



Town and Country Planning Act 1990 (as amended)

**PROOF OF EVIDENCE ON
BEHALF OF STAFFORD
BOROUGH COUNCIL**

PLANNING

VOLUME 1: WRITTEN STATEMENT

Planning Appeal Reference:

APP/Y3425/W/23/3315258

Stafford Borough Council Application

Reference: 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

Document Date: 14 April 2023

Our ref. STA45/1

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1. INTRODUCTION

The appeal

- 1.1 Planning Appeal ref: APP/Y3425/W/23/3315258 (“The planning appeal”) was submitted by Serco Limited (“The appellant”) under Section 78 of the Town and Country Planning Act 1990. It relates to the decision of Stafford Borough Council (“The local planning authority”) 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”). The appeal is being heard via the inquiry procedure and this proof of evidence on planning matters is submitted on behalf of the local planning authority.

Declaration

- 1.2 This proof of evidence has been prepared by Matthew Wedderburn MRTPI and represents my true and professional opinions, based on my knowledge and experience. This is given irrespective of by whom I am instructed, in accordance with the guidance of my professional institute.

Qualifications and Experience

- 1.3 I am a graduate of the University of Reading (BSc Hons) and have a Masters degree in Town Planning from the University of Newcastle. I am a professionally qualified town planner and a chartered member of the Royal Town Planning Institute (RTPI), elected in 1996.
- 1.4 As with all members of the RTPI, I am bound by a Code of Professional Conduct which applies to my professional activities and requires that I act with competence, honesty and integrity, and exercise independent professional judgement at all times.
- 1.5 I have been a Senior Associate at Knights since April 2016. Knights is a multidisciplinary professional services firm operating from 23 regional locations and includes a team of chartered town planning consultants. I was previously Planning Manager at a property development company between 2013 and 2016. This was preceded by nearly 20 years’ experience as a town planner in local government. This included 5 years as Development Plans Manager for Telford & Wrekin Council and prior to that, as a planning officer, rising to Team Leader, at Councils in Berkshire, North Wales, Liverpool and Shropshire.
- 1.6 I advise on a range of planning matters, including planning applications and appeals and on the promotion of land through the Development Plan process. I have many years’ experience of planning appeal work, including giving evidence at planning inquiries and development plan examinations.
- 1.7 I am familiar with the planning application and the appeal site.

The scope of this proof of evidence

- 1.8 This proof of evidence has been prepared on behalf of Stafford Borough Council ('the Council') in response to the planning appeal submitted under Section 78 of the Town and Country Planning Act 1990 (as amended) by Serco Ltd (planning appeal ref. APP/Y3425/W/23/3315258).
- 1.9 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 27 July 2022.
- 1.10 This proof of evidence addresses general planning matters and evaluates the planning balance pertaining to the appeal scheme. Subject to appropriate conditions and obligations, matters other than those forming part of the reason for refusal are not disputed in defending the appeal.
- 1.11 A number of appendices are attached to this proof of evidence and these comprise documents to which the appellant will refer. Additional documents from the Core Documents list will also be referred to.
- 1.12 The Council reserves the right to consider and respond to issues raised by the appellant in the submission of its evidence.

2. THE APPEAL SITE AND APPEAL PROPOSALS

- 2.1 The Appeal Site comprises purpose-built student accommodation located to the south of Weston Road (A518), around 2km east of 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.
- 2.3 The planning application seeks change of use of the buildings to asylum seeker accommodation for a period until 31st August 2029. It proposes a total of 481 bedspaces, to be split into 171 bed spaces for 'Initial Accommodation' and 310 bed spaces for 'Dispersed Accommodation'. There are no proposed external alterations.
- 2.4 The proposals are described in more detail in the officer's report to committee and the statement of common ground.

3. THE DEVELOPMENT PLAN AND NATIONAL PLANNING POLICY

- 3.1 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.

