



Appeal Decision

Site visit made on 13 November 2023

by L Clark BA(HONS) DIPTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 January 2024

Appeal Ref: APP/X1355/W/23/3327530

9 Clarence Street, Seaham, Durham SR7 7SQ

- 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 Neville Rodgers of HMO Northeast T/A Forevercare against the decision of Durham County Council.
 - The application Ref DM/23/01182/FPA, dated 25 April 2023, was refused by notice dated 3 July 2023.
 - The development is change of use from a single dwelling under Use Class C3 to a Use Class C2 residential care and living unit for children (under 18 years old) with associated staff members 24/7 on site.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. From the evidence before me, the house is already being used for the care of one young person. However, I have dealt with the appeal on the basis that planning permission is sought for operating the property for the care of 2 young people.

Main Issue

3. The main issue is whether the site is a suitable location for young people in care having regard to the risk of crime in the surrounding area.

Reasons

4. Policy 18 of the County Durham Plan (2020) (CDP) specifically relates to the provision of Childrens Homes. Whilst it does not direct these facilities to any particular areas, it sets out a series of criteria which proposals should meet. It requires, amongst other matters, that the site offers a positive and safe environment for the occupants of the premises, having regard to the latest crime and safety statistics and the impact on residential amenity, including fear of crime and community cohesion.
5. Supporting text alongside Policy 18 recognises that the Council has a duty to take reasonable steps to secure as far as practicable, sufficient accommodation for looked-after children within their Local Authority area, utilising its Sufficiency Strategy 2019 to identify gaps in service provision. I therefore consider that Policy 18 is in general accordance with the National Planning Policy Framework (Framework) and the submitted Ministerial Statement made on 23 May 2023.

6. No 9 is a three bedroom two-storey house within a street of terraced dwellings. It would provide for a maximum of two young people under the age of 18 who would be cared for and supported by staff who would be on site 24 hours a day. This would ensure that they would be safe when within the premises. It would also present an opportunity to place young people in an area where they would be reasonably close to their original homes.
7. Clarence Street is close to the town centre of Seaham. It can be reached via a path across an area of open space adjacent to St John's Church. This would provide the young people with easy and convenient access to its range of shops and community facilities. However, evidence from Durham Constabulary (DC) indicates that the town centre and the surrounding area is an 'antisocial behaviour hotspot'. It has seen and continues to see significantly high levels of crime and antisocial behaviour within it and in the surrounding streets.
8. DC reports that within the period May 2022 to May 2023 there have been 104 incidents of antisocial behaviour and youth nuisance, 43 Public Order related incidents and 59 recorded incidents of people having sustained significant injuries resulting from violent offences. Whilst I understand the appellant's concerns about the way in which the police were consulted and responded to the proposal, they presented substantive data which carries significant weight in my assessment. Based on this, occupants on No 9 would be at risk of harm when going into the town centre. Placing young people in an environment which is subject to high crime levels and who may or may not have issues themselves, would expose them to unnecessary risk of becoming either the victims or perpetrators of crime.
9. DC also raise concerns regarding the proximity of the appeal site to "Free the Way". This is a charitable organisation which provide support and development programmes to help recovering addicts live independently. Their building is within sight of Clarence Street, and I have been told addicts tend to congregate outside the premises. Bringing vulnerable young people into close contact with drug users would present an unnecessary risk to their safety.
10. Drawing these factors together leads me to conclude that the appeal site is not an appropriate location for use as a children's home due to the unacceptable risk of exposing future occupants to crime. The change of use would fail to comply with Policy 18 of the CDP. It would also be contrary to the Framework which seeks, amongst other matters, for development to create places that are safe, inclusive; with a high standard of amenity for future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life.

Other Considerations

11. Children are a group sharing a protected characteristic arising from their age and therefore the Public Sector Equality Duty (PSED)¹ applies. I have had due regard to the PSED which requires me to consider the need to consider the need to eliminate unlawful discrimination, to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it. In this context, the best interests of the child are a primary consideration, and no other issue is intrinsically more important.

¹ Section 149 of the Equality Act 2010

12. It follows that it will be in the best interests of children in care that there should be a sufficient number of homes where they can be supported and looked after in an appropriate manner. These will need to accommodate services to address a range of physical, emotional and behavioural difficulties. I therefore acknowledge that there is an acute need to identify suitable properties and finding these can be exceptionally challenging.
13. However, it is equally important to ensure that the locations where such facilities are provided are safe when the children leave the building and engage in activities beyond the home itself. In this case, there is clear evidence that the location of the proposed home is in a crime hotspot. As such the increased risks to which the young people would be exposed to would outweigh the benefits of providing for two vulnerable children in this location. For the reasons given above, a grant of planning permission would result in a negative and unsafe environment giving rise to risk and harm which would not be in the best interest of the young people in care.

Other Matters

14. Concerns were raised by the local community based on their fear of experiencing crime and anti-social behaviour from the young people living in the facility. However, the Council considered that this was based on anecdotal evidence and was not a justification for rejecting the proposal. I therefore see no reason to reach a different view.
15. The appellant has drawn my attention to their own 'Location Risk Assessment' and 'ForeverCare Regulation 45 – Quality Care review report dated 30 November 2022' (Quality Care review) which relate to Chatsworth House, No. 42 Chatsworth Street, Sunderland (Chatsworth House) and 'Proposed Investment in Children's Care' dated 30 September 2022 relating to South Tyneside Council. As these do not directly relate to the appeal site; they are not matters which have affected my assessment of the proposal.
16. The appellant has provided a number of supporting documents relating to a similar care home run by the appellant at Chatsworth House. Whilst useful in terms of providing background information on young people living in care and staffing, I am mindful of the setting in which the children's home would be situated. As such this information carries little weight in my decision.
17. The use of the house for looked after children is not comparable with its occupation as a family dwelling.
18. The appellant has drawn my attention to a number of appeals, including applications for planning permission (S78)², enforcement appeals³ and Lawful Development Certificates⁴ where children's homes have been allowed. Whilst I note some similarities with the appeal proposal, I have determined this case in the light of the site-specific circumstances and evidence before me.
19. I have also been provided with 'Proposed Investment in Children's Care' dated 30 September 2022, however, this relates to South Tyneside Council and thus is not directly relevant to this case.

² APP/X1355/W/19/3233277

³ APP/G5750/C/19/3239475, APP/Y2003/C/18/3198834

⁴ APP/H4315/X/22/3294620, APP/M4320/X/22/3300633, APP/H6955/X/20/3247381, APP/V2255/X/19/3224363

20. Finally, as the proposal does not involve any change to the building's external appearance, there would be no adverse effects on the character or appearance of the Seaham Conservation Area.

Conclusion

21. It is acknowledged that it is in the best interests of looked after children to provide suitable accommodation which meets their specific needs and that there is a pressing requirement to do so. However, it is also in the best interests of those children to ensure that the homes are in locations which are safe and do not expose them to risks within the wider community. In this case, I have found that providing a home in an area which is subject to high levels of crime would not be in their best interests.
22. This leads me to conclude that the proposal conflicts with the development plan and would not be in the best interests of the children in care. There are no other material considerations that lead me to conclude that a decision should be taken other than in accordance with the development plan. Consequently, the appeal is dismissed.

L Clark

INSPECTOR