



Town and Country Planning Act 1990 (as amended)

Section 78 Planning Appeal

**Statement of Case on behalf of Stafford Borough
Council**

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

Planning Application Ref. 22/35765/FUL

**Proposal: Change of use from student
accommodation to asylum seeker accommodation**

**Site: Former University Halls of Residence, Stafford
Education and Enterprise Park, Weston Road,
Stafford**

March 2023

Our ref. STA45/1

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1 INTRODUCTION

- 1.1 This Statement of Case is provided by Knights on behalf of the Stafford Borough Council (“the local planning authority”). It responds to the planning appeal submitted by Serco Limited under Section 78 of the Town and Country Planning Act 1990 in respect of the local planning authority’s decision to refuse permission for a planning application for change of use from student accommodation to asylum seeker accommodation (“the proposed development”) at the Former University Halls Of Residence Stafford Education And Enterprise Park Weston Road, Stafford (“the appeal site”).
- 1.2 The planning application was registered by the local planning authority (LPA) on 22 March 2022 and given reference number 22/35765/FUL. The application was refused by the Council’s planning committee on 28 July 2022. The LPA’s decision notice sets out the following reason for refusal:

The proposal, due to its nature and scale, is considered to result in a lack of social inclusivity in the community and would increase the public fear of crime. The proposal, due to its nature, is also considered to be sited in an inappropriate location in close proximity to schools, which results in an increased public fear of crime. The proposal is therefore contrary to Paragraphs 92 and 130 of the National Planning Policy Framework (2021). Additionally, the application fails to demonstrate that the proposal would not lead to a detrimental impact upon local public health service resources.

- 1.3 The appeal is being heard via the inquiry procedure, and this document provides the Statement of Case on behalf of Stafford Borough Council.

2. SITE LOCATION AND DESCRIPTION

- 2.1 The Appeal Site comprises purpose-built student accommodation located to the south of Weston Road (A518), around 2km from the centre of Stafford.
- 2.2 The site is described in detail in the officer’s report to committee and the statement of common ground.

3. THE APPEAL PROPOSALS

- 3.1 The planning application seeks the change of use of the student accommodation to asylum seeker accommodation for a period until 31st August 2029. It proposes a total of 481 bedspaces, comprising 171 bed spaces for Initial Accommodation and 310 bed spaces for Dispersed Accommodation. There are no proposed external alterations.
- 3.2 The proposals are described in more detail in the officer’s report to committee and the statement of common ground.

4. THE DEVELOPMENT PLAN AND OTHER MATERIAL CONSIDERATIONS

- 4.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 states: *“for the purpose of any determination to be made under the Planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise”*. The Development Plan is therefore the starting point for the determination of planning applications.
- 4.2 The statutory Development Plan covering the Appeal Site comprises the Plan for Stafford Borough 2011 – 2031 and the Plan for Stafford Borough: Part 2. Policies relevant to the appeal site are listed in the officer’s report to committee and the statement of common ground, however there are no development plan policies that refer to specifically to asylum seekers accommodation.
- 4.3 The other material considerations include the National Planning Policy Framework (NPPF) which sets out the Government’s planning policies for England and how these should be applied. There is no specific reference to asylum seekers accommodation, although the Council’s refusal reason refers to two other sections of the NPPF.
- 4.4 The case for the local planning authority below sets out the other material considerations that were considered in respect of the refusal of the planning application.

5. THE CASE FOR THE LOCAL PLANNING AUTHORITY

- 5.1 The planning application was considered by the Council’s planning committee on 28 July 2022. Members reviewed the case for the proposals and the material planning considerations applying and refused the planning application for the following reason:
- “The proposal, due to its nature and scale, is considered to result in a lack of social inclusivity in the community and would increase the public fear of crime. The proposal, due to its nature, is also considered to be sited in an inappropriate location in close proximity to schools, which results in an increased public fear of crime. The proposal is therefore contrary to Paragraphs 92 and 130 of the National Planning Policy Framework (2021). Additionally, the application fails to demonstrate that the proposal would not lead to a detrimental impact upon local public health service resources”*.
- 5.2 The local planning authority’s case in defending this appeal therefore relates to the matters set out above, in summary:
- (i) the public fear of crime arising from the nature and scale of the proposals including its location close to schools;
 - (ii) whether the appellant has shown that the impact of the proposals upon local public health service resources will be acceptable.
- 5.3 Subject to appropriate conditions and obligations, no other matters are disputed in defending the appeal.