The Plan for Stafford Borough Part 1 and Part 2

- 3.2 The statutory Development Plan covering the Appeal Site comprises the Plan for Stafford Borough, Parts 1 and 2. Policies relevant to the appeal site are listed and considered in the in the officer's report to committee. They are also listed in the statement of common ground.
- 3.3 There are no policies in the development plan specifically regarding asylum seekers accommodation and no development plan policies were cited in the refusal reason.
- 3.4 In these circumstances policy SP1 - Presumption In Favour Of Sustainable Development is relevant. This states “ . . . *Where there are no policies relevant to the application, or relevant policies are out of date at the time of making the decision, the Council will grant permission unless material considerations indicate otherwise, taking into account whether: (i) Any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the National Planning Policy Framework taken as a whole; or (ii) Specific policies in that Framework indicate that development should be restricted*”.
- 3.5 In accordance with Section 38(6) regard should be had to other “material considerations”. These include national planning policy and guidance, emerging local policies and site-specific issues.

The National Planning Policy Framework

- 3.6 The other material considerations include the National Planning Policy Framework ('The Framework'), republished July 2021, which sets out the Government's planning policies for England and how these should be applied.
- 3.7 There is no specific reference in The Framework to asylum seekers accommodation, although the following sections have particular relevance to the appeal scheme:
- Paragraph 11 states “*Plans and decisions should apply a presumption in favour of sustainable development*” and goes on to specify that for decision taking this means “*where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless: (i) the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or (ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.*”
 - Paragraph 92 of the Framework states “*Planning policies and decisions should aim to achieve healthy, inclusive and safe places which: a) promote social interaction, including opportunities for meetings between people who might not otherwise come into contact with each other – for example through mixed-use developments, strong neighbourhood centres, street layouts that allow for easy pedestrian and cycle connections within and between neighbourhoods, and active street frontages. . . . b) are safe and accessible, so that crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion . . . c) enable and support healthy lifestyles, especially where this would address identified local health and well-being needs*”

- Paragraph 130 states *“Planning policies and decisions should ensure that developments: . . . f) 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”*.

3.8 The case set out below details the other material considerations that were considered in respect of the refusal of the appeal scheme.

4. THE CASE FOR THE COUNCIL

4.1 The planning application was considered by the Council’s planning committee on 27 July 2022. Members of the committee reviewed the case for the proposals. In accordance with policy SP1 - Presumption in favour of sustainable development and paragraph 11d of the Framework, the local planning authority identified important material considerations applying and concluded that the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework taken as a whole. Permission was therefore refused.

4.2 The planning application was refused 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”.

4.3 The local planning authority’s position in defending this appeal therefore relates to the matters set out above. These can be summarised as:

- (i) the lack of social inclusivity and 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.

4.4 Subject to appropriate conditions and obligations, no other matters are disputed in defending the appeal.

4.5 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 its location close to schools will result in a lack of social inclusivity and 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.
- 4.6 The local planning authority's position on all other relevant matters is set out in the officer's report.
- 4.7 In the event that planning permission is granted, the local planning authority's suggested draft conditions are provided in **CD ref. C11**.

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

- 4.8 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*".
- 4.9 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 Framework and by court decisions for example.
- 4.10 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*".
- 4.11 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 the public perception of danger can be a material planning consideration.
- 4.12 In *West Midlands Probation Committee v Secretary of State for the Environment, Transport and the Regions*, Lord Justice Pill, delivering the judgment of the Court said "*There can be no assumption that the use of the land as a bail and probation hostel will not interfere with the reasonable use of adjoining land when the evidence is that it does. Fear and concern felt by occupants of neighbouring land is as real in this case as in one involving polluting discharges and as relevant to their reasonable use of the land. The pattern of behaviour was such as could*

¹ *Newport BC v Secretary of State for Wales* [1998] Env. L.R. 174 (**CD G1**) *West Midlands Probation Committee v Secretary of State for the Environment, Transport and the Regions* (1998) 76 P. & C. R. 589 (**CD G2**) and *R v Broadland DC ex p Dove* [1998] PLCR 119 (**CD G3**).

properly be said to arise from the use of the land as a bail and probation hostel and did not arise merely because of the identity of the particular occupier or of particular residents". Lord Justice Pill went on to note that the weight to give to this is a matter of planning judgment.

