



Appeal Decision

Site visit made on 7 October 2025

by A Hunter LLB (Hons) PG Dip MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 October 2025

Appeal Ref: APP/Z4718/W/25/3369781

25 York Avenue, Fartown, Huddersfield, Kirklees HD2 2QU

- 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 Mohammad Idriss on behalf of Always Here Care Ltd against the decision of Kirklees Metropolitan Council.
 - The application Ref is 2025/62/91205/W.
 - The development proposed is the change of use from dwelling (use class c3) to residential care home (use class C2).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development in the banner heading above has been taken from the Council's notice of decision as it most accurately describes the proposal.

Main Issue

3. The main issue is whether future occupiers of the proposed development would have satisfactory and safe living conditions, with particular regard to any risks of crime and disorder.

Reasons

4. The appeal property is a semi-detached three-bedroom dwelling in an established residential area. The proposed development would change the use of the property into a children's home (Use Class C2), to provide care for children, including those with additional care needs, it would also have on-site sleeping accommodation for members of staff working at the care home. The application is accompanied by a management plan, which includes CCTV monitoring of the appeal property.
5. West Yorkshire Police (WYP) has objected to the location of the proposed care home and raised safeguarding concerns after relevant checks on Police systems and liaising with its internal partners. WYP have said due to data protection laws they are unable to provide any exact details, but their objections are site-specific. The Council in its report said the nature and severity of such risks relate to crime, anti-social behaviour, and other "confirmed external threat factors". It further stated that such risks are multiple, and the significant threat factors in the local area pose a substantial risk to vulnerable residents, including looked-after children. It is also noted that a comment made on behalf of some residents, has also raised safeguarding concerns due to local crime and anti-social behaviour in the area.

6. Policy LP24 of the Kirklees Local Plan, Strategy and Policies, adopted February 2019 (KLP) says amongst other things that new development should minimise the risk of crime. Paragraph 96 of the National Planning Policy Framework (the Framework) says planning policies and decisions should aim to achieve healthy, inclusive and safe places, so that crime and disorder, and the fear of crime, do not undermine the quality of life. Paragraph 135 of the Framework adds that development should create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users. It adds that crime and disorder, and the fear of crime, should not undermine the quality of life or community cohesion and resilience.
7. The Public Sector Equality Duty (PSED) contained in the Equality Act 2010, sets out the need to eliminate unlawful discrimination, harassment and victimisation, and 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 case the duty applies in relation to the safety of future child occupiers of the proposed accommodation who would have a protected characteristic. In reaching my decision, I have kept these interests at the forefront of my mind. However, they are qualified rights, and interference may be justified in the public interest. The concept of proportionality is key. I recognise the paramount importance of ensuring the safety of future child occupiers of the proposed accommodation. Any such adverse effects would weigh against the proposal.
8. I am also mindful of Section 17 of the Crime and Disorder Act 1998 that requires local authorities to do all that it reasonably can to prevent crime and disorder in its area. In addition, I have been made aware of Section 12, Part 1 of The Children's Homes (England) Regulations 2015, which states the protection of children standard, is that children are protected from harm and enabled to keep themselves safe, and subsection (c) that says that the premises used for the purposes of the home are located so that children are effectively safeguarded.
9. It is acknowledged that the appellant has sought to establish what the exact safeguarding risks are from WYP, who have not provided any further details and again cited data protection laws as the reason. I don't doubt the appellant's commitment to providing a safe, supportive and a professionally managed environment for children. In respect of the submitted management plan, the Council has said that it does not address the site-specific safeguarding risks raised by WYP, and on the information before me, I also cannot be certain that it would do so.
10. In view of the above planning policy and legislative background, along with the strong advice from WYP of their being significant site-specific safeguarding risks for the safety of future child occupiers of the proposed development, and with no substantive evidence provided to the contrary to dispute such risks, I cannot be certain that a safe living environment would be provided for future child occupiers of the proposed accommodation.
11. The appellant has said that the proposed development would help meet the demand for care spaces for children. Be that as it may, I am not aware of any unmet or chronic need for such spaces in Kirklees, and even if there were such a shortage, I am not persuaded that argument would outweigh my findings above regarding the safety of future child occupiers.

12. I therefore conclude on the basis of the information before me, that satisfactory and safe living conditions for future occupiers of the proposed development would not be provided, and the proposed development would conflict with KLP Policy LP24 insofar as it seeks to minimise the risk of crime. In addition, there would also be conflict with paragraphs 96 and 135 of the Framework as set out above, along with the duty within the Crime and Disorder Act, and the requirements of The Children's Homes (England) Regulations 2015, which are both outlined above. In view of the comments raised by WYP and the lack of any counter evidence I am also not satisfied that the PSED as set out in Section 149 of the Equality Act 2010 would be met in terms of the proposed development.
13. The Council referred to KLP policy LP1 on its notice of decision as it indicated there were no relevant policies within the KLP. however, as I have identified conflict with KLP Policy LP24 it was not necessary for me to assess the proposed development against Policy LP1 in this case.

Other Matters

14. The appellant has advised of the planning history at the appeal property, including a certificate of lawfulness¹ that was issued that confirmed that on the balance of probability, the occupation of the appeal property by 2 children aged 7-17 with care provided by two non-residential staff working 24-hour shifts would not constitute a material change of use. This has been raised as a fall-back position, which is a material consideration. However the appellant has said the certificate restricts staff from sleeping at the appeal property, which meant it was of little use to the appellant, in comparison to the appeal proposal. It would therefore appear unlikely that this fall-back position would be exercised in the event the appeal was dismissed. Even if it was implemented, it would be for a different on-site arrangement to that which is the subject of this proposed change of use, and I do not find the fall-back position would be sufficient justification to outweigh the risks of harm to future child occupiers of the proposed development in this case.
15. Within their final comments, the appellant in support of their appeal has referred to planning permission having been granted at no. 86 York Avenue; no. 392 Bradford Road; no. 11 Hoylake Avenue; and no. 2 Pony Field Close. I have a copy of the permission granted at no. 392 Bradford Road for a similar use to the proposed development on this appeal, which WYP did not object to. However, I do not have any details of the other permission said to be granted, including what type of development they relate to. Furthermore, all of these sites are in a different location, including no.86 York Avenue, to the appeal site, so the site-specific risks associated with this appeal property, may not apply to those other sites. Consequently, they have not led me to conclude differently regarding the proposed development.
16. There have also been issues raised by residents regarding parking and highway safety impacts. Whilst I can understand the concerns, subject to planning conditions as would be appropriate, there is no compelling evidence before me that would lead me to come to a different conclusion to the Council on these matters.

¹ Ref. 2025/90140

Conclusion

17. I therefore conclude that the proposed development conflicts with the development plan, and there are no other considerations, including those raised by the appellant and the Framework, which outweigh that conflict. For the reasons outlined above, the appeal should be dismissed.

A Hunter

INSPECTOR