



Appeal Decision

Site visit made on 2 December 2024

by **L Clark BA(HONS) DIPTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 14 January 2025

Appeal Ref: APP/X1355/W/24/3351666

St Cuthberts RC Social Club, Lumley Terrace, Chester le Street, Durham DH3 3NQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Ben Brownless of North Heights Ltd against the decision of Durham County Council.
 - The application Ref is DM/23/02395/FPA.
 - The development proposed is change of use from Social Club (Class E) to a Residential Institution (supported living) (Class C2) together with associated demolition and fitting out works.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by North Heights Ltd against the Durham County Council. This is subject to a separate Decision.

Preliminary Matters

3. Whilst the appellant is stated as North Heights on the application form, they confirm in their Statement that the operator is YMCA Wearside. It is clear from the information that the proposed development would provide supported living accommodation for ten young people between the ages of 16 and 21. I have assessed the appeal on this basis.
4. The National Planning Policy Framework (the Framework) was revised in December 2024. I am aware that paragraph 63 now explicitly refers to looked after children. I have seen the appellant's comments with regard to this change whilst the Framework was in its consultation period. As the main parties were aware of this change, I have not found it necessary, in the interests of natural justice, to seek further written comments, and neither party would be prejudiced by my consideration of the revised Framework in my determination of the appeal.

Main Issues

5. The main issues are:
 - whether the site is a suitable location for young people in care having regard to the risk of crime in the surrounding area; and
 - the effect of the appeal scheme on crime and a fear of crime and disorder in the area.

Reasons

Suitability of location

6. Policy 18 of the County Durham Plan (2020) (CDP) specifically relates to the provision of Children's 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, criterion d. the occupants would not be placed at risk having regard to the latest crime and safety statistics in the area and that this has been agreed in advance with Durham Constabulary (DC), the Councils Children and Young People's Services (CYP) and other appropriate agencies.
7. Supporting text alongside Policy 18 clarifies that whilst children's homes have traditionally been for children under 16, provision for young people beyond the age of 16 years old will also be determined against this policy. It also 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 Framework and 2023 Ministerial Statement which emphasises the need for the right homes, in the right places.
8. The appeal site (St Cuthberts SC) is a detached single-storey building last used as a social club approximately 5 years ago. It is situated on the corner of Lumley Terrace, Weldon Terrace and Lambton Street. The building currently extends up to the footway to the front and side, and up to the rear lane. St Cuthbert SC is close to the town centre of Chester-le-Street (CLS), which can be reached from the opposite end of Lumley Terrace. Despite its proximity to the town centre, it is located within a predominantly residential area.
9. The proposed development would provide supported living accommodation for 10 young people between the ages of 16 and 21 years old, with staff on site 24 hours a day to ensure safety when within the premises. It would also present an opportunity to place young people from the area where they would be reasonably close to their original homes and family connections.
10. Even if DC did not formally comment on the planning application as outlined above, Criteria d. places the onus on the applicant to seek agreement with DC and CYP and other services in advance of submitting a planning application. Whilst the evidence acknowledges the working relationship between CYP and the YMCA, I have no compelling evidence to suggest an agreement with DC was obtained. Conversely, in the appellant's Locality Suitability Risk Assessment (LSRA), DC identifies the appeal site as being a short distance from CLS Front Street, where they identify existing issues arising from the Night-time Economy, and which have required Police involvement with incidents including violence, anti-social behaviour and drugs. DC also state that the presence of an existing YMCA and two Changing Lives projects within the locality places a significant demand on local DC resources. DC comments in the LSRA support the formal response to the planning application from the Durham Police and Crime Commissioner (PCC).
11. The Council and interested parties have submitted a number of Freedom of Information (FOI) requests relating to YMCA Wearside, including 5-6 South Burns in CLS and properties within Sunderland. All FOI requests relate to the number of

incidents where a Police response was required at or near the premises. Given this data has been provided by DC I see no reason to verify its veracity. It therefore provides a useful tool as an indication of the crime levels within the surrounding area. This carries significant weight in my assessment.