4.13 This is in accordance with *Tesco Stores v Secretary of State for the Environment*² where in giving judgement Lord Hoffman said *"The law has always made a clear distinction between the question of whether something is a material consideration and the weight which it should be given. The former is a question of law and the latter is a question of planning judgment, which is entirely a matter for the planning authority. Provided that the planning authority has regard to all material considerations, it is at liberty (provided that it does not lapse into Wednesbury unreasonableness) to give them whatever weight the planning authority thinks or no weight at all."*

4.14 Finally, it should be emphasised that fear of crime is referenced in national planning policy. 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"*.

4.15 In summary it is therefore evident that:

- Paragraph 2 of the Framework 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 paragraph 92 and paragraph 130 of the Framework whether there would be a resulting increase in the public fear of crime.
- Whether this concern is genuinely held, objectively justified and gives rise to unacceptable risks is then a matter for the decision maker to consider when deciding what weight to give to this material consideration.

² *Tesco Stores Ltd v Secretary of State for the Environment and West Oxfordshire District Council* [1995] 2 All ER 636 (CD G4)

Proposition 2: The proposal, due to its nature and scale, including its location close to schools, will result in a lack of social inclusivity and 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.

- 4.16 The Council considers that the proposed development will give rise to a lack of social inclusivity and a significant local increase in the fear of crime. These concerns arise from the nature of the development and in particular from its scale and location:
- The nature of the proposed development is an important consideration as the way the government proposes to manage asylum seekers and their accommodation is likely to give rise to off-site planning implications unless accommodation with appropriate facilities and activities for occupants is provided;
 - Scale is an important consideration as the more intensive the use, the more likely justifiable concerns will arise;
 - Location is also an important consideration as this may give rise to particular concerns about more vulnerable sections of the community and, depending on the nature of the surroundings, the development may be more likely to interfere with the reasonable use of adjoining land.

Nature

- 4.17 With regard to the nature of the proposed development, the appellant's planning statement states that whilst planning permission is required, the proposed use remains a bespoke residential use for a specific group of people. This is to ignore key differences in the way the site would be occupied. Asylum seekers (referred to by Serco as 'Service Users') are unable to access employment and have very limited funds and are therefore likely to remain in the immediate vicinity of the premises much of the time.
- 4.18 The students by contrast would generally have lived elsewhere outside term time and also spent considerable amounts of their time away from the accommodation for lectures and social activities. Students also have the opportunity to seek part-time employment locally, and to contribute to the local leisure and retail economy.
- 4.19 **Appendix 1** is an extract from the gov.uk website providing advice to asylum seekers. This makes clear the limited nature of the cash allowance provided by the UK government to asylum seekers. This amounts to £45 per person each week to cover food, clothing and toiletries (or just £9.10 per person per week in cases where meals are provided). Asylum seekers are unlikely to have funds to cover anything beyond the bare essentials. Unless the accommodation provides sufficient facilities and activities on-site to occupy their time the concern therefore clearly arises that groups of asylum seekers may gather in the vicinity of the facility.
- 4.20 In this regard we note however that open space within the red line application site boundary is limited to an internal courtyard and the floor plans for the proposed development do not show communal spaces such as a gym or space where exercise classes could be held, a teaching

area where education classes might be provided, spaces for worship or a social area for groups to meet (see plan ref. NPS-ZZ-00-DR-A-023 rev P5 (CD A12) for example).

