

26. An on-site medical room is proposed to help screen and support IA residents. The main parties have suggested that its provision should be secured via condition in the event that planning permission were to be granted. Such on-site provision appears to be consistent with what the Independent Commissioning Body, including its predecessor the Clinical Commissioning Group, (the ICB) has requested. The evidence indicates that the Home Office would provide this facility.
27. While the on-site facility would provide for at least some of the medical needs of IA residents, off-site services would nonetheless be called upon, for instance in emergencies and following referral from GPs. The DA residents would rely exclusively on existing healthcare facilities off-site. Consequently, the introduction of the proposed use would place an additional demand on local health resources. I also note the numerous submissions from local people regarding their experiences attempting to access medical services.
28. Nonetheless, the evidence indicates that GP practices receive additional funding for any resident new to the area, including an asylum seeker in DA. Moreover, although it has provided consultation responses, which include reference to a shortage of floorspace and clinical rooms to serve the existing population, the ICB has not suggested that any further funding for public health services would be required as a result of the proposed development.
29. It seems extremely unlikely that the ICB would not have either expressly objected to the appeal proposal or expressly sought additional resourcing, such as funding to be secured via a legal agreement, had it had any concerns regarding the effect that the proposed development would have on public health services. The fact that it did not, particularly given that this matter is cited in the Council's reason for refusal and was identified as a main issue during the appeal process, very strongly suggests that the ICB does not have any significant concerns in this regard.
30. Accordingly, even if I were to adopt the Council's best position regarding the likelihood of the proposed use resulting in there being greater call on health services compared to when the premises were in use by students or indeed compared to the current scenario, there is no substantiated basis on which to conclude that the appeal development would have a significant effect in terms of local public health resources. Consequently, in this respect, there would be no conflict with Framework paragraphs 92 and 130.

Other Matters

31. In addition to the matters outlined above, other concerns have been raised, mainly by local residents. These include whether the premises would be suitable for asylum seekers and meet their needs; the availability of facilities locally, including in terms of whether they would suit the needs of asylum seekers, such as places of worship; employment opportunities; whether the property should be put to another use, including returning to student accommodation, or redeveloped; the appellant's conduct, community engagement over the proposals and the quality of the material submitted to support them; the appellant's record elsewhere regarding its management of facilities and processes, including in respect to security, and treatment of asylum seekers; compliance with other aspects of the Framework; the site's proximity to defence establishments and police headquarters; and the cost to the state of housing asylum seekers.

32. Other issues raised include the development's potential effect on the local economy and businesses, on regeneration, on investment, on national security, on health, on the elderly, on house prices, on neighbours' living conditions, including in respect to light, noise and privacy, and on highway safety; in respect to public transport and parking; whether the area has already reached its limit or threshold for asylum seekers and whether there is sufficient asylum seeker accommodation elsewhere; occupation by asylum seekers would differ from student occupation; Stafford has a housing shortage; the capacity of wider public services, including educational and social services; fire safety; emergency evacuation; human rights and the Public Sector Equality Duty (PSED); the potential radicalisation of residents; proximity to a graveyard; Stafford's capacity to support such a large influx of people generally; and the adequacy of specialist support services and infrastructure locally, such as language facilities and training.
33. These matters are largely identified and considered within the Council officer's report on the appeal scheme and were before Councillors when they determined the planning application. They were also before the Council when it prepared its evidence and when it submitted its case at the Inquiry, and are largely addressed in its evidence and in the statement of common ground. Other than as set out above, the Council did not conclude that they would amount to reasons to justify withholding planning permission. I have been provided with no substantiated evidence which would prompt me to disagree with the Council's conclusions in these respects subject to the imposition of planning conditions as discussed in the following section.
34. Furthermore, given my conclusions on the main issues and wider matters raised as set out above, there is no basis to conclude that human rights would be interfered with or violated as a consequence of the proposed development being implemented. In performing my function on behalf of a public authority I have also exercised my duties under the PSED contained in the Equality Act 2010. This sets out the need to eliminate unlawful discrimination, harassment, victimisation and any other prohibited conduct, and to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it. Again, given my conclusions on the main issues and wider matters raised, the development proposed would be consistent with the aims of the PSED were it to proceed.
35. Representations have also been made in support of the appeal scheme. While I have taken them into account, they have not altered my overall decision on the appeal.