12. DC/FOI 1057/23 identifies that within a 5-year period there were a total of 129 crimes recorded and logged at YMCA, 5-6 South Burns. Whilst DC have caveated its data by stating that the address where the crime location has been listed does not indicate that the parties associated with the premises were involved. The data within FOI DC/FOI/957/23 is more specific and is not caveated. This states the number of Police callouts within a 3-year period to the YMCA at 5-6 South Burns were as follows: 2021 – 37 callouts, 2022 - 51 callouts and 2023 - 35 callouts.
13. I took the opportunity to visit the location of the YMCA at 5-6 South Burns. I saw that it is located on a busy street towards the northern end of the main shopping parade, opposite the Market Place and several bus stops, and adjoined a commercial unit and Public House. From its location and site circumstances, it is set within a different context to the appeal before me. Nevertheless, the level and nature of crime reported within DC/FOI 1057/23 which include offences such as malicious wounding, actual bodily harm, harassment and sexual assault, indicate that CLS has a serious level of crime which the future occupants of the care facility would likely be exposed to.
14. There is no dispute that the proposed development would assist in providing young people within the care system with a transition into adulthood and that a need was established within its Settlement Study. I also acknowledge that CYP Services support the role the YMCA plays in providing this type of accommodation, and that the property would be Ofsted inspected. However, this does not negate the need set out in Policy 18 of the CDP for its occupants not to be placed at risk having regard to the latest crime and safety statistics in the area.
15. I conclude that based on the evidence before me, placing young people in an environment which is subject to high crime levels, would expose them to unnecessary risk of harm when out of the facility and in the town centre. As such, 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 be contrary to the Framework which seeks, amongst other matters, for development to meet an established need for looked after children and create places that are safe, so that crime and disorder, and the fear of crime, do not undermine the quality of life. It would also fail to comply with Policy 18 of the CDP, which seeks to ensure that the occupants would not be placed at risk having regard to the latest crime and safety statistics in the area.

Crime and fear of crime and disorder

16. A significant number of local residents have objected to the proposed development and have referred to a fear of crime and the potential for the young people of the facility to contribute towards the current anti-social behaviour and criminal activity within CLS.
17. Paragraph 96 of the Framework states, amongst other matters, that decisions should aim to achieve healthy, inclusive and safe places which are safe and

accessible, so that crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion.

18. The appellant has drawn my attention to a number of appeals¹ within which the Inspector has had regard to the fear of crime. Whilst the courts have held that the fear of crime and adverse effects on health can be material considerations, it is clear that there must be reasonable evidential basis for that fear to attribute weight.
19. In this case, all residents would be selected, vetted and proposed by Social Services prior to placement and the home would be staffed 24 hours a day. The staff would be professionally trained in managing young people to ensure facilities are well-managed and a robust safeguarding environment ensues. The PCC does not object to the proposal on this main issue. Furthermore, the DC, within the LSRA response, does not raise the possibility of the young people being the perpetrators of crime.
20. While young people in care may be vulnerable and susceptible to being the victims of crime, I have not been provided with any evidence which indicates that they would be the perpetrators of crime.
21. Whilst I understand the apprehension of the residents, their concerns have not been supported by any substantive information. Without evidence to demonstrate that the proposed use, in the manner proposed, would result in an increase in anti-social behaviour or criminal activity, which would contribute to the area becoming unsafe for the public, or increase opportunities for crime and fear of crime, I am not satisfied that the proposal could justify dismissal on this ground.
22. I conclude that in the absence of compelling evidence to the contrary, it has not been shown that the development proposed would be likely to increase opportunities for crime or contribute to a fear of crime. It would therefore not conflict with Policy 18 and 31 of the CDP or the Framework, which collectively seek, amongst other matters, to ensure that development creates places that are safe, and where crime and disorder, and the fear of crime, do not undermine the quality of life.

Other Considerations

23. Children are a group sharing a protected characteristic arising from their age, and therefore the Public Sector Equality Duty (PSED) applies. I have had due regard to the PSED which requires me 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.
24. It follows that it would 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 that finding these can be exceptionally challenging.

¹ APP/A2280/W/19/3222409 and APP/Y3425/W/23/3315258

25. However, it is equally important to ensure that the locations, where such facilities are provided, are safe when the young people 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 has high crime levels. As such, the increased risks to which the young people would be exposed to would outweigh the benefits of providing care facilities 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

26. The appellant has drawn my attention to the extant planning permission DM/22/00703/FPA. There is no dispute that residential use on the site is considered acceptable.
27. I am mindful of the appellant's suggestion of a condition limiting the operation of the appeal premises to YMCA Wearside. However, imposing a condition would not address the harm I have found above. As such, I do not consider imposing a condition would meet the required tests as set out in the Framework.
28. Interested parties have raised a number of other issues and concerns in respect to the proposal, principally the impact on living conditions of neighbouring occupiers, and concerns regarding the impact on highway safety. I have given consideration to the submissions and issues raised, and also the conclusions that were drawn by the Council in its assessment. These matters have not attracted objections from the statutory or technical consultees, and the Council has not relied upon them in its refusal reasons. Based on the evidence and my observations on-site, I see no reason to take a different view.
29. Furthermore, whether St Cuthberts SC is within a sustainable location and close to local services, does not outweigh the harm identified above.

Conclusion

30. 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.
31. Accordingly, 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