- 5.4 In reaching its determination, the local planning authority identified these two areas of concern and considered that they outweigh other material considerations and permission should not be granted.
- 5.5 Accordingly the local planning authority's case is set out in the form of the following propositions:
1. Fear of crime is a material planning consideration.
 2. The proposal, due to its nature and scale including location close to schools will result in a significant local increase in public fear of crime contrary to Paragraphs 92 and 130 of the National Planning Policy Framework. This concern is genuinely held, objectively justified and gives rise to unacceptable risks.
 3. The appellant has not shown that the proposal would not have a detrimental impact upon local public health service resources.
 4. Significant weight should be attached to these matters and the appeal should be dismissed.
- 5.6 The local planning authority's position on all other relevant matters is set out in the officer's report. However, in the event that planning permission is granted, the following matters must be the subject of planning conditions and obligations:
- (a) An operational management plan which is a 'living document' that can respond to 'lessons learned' shall be submitted and approved in writing.
 - (b) A Local Forum in which representatives of local residents can raise concerns with Serco, the local planning authority and local service providers including the police.
- 5.7 Further comments are provided in respect of draft conditions at section 7 below.

Proposition 1: Fear of crime is a material planning consideration.

- 5.8 The Council will provide further detail of its position on this matter in its evidence to the inquiry. An outline however follows.
- 5.9 In accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004, planning decisions must be made in accordance with the development plan "*unless material considerations indicate otherwise*".
- 5.10 Paragraph 21b-008 of the Planning Practice Guidance (PPG) states "*A material planning consideration is one which is relevant to making the planning decision in question (eg whether to grant or refuse an application for planning permission). The scope of what can constitute a material consideration is very wide*". In addition to development plan policies, material considerations may be indicated in the NPPF and by court decisions for example.
- 5.11 Paragraph 21b-009 of the PPG states "*Whether a particular consideration is material will depend on the circumstances of the case and is ultimately a decision for the courts. Provided*

regard is had to all material considerations, it is for the decision maker to decide what weight is to be given to the material considerations in each case”.

- 5.12 Case law¹ that establishes (i) that the impact of a proposed development upon the use of and activities upon neighbouring land may be a material consideration; (ii) that justified public concern in the locality as a result of a proposed development may be a material consideration and (iii) that that the public perception of danger can be a material planning consideration.
- 5.13 Paragraph 1 of the National Planning Policy Framework states that the document “*sets out the Government’s planning policies for England*”. NPPF paragraph 92 states that planning decisions should create places where “*crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion*”. NPPF paragraph 130 seeks to “*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; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience*”.
- 5.14 In summary it is therefore noted:
- NPPF paragraph 2 states that the document “*is a material planning consideration in planning decisions*”,
 - Fear of crime can be a material planning consideration and case law reinforces this position.
 - In determining the application, it was appropriate therefore that the local planning authority considered the nature, scale and location of the proposals and, with regard to NPPF paragraph 92 and NPPF paragraph 130 whether there would be a resulting increase in the public fear of crime.
 - Should harm be identified in this regard the weight to give to this is a matter for the decision maker.
 - Whether the concern is genuinely held, objectively justified and gives rise to unacceptable risks is a matter for the decision maker to consider when deciding what weight to give to this material consideration.

Proposition 2: The proposal, due to its scale, nature and location close to schools will result in a significant local increase in public fear of crime.

- 5.15 The Council asserts that nature scale and location close to schools of the appeal proposals would result in a significant increase in the public fear of crime. The Council will provide further detail of this position in evidence to the inquiry. This evidence will cover matters including the following issues in respect of fear of crime and impact on community cohesion.

¹ Newport BC v Secretary of State for Wales [1998] Env. L.R. 174 and West Midlands Probation Committee v Secretary of State for the Environment, Transport and the Regions (1998) 76 P. & C. R. 589 and R v Broadland DC ex p Dove [1998] PLCR 119.