Conditions

36. The Council and the appellant have jointly submitted a schedule of conditions, which include the standard implementation condition. Eight of these are agreed between the main parties, whereas there is some disagreement between them about the wording of the remaining three. I have considered all of the suggested conditions, including the varying versions of condition Nos 6, 9 and 10, in the light of government guidance on the use of conditions in planning permissions and made amendments accordingly.
37. In order to provide certainty, a condition would be necessary to ensure that the development would proceed in compliance with the proposal drawings. Conditions to limit and control the duration of the appeal use and the number

- of on-site bedspaces would be necessary to ensure the development proceeds in accordance with the appellant's stated intentions bearing in mind that it is on this basis that I have assessed the proposals. A condition would also be necessary to control the hours of construction and deliveries to the site to protect the living conditions of neighbours during the construction phase.
38. A condition to control details of site security measures would be necessary in the interests of protecting the security of residents of the development. To support the health of IA residents, a condition to secure a suitably sized on-site medical room and its retention would be necessary. To help ensure satisfactory living conditions for all residents, a condition would be necessary to ensure minimum bedroom and lounge / kitchen / dining area sizes.
39. Although there is broad agreement between the main parties regarding the remaining three conditions, they have not agreed all aspects of their wording. A condition would be necessary to secure provision of and control over the detail of the outdoor amenity space within the courtyard area to support the well-being of residents. As it is difficult to fully anticipate the needs of residents throughout the life-time of the development, a condition that provides some flexibility to respond to those needs would be necessary.
40. A condition to secure the details of a site operational management plan would be necessary to help ensure an integrated approach to the management of the accommodation and the provision and operation of facilities and services to support occupants. In respect to this condition, I recognise that the appellant would not have control over off-site facilities. Nonetheless, given that such facilities do exist and that there is a good prospect of at least some of them being made available for use by residents, particularly those in public control, it is reasonable and necessary for the condition to be worded in the terms suggested by the Council.
41. A condition to secure and control the provision of indoor amenity space for residents would be necessary in the interests of their well-being and living conditions. Rather than requiring this to be provided in the form of a single room, in order to provide greater scope to meet the needs of residents, it would be appropriate to allow this space to be provided flexibly, potentially across more than one room.

Planning Balance and Conclusion

42. Planning law requires that applications for planning permission be determined in accordance with the development plan unless material considerations indicate otherwise. In the Council's view the appeal scheme complies with the development plan as a whole. I have found no reason to disagree. Given my findings regarding the main issues and the wider objections to the scheme as outlined above, the matters that weigh against the appeal scheme collectively carry no more than limited weight.
43. Bearing in mind that it is the principal expression of government policy on planning matters, the Framework is a weighty material consideration. Its paragraph 11 states that decisions should apply a presumption in favour of sustainable development, which for decision-taking means, amongst other things, approving development proposals that accord with an up-to-date development plan without delay, as is the case here. I have found no conflict with the wider Framework. These matters weigh significantly in favour of

granting planning permission. They are sufficient alone to very comfortably outbalance the matters that collectively weigh against the proposed development.

44. There would also be benefits in terms of responding to a clear and pressing need to provide accommodation for asylum seekers. To assist locally the Home Office would provide additional funding to the Council at a rate of £3,500 per DA bedspace. This would represent an important benefit given the number of likely DA residents and that the resulting funds could be spent as the Council saw fit, rather than being ring-fenced. There would also be benefits through the creation of jobs during the construction phase and then during the lifetime of the use. The scheme would also bring a vacant building back into use, thus potentially avoiding development of a greenfield site elsewhere for the proposed use and / or likely carbon release were the site to be redeveloped for any purpose.
45. Overall, therefore, the planning balance is very firmly in favour of the appeal scheme. In the terms of the Framework, it would be sustainable development that should be granted planning permission without further delay. Accordingly, subject to the identified conditions, the appeal is allowed.

G D Jones

INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Hugh Richards, Counsel, assisted
by Odette Chalaby, Counsel¹

Instructed by Legal Services, Stafford
Borough Council

He called
Cllr Frances Beatty MBE JP
ARAgS
Matthew Wedderburn
BSc(Hons) MA MRTPI

Borough Ward Councillor

Senior Associate, Knights plc

FOR THE APPELLANT:

Jonathan Easton, King's Counsel²

Instructed by CMS Cameron McKenna
Nabarro Olswang LLP

He called
Lisa Dysch
Katy Wood
Mark Jackson, MRTPI

Property Director, Serco Limited
Business Support Director, Serco Limited
Partner Planning, Development & Strategic
Advisory, Cushman & Wakefield

INTERESTED PERSONS:

David Harland
Dr Sonia Lloyd
Carolyn Trowbridge
Julian Debney
Darrell Groucott
Simon Dugmore
Michael Riley
Cllr Steven Spennewyn
Sharon Stokes
Elliot Holt
Nigel Thomas
Sean Connolly
Kathryn Williams
Rachel Knowles
Tanya Alder
Elizabeth Dugmore
Richard Gibson
Mrs Shelly
Maureen Alecock
Mr Calladine

Local Resident
Cannock Chase Welcomes Refugees
Local Resident
Local Resident
Local Resident
Local Resident
Local Resident
Local Resident
Hopton and Coton Parish Council
Local Resident
Local Resident
Local Resident
Local Resident
Local Resident
Local Resident
Local Resident
Local Resident
Local Resident
Stafford Welcomes Refugees
Local Resident

Continued ...