- 4.21 The application does not set out details of activities proposed to be organised for the occupants. The appellant has therefore been asked to provide information on the anticipated normal daily routine of occupants. The email to the appellant's planning agent is provided at **Appendix 2**. At the point of finalising this evidence no response from Serco had been made available to the Council.
- 4.22 Unable to access employment, without funds to partake in the local leisure and retail economy and with limited on-site facilities it is clearly reasonable to expect asylum seekers would gather in the locality.
- 4.23 The appellant's Planning Design and Access Statement says at paragraph 3.38 "*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.
- 4.24 At **Appendix 3a** is an example of an appeal decision³ regarding a hostel for asylum seekers and here at paragraph 24 the inspector notes that "*because asylum seekers have no employment, they tend to stay around the hostel and the local area and their comings and goings are more evident to those living nearby than would otherwise be the case*". The proposed asylum seeker accommodation use by its nature would therefore have a greater intensity of impact on the locality than the student accommodation use (this relates to the intensity of the use and may be unassociated with the background of the occupants).
- 4.25 As a result, neighbouring residents may be anxious about congregating asylum seekers and the fear of crime arise. This would give rise to off-site planning implications. It is expected that levels and types of activity would occur that would have a considerable impact on many local residents and affect use of local open spaces and walking to and from school for example. The Council therefore considers that harm would arise in respect of the impact on social inclusion and the increase in public fear of crime, as referenced in the Council's decision notice.

Scale

- 4.26 These concerns are magnified by the scale of the proposals. I have sought to consider this in context of other schemes and, at 481 bed spaces, this facility would be greater in size than other examples of similar asylum accommodation I have been able to identify (whether Initial Accommodation ('IA') or Dispersed Accommodation ('DA')). The appellant's statement of case says at paragraph 31 "*Serco currently manage similar IA facilities at seven separate sites across four locations across England, which accommodates over 800 people*" That would however equate to an average size of only circa 114 beds.

³ Appeal decision ref. APP/P4604/C/04/1151510 323 Hagley Road & 479 Gillott Road, Edgbaston, Birmingham, B17 8ND Partly Allowed, Partly Dismissed 18/03/2005

- 4.27 It is noted the appellant's statement of case refers at paragraph 47 to a site "*operated by Serco in Derby*" and Serco's planning statement accompanying the application refers at para 3.20 to IA provision in the Midlands at that time being met by two sites including Laverstoke Court, Derby (with the other site now closed). In addition, I am also aware of an IA site at Wakefield. In respect of these two examples:
- Laverstoke Court, Peet Street, Derby DE22 3NT is an IA site operated by Serco (and like the appeal proposals was also previously student accommodation). Serco refer to a capacity of 210 spaces, whilst the documents relevant to the planning permission⁴ identified a maximum of 225 bedspaces. In either case it is considerably smaller than the proposals at Stafford.
 - Urban House. Love Lane, Wakefield WF2 9AF is an IA Centre run by the Urban Housing company, subcontracting from Mears. Whilst it can accommodate up to 310 people, this is still significantly smaller than the 481 unit proposals at Stafford.
- 4.28 The above notwithstanding, the appellant's statement of case says at para 47 that "*The site is similar to other IA operations elsewhere in the UK*". The appellant has been asked to confirm the location and addresses of these sites referred to as 'similar', along with how many initial accommodation bedspaces and dispersed accommodation bedspaces each provide. The email to the appellant's planning agent is provided at **Appendix 2**. At the point of finalising this evidence no response from Serco had been made available.
- 4.29 From the information available to the Council, with the proposed 171 bed spaces for IA and 310 bed spaces for DA, totalling 481 spaces it is reasonable to suggest that the proposals at Weston Road, Stafford would comprise a particularly large asylum seeker accommodation facility.
- 4.30 At **Appendix 3b** is an appeal decision regarding a 130 bed hostel for the homeless / asylum seekers⁵ where at paragraph 28 the inspector considered that "*the sheer numbers of residents at the proposed hostel would make them prominent in the local community*". It was concluded this would "*inhibit their full integration into that community*" and the appeal was dismissed. Further comment on the impact of the appeal scheme on social inclusion is set out below

Location

- 4.31 In respect of the location of the development, the local planning authority's position is that the nature of the surroundings of the appeal site adds to the fear of crime and to the negative impact on community cohesion that would arise from the appeal scheme. The location has a particular sensitivity as schools are located relative to the appeal site as follows:
- Weston Road Academy secondary school 350m north-east.
 - Veritas Primary Academy School and Nursery 275m north.
 - St Johns Primary Academy School 750m west.