Scale

- 5.16 The proposed use would have a total 481 bedspaces. The local planning authority will provide evidence comparing the size of the facility with other asylum seeker accommodation. This scale of provision of such accommodation in one location within a town would result in public fear of crime in the locality and a negative impact on community cohesion. In addition, there is evidence to indicate that it could well become a target for wider public disorder, including as a result of action by third parties.

Location

- 5.17 The local planning authority's position is that the nature of the surroundings of the appeal site adds to the fear of crime and the negative impact on community cohesion that would arise. The location has a particular sensitivity as there is a secondary school located 350m north east and primary schools located 275m north and 750m west. Many children currently walk to and from these schools. We will refer to this concentration of younger more vulnerable sections of the community in evidencing these concerns.

The nature of the proposals

- 5.18 The Council considers the proposed asylum seeker accommodation use would have significantly different impacts on the locality, when compared to the previous student accommodation use. Levels and types of activity would arise that are inconsistent with the established character of the surrounding area and would give rise to significant harms. There has for example been national press coverage of a range of incidents and issues arising in other areas, which will be referred to by the Council, as these underpin local concerns.
- 5.19 These harms relative to the past use of the site arise partly as a result of the greater intensity of occupation proposed here, as asylum seekers are unable access employment and very limited funds and are therefore likely to remain in the immediate vicinity of the premises much of the time. Students by contrast lived elsewhere in term time and also spent considerable amounts of that time away from the accommodation for lectures and social activities.
- 5.20 It is noted that the applicant's Planning Design and Access Statement states at para 3.38 that "*The occupants of the site will have no restrictions placed upon their day-to-day whereabouts*". It then goes on to say "*Serco advises Asylum seekers not to congregate in groups, as they are mindful that some members of the local community could perceive this as unsettling*". How this is to be achieved is however not set out.
- 5.21 Open space within the site is limited to an internal courtyard and concern therefore arises that groups of asylum seekers are likely to gather in the vicinity of the facility. As a result, and particularly given the numbers of school children that pass the site, tensions between the local community and the asylum seekers may arise. Parents would be anxious about congregating asylum seekers and the fear of crime arising would change their lives by affecting use of local open spaces and walking to and from school.
- 5.22 Furthermore, further to incidents elsewhere, it is also reasonable to have concerns that the facility could become a target for groups from further afield seeking to provoke public disorder, who would be able to access into the site, raising significant policing resource issues.

- 5.23 Despite this concern, the proposals do not include any physical changes to the buildings or the site. This is currently unfenced and has open access to the internal courtyard. Nor is the application accompanied by an operational management plan or proposals for a local management forum.
- 5.24 The Designing Out Crime consultee's response advised "*Staffordshire Police note the number of objections from within the local authority. This may result in some community tension, bearing this in mind, it is strongly recommended the grounds and the building are made as secure for the safety and well-being of the occupants*". The Designing Out Crime Officer recommended a number of security improvements including physical measures such as fencing, blocking up the arched access and CCTV, along with management measures. These were not taken forward by the appellant. As such there is no planning mechanism within the application as appealed that would provide control of the management of the site.
- 5.25 It is therefore evident that the proposed development would fail at the local level to "*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; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience*" as is required by NPPF paragraph 130. This is reflected in the significant levels of local objection the LPA received to the planning application.
- 5.26 The local planning authority's position is therefore that justified public fear of crime impacts and a negative impact on quality of life and community cohesion will arise, contrary to NPPF paragraph 92 and paragraph 130.

Proposition 3: It has not been shown that the proposal would not have a detrimental impact upon local public health service resources.

- 5.27 The Council will provide further detail of its position on health impacts in evidence to the inquiry. In outline we would raise the following points.
- 5.28 NPPF paragraph 92(c) states that planning decisions should "*address local health and well-being needs*" and paragraph 93 states that planning decisions should "*take into account and support the delivery of local strategies to improve health*". Access to appropriate health services both for the occupants of the facility and for the wider community is therefore a material planning consideration.
- 5.29 The NHS consultee advised therefore that the proposal would result in an increased demand upon primary health services when compared to the current use of the building and Staffordshire County Council Director of Children and Families considered that the impact on local services is "*likely to be considerable*" (indeed, with the building currently vacant, the baseline position is one of no demand on local services).
- 5.30 Whilst the applicant suggests the facility would provide health services in-house for the Initial Accommodation (IA) occupants, there is no planning mechanism in place to ensure that a suitably equipped facility would be put in place, nor that the staffing resource would not be

drawn from the existing local provision leading to a reduction in resources available more widely (indeed the applicant has indicated it will be the Health Authority that would arrange the provision). Local services would also be required in the event of more significant medical issues such as emergencies.