¹ Ms Chalaby acted as advocate for the Council on the final day only, in Mr Richards' absence, after all of the witnesses had been dealt with.

² Mr Easton was assisted by Philip Robson, Counsel, albeit that Mr Robson did not act as advocate for the appellant.

Katherine Dugmore	Local Resident
Joanna Mason	Local Resident
Timothy Cawley	Local Resident
Martin Wilson	Local Resident
Graham Wilson	Local Resident
Chris Dyke	Local Resident
Mark Harland	Local Resident
Andrew Roberts	Local Resident
Lorraine Conkey	Local Resident
Wayne Kennett	Local Resident
Darren Owen	Local Resident

SCHEDULE OF CONDITIONS FOR APPEAL REF APP/Y3425/W/23/3315258:

1. The development to which this permission relates shall be begun not later than the expiration of three years beginning with the date on which this permission is granted.
2. The development hereby permitted shall be carried out only in accordance with the approved plans and specification, as listed below, except insofar as may be otherwise required by other conditions to which this permission is subject: NPS-00-00-DR-A-(00)-010 P4 (Site location plan); NPS-00-00-DR-A-(00)-021 P2 (Proposed site plan); and NPS-00-00-DR-A-(00)-023 P1 (Proposed site plan).
3. The use hereby approved shall cease on 31 July 2029.
4. Construction works and associated deliveries in relation to the development hereby approved shall only take place between the hours of 08:00 and 18:00 Monday to Friday, 08:00 to 14:00 Saturdays and not at all on Sundays or public holidays.
5. The number of bedspaces hereby permitted shall not exceed 481.
6. Prior to the occupation of the development hereby permitted a scheme for the management of the outdoor courtyard space shall be submitted to and approved in writing by the local planning authority. The scheme shall include details of the initial layout of the outdoor courtyard space together with details as to its maintenance. The approved scheme shall be implemented prior to first occupation and complied with thereafter for the duration of the use hereby permitted.
7. A scheme for site security measures to include CCTV and details of site boundary treatments (if any) shall be submitted to and approved in writing by the local planning authority prior to first occupation. The approved details shall be fully implemented prior to first occupation and retained thereafter.
8. The residential occupation of the development hereby permitted shall not take place until an equipped medical facility of not less than 19.7m² has been provided. This Medical Room shall be operational prior to first residential occupation of the development and shall be retained as such for the duration of the use hereby permitted.
9. The development hereby permitted shall not be occupied until a site operational management plan (SOMP) has been submitted to and approved in writing by the local planning authority. The SOMP shall include:
 - The establishment of a multi-agency forum, including the voluntary sector, which shall be implemented in accordance with an operational management plan for the lifetime of the permission;
 - An induction briefing (including in the written language of service users) identifying health services that are available to service users upon occupancy. The induction briefing shall include advice regarding the processes for registration with a GP and making an appointment;
 - A list of services, based on what the use operator can facilitate, that shall be provided to occupants of the development that may support them to overcome potential barriers to accessing primary and secondary care services and a key contact (updated as necessary);

- Details of informal educational activities which shall be facilitated for children occupying Initial Accommodation;
- Arrangements for the provision of travel for occupants to access healthcare services and other services within Stafford town centre;
- A method for recording and reporting incidents of anti-social and/or criminal behaviour within and outside the development in connection with the use of the development; and
- A schedule of activities and facilities to be carried out within the outdoor and indoor recreation space and off-site.

The SOMP shall be reviewed and re-submitted for written approval 12 months after occupation. The SOMP including any approved amendments following review shall be complied with for the duration of the development hereby permitted.

10. The residential occupation of the development hereby permitted shall include indoor amenity space of not less than 90m² in total and shall be retained as such for the duration of the use hereby permitted.
11. The bedrooms and kitchen/lounge/dining areas within the development hereby permitted shall be constructed to accord with the following minimum floor sizes and shall be retained as such for the duration of the use hereby permitted:
 - Not less than 8.4m² per bedroom; and
 - Not less than 20m² per lounge/kitchen/dining area (in combination).