⁴ DER/05/17/00698 - Proposal: Change of use from student accommodation (sui generis) to a hostel (sui generis) - Laverstoke Court, Peet Street - Granted with conditions - 16 Oct 2017

⁵ Appeal ref. 1036918 Cambridge House, Cambridge Row, Greenwich London SE18, dismissed 28/07/2000

- 4.32 There is also an astroturf sports facility used by children and young people directly abutting the site to the north and St Mary's Gate Playground, at Bayswater Square 180m south. Please see **Appendix 4** which comprises a plan showing the site of these schools and facilities.
- 4.33 It is noted that two of these schools are located to the north east and north of the appeal site, whilst residential areas are to the south and the west. In preparing this evidence the locality was visited and it was observed that a great many children currently walk to and from these 3 schools.
- 4.34 At paragraph 7.5 of the appellant's planning design and access statement Serco acknowledge that "*there will be some impacts of accommodating 481 asylum seekers on the site, such as . . . the use of public transport, parks and other local facilities*".
- 4.35 Local interested parties responded to the planning application and have also made representations to the appeal. **Appendix 5** contains extracts from a number of the responses to the planning application where fear of crime was raised. These 40 local responses to the planning application do not represent an exhaustive list of those that mention fear of increased crime, but they do convey the nature and scale of local concerns.
- 4.36 All of the comments from the 40 responses set out at Appendix 5 are from Stafford post codes (i.e. ST16, 17 and 18). Most are from within a relatively close radius. This is reflective of the responses from the general public to the planning application as a whole which were overwhelmingly local. The officer's report to committee and the update report noted responses from 275 addresses and with 13 from outside the Borough. There was no apparent evidence of political interest groups having organised a campaign leading to a significantly wider geographically-based response.
- 4.37 It is also noted that a great many of these responses that include comments on fear of crime also raise specific concerns regarding the proximity to nearby schools. The Council therefore asserts that the location close to schools of the appeal proposals would, in particular, lead to a significant increase in the local level of fear of crime.

The concerns are genuinely held and objectively justified

- 4.38 The level of local public response also underlines the significance of these concerns locally. I consider that such concerns are genuinely held and objectively justified.
- 4.39 There has been national press coverage of a range of incidents and issues arising regarding asylum seeker facilities in other areas. I would draw attention to a number of press articles provided at **Appendix 6**
- **Appendix 6a:** Derby Telegraph article published 21 June 2018 regarding local residents' allegations of antisocial behaviour by occupants of Laverstoke Court, Derby. Irrespective of whether these were accurate and justified allegations, the potential for rising tensions within the local community is clear.
 - **Appendix 6b:** BBC News article dated 10 August 2020 noting racist graffiti being investigated by police at Laverstoke Court, Derby.

- **Appendix 6c:** Express and Star Article dated 4 February 2023 concerning a protest in Feb 2023 in Cannock town centre relating to the use of local hotels to house asylum seekers. It refers to police officers forming a barrier between the two protests and that says Staffordshire Police had earlier “*appealed for calm amid rising tensions*”, It should be noted that Cannock is a neighbouring town, around 12km from the appeal site.
- **Appendix 6d** is BBC News article published 28 February 2023 regarding a protest outside a building housing asylum seekers at Kegworth, Leicestershire. Here the demonstration was advertised on social media, with organisers citing concerns about the impact on local services, a large crowd gathered and one person was arrested
- **Appendix 6e, Appendix 6f** and **Appendix 6g** respectively are articles published by The Guardian (10 February 2023), BBC News (18 February 2023) and ITV News (7 March 2023) providing details of events in Knowsley near Liverpool. These set out that a large number of far-right demonstrators gathered outside a hotel where asylum seekers were housed, missiles were thrown, a police van set alight and three people arrested on suspicion of violent disorder.
- **Appendix 6h** is an article dated 25 Feb 2023 from The Independent that reports on a rally of about 200 people at Skegness, Lincolnshire (where 5 hotels were housing asylum seekers) said to have been organised by a far-right group. It also details a protest in Newquay, Cornwall where “around 100 people holding signs saying ‘refugees welcome’” met opposing marchers.

4.40 It is clear from these accounts of occurrences elsewhere that tensions between the local community and the asylum seekers may arise. This is particularly so given the numbers of school children that pass the appeal site. The neighbour responses to the planning application do indicate many parents would be anxious about congregating asylum seekers and the fear of crime arising. As a result the proposal may well change their lives, affecting use of local open spaces and walking to and from school for example.

4.41 Furthermore, given its substantial size and the accounts set out in the examples above, it is reasonable to fear that in addition to the considerable potential for local public disturbance to arise, the facility could become a wider target. The above Merseyside and Skegness examples describe action by groups from further afield seeking to provoke public disorder. Many of the local objectors whose comments are provided at Appendix 5 refer to the size of the unit as a key concern. The Action Foundation report “In a place like prison’: voices from institutional asylum accommodation (December 2021)⁶ **(CD G5)** notes “*Some people we spoke to had experienced harassment by far-right groups who targeted the facilities they were staying in. Institutional sites, as they are visible and segregated from communities, have increasingly become a focus of this type of activity*”.

4.42 The appellant’s assertion that “*crime has not increased in areas where any of our properties are located*” at para 44 of the appellant’s statement of case is unsupported by evidence. The Home Office appoints private companies such as Mears, G4S, Mitie and Serco to provide and manage accommodation for asylum seekers. The above examples clearly indicate significant

⁶ In a place like prison’: voices from institutional asylum accommodation - Action Foundation December 2021

public disorder has arisen in the vicinity of buildings housing asylum seekers elsewhere in the country. Of the above examples, the most concerning is the Merseyside case described at Appendix 6e, 6f and 6g. This relates to The Suites Hotel, Ribblers Lane, Knowsley, Liverpool L34 9HA which since January 2022, has been used to accommodate asylum seekers and the Home Office appointed Serco to manage the site.

4.43 Given these examples of experiences regarding similar facilities elsewhere, it is therefore asserted that the genuine fears of crime held by local residents are objectively justified in this case and relate to unacceptable risks arising from the appeal scheme. In terms of the weight to give in the determination of this appeal to these concerns, I would highlight an appeal concerning change of use of vacant nightclub to homeless hostel⁷. The decision dated 21 July 2022 is at **Appendix 3c** and here the main issue was whether the proposal would affect living conditions within the local community with respect to increasing anti-social behaviour, crime and fear of crime in the area. The inspector referred at paragraph 7 to another facility described as a 'similar' where there were documented crime and anti-social behaviour issues and concluded the appeal proposals would in all likelihood increase crime and anti-social behaviour in the area. The appeal was dismissed because it was not considered there were sufficient measures in place to address these matters. It is therefore clearly appropriate to ascribe significant weight to anti-social behaviour, crime and fear of crime issues seen in respect of similar development elsewhere.

4.44 It is also not only elsewhere that evidence of a risk of public disorder relating to use of buildings to house asylum seekers can be found:

- At **Appendix 6i** is a Staffordshire Live article dated 28 July 2022 regarding the determination of the planning application for the proposals at Weston Road, Stafford subject to this appeal. Protestors are shown and the press article notes that, as a result of the numbers of the public attending, an adjacent room had to be used and the committee meeting was paused due to disruption⁸. The accompanying proof of evidence by Cllr F Beatty of Stafford Borough Council (who attended the committee meeting) provides further details (including confirming the presence of members of a far-right group at the meeting).

4.45 In the case of this appeal, it is therefore a reasonable expectation that the proposals would lead to rising local tension and a negative impact on community cohesion and social inclusivity. It is also clear, given the significant volume of local objections, that many local residents genuinely hold fears of a rise in crime or anti-social behaviour. Weight can be placed on these matters in accordance with *West Midlands Probation Committee v Secretary of State for the Environment, Transport and the Regions*.