- 5.31 Furthermore, the applicant suggests the occupants of the Dispersed Accommodation (DA) would not access the in-house provision and would use local public health facilities. These are already relatively stretched and in this context, it is also noted that the asylum seekers may have important health needs requiring specialist care that may not currently be widely available. This would lead to additional demands to be addressed locally and a funding gap.
- 5.32 It was also unclear whether transport would be available for occupants of the facility to access all medical appointments.
- 5.33 The Council's position is therefore that it has not been shown that the proposal would not have a detrimental impact upon local public health service resources² and will provide evidence to the inquiry of the likely impact upon local health provision.

5. Significant weight should be attached to these matters and the appeal refused.

- 5.34 The Council's position as set out in the refusal reason is therefore that the development by virtue of its scale, nature and location close to schools would impact on its surroundings by giving rise to levels and types of activity such that significant and justified public fear of crime will arise, contrary to NPPF paragraph 92 and paragraph 130. The weight to give to this fear of crime impact is a matter of planning judgment.
- 5.35 Furthermore it is also concluded that the proposal would have a detrimental impact upon local public health service resources. This is also considered to be an important matter in the determination of the appeal.
- 5.36 These are important material planning considerations to which significant weight should be attached in light of the issues arising outlined above. These impacts outweigh the case for the proposals and we therefore respectfully request that the appeal is dismissed.

6. DOCUMENTS

- 6.1 Case law that establishes that the public perception of danger can be a material planning consideration. In evidence to the inquiry the local planning authority will refer to relevant case law including *Newport BC v Secretary of State for Wales* [1998] Env. L.R. 174 and *West Midlands Probation Committee v Secretary of State for the Environment, Transport and the Regions* (1998) 76 P. & C. R. 589. The LPA will also refer to relevant appeal decisions.

² A failure to demonstrate the lack of detrimental impacts is capable of being a reason for refusal; see by analogy *Satnam Millenium Ltd v Secretary of State for Housing, Communities and Local Government* [2019] EWHC 2631 (Admin) between [59] to [61]

- 6.2 The scale of local concern is significant as is evidenced by the total of 331 local objections received responses from 275 separate addresses. The LPA will provide evidence in respect of these local concerns.
- 6.3 The LPA will provide evidence that the proposed development may precipitate public order offences, including documents from reputable news outlets.
- 6.4 The NHS consultee advised that the proposal would result in an increased demand upon primary health services. We will provide evidence of these impacts.
- 6.5 The LPA also reserves the right to add to this list should other documentation become relevant up to the appeal inquiry.
- 6.6 A planning expert witness will be called to give evidence on behalf of the Council, along with the local member and Cabinet Member for Economic Development and Planning. It is also proposed that a witness representing the Staffordshire County Council Director of Children and Families will also be called.
- 6.7 Other witnesses (to be confirmed) may also be called on behalf of the Council.

7. DRAFT CONDITIONS

- 7.1 The officer's report to committee sets out draft conditions covering the following matters:
1. Commence within three years.
 2. Accordance with the approved plans.
 3. Temporary permission to 31st August 2029, then reverting back to student accommodation and restored to current position.
 4. Construction works and associated delivery hours to be agreed.
- 7.2 Should the appeal be allowed the Council request that these draft conditions set out in the officer's report be attached to any permission. In addition, there are a number of other matters that arise further to the Council's reasons for refusal and we request that conditions covering these issues are also attached to any permission:
5. The internal alterations shall be completed prior to occupation and retained thereafter and bedspace numbers are capped at the current figure.
 6. A scheme for the layout and specification of the outdoor courtyard space shall be submitted and approved in writing and then be fully implemented prior to occupation.

7. A site operational management plan shall be submitted to and approved in writing prior to occupation and this plan shall be adhered to thereafter. This management plan to include establishment of a local management forum.

8. A scheme for CCTV and details of fencing to be submitted and agreed.