The appellant's approach to fear of crime

⁷ Appeal Ref: APP/X4725/W/21/3285830 Former Nightclub, Bank Street/White Horse Yard, Wakefield WF1 1EH Decision date: 21st July 2022

⁸ An audio recording of the 27 July 2022 Stafford BC planning committee meeting is available here: <https://www.staffordbc.gov.uk/2022-2023-committee-meetings>

- 4.46 The appellant carried out a public consultation exercise prior to submission of the application with a booklet sent to 440 neighbours and local stakeholders, along with a website to display information about the proposals, with an on-line feedback form.
- 4.47 The Statement of Community Involvement (SCI) details that of the 319 responses 80% were opposed. The application documents do not however set out any response to the issues raised or modifications to the proposals to address these concerns. Instead the SCI says simply *“Serco has reviewed the comments received and is grateful for the feedback received. A planning application will shortly be submitted to Stafford Borough Council, which will address the concerns raised as part of this consultation”*.
- 4.48 The nature of the proposals was clearly likely to lead to significant local interest and it was unhelpful therefore that the appellant’s approach to engagement with the local community was limited to a simple consultation and that there was no clear response from the appellant to the concerns raised locally set out in the application documents.
- 4.49 Similarly through the application process there was significant public response received with many points of concern raised including the proximity to schools and that the asylum seekers would have very little to do all day. Despite this, the application was not amended or added to.
- 4.50 In the appeal proposals, open space within the site is limited to an internal courtyard and the concern therefore arises that groups of asylum seekers are likely to gather in the vicinity of the facility and as set out above be more evident locally than would otherwise be the case.
- 4.51 It is also noted there are no barriers to open access by protestors into the site, raising significant concerns around potential for public disorder and regarding the security of the occupants.
- 4.52 In particular the Staffordshire Police Designing Out Crime consultee’s response dated 19 April 2022 (**CD B8**) 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 site is currently unfenced and has open access to the internal courtyard. 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. This is supported by development plan policy, as Policy N1 Design of the Plan for Stafford Borough requires that *“the design and layout of new development to be safe, secure and crime resistant, by the inclusion of measures to address crime and disorder”*.
- 4.53 Despite these specific points raised the application was not modified to include any physical changes to the buildings or to the site. Nor is the application accompanied by an operational management plan, a risk assessment in terms of crime and safety, or proposals for a local management forum.
- 4.54 The appellant’s Planning Design and Access Statement says at paragraph 3.38 *“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.

- 4.55 The appellant's Planning Design and Access Statement says at paragraph 3.46 that the number of support staff on site would be 12. By way of comparison, the Derby City Council officer report that informed the determination of the planning application for the scheme at Laverstoke Court, Derby (ref. DER/05/17/00698)⁹ (**Appendix 7**) (an IA site operated by Serco and said by the appellant to have a capacity of 210 bed spaces) detailed that *"The hostel is to be staffed permanently, 24 hours a day and when fully occupied there would be 20 staff on site, including managers, housekeepers, maintenance operatives and seven security staff. A minimum of two security staff would be on site at all times"*.
- 4.56 In the case of the Laverstoke Court, example (see Appendix 7) the documents submitted include a "Management & Operations Plan" that provided detailed information about the intended operation of the hostel; staffing levels, housekeeping and servicing, site security and safety process, moving in procedure and community liaison.
- 4.57 In the case of the appeal scheme however it is apparent that there are no physical measures or management mechanisms in place that would assist in addressing these crime and antisocial behaviour fears in respect of the appeal scheme.
- 4.58 **Appendix 8** comprises a series of letters from SCC Director of Health & Care to the Home Office regarding issues associated with use of hotels to accommodate asylum seekers in Staffordshire. Dated November 2022 these refer to *"Sub-optimal management"* creating *"significant risks for the asylum seekers and for our residents"*.
- 4.59 In a response to the planning application dated 13 July 2022 Staffordshire County Council Director of Children and Families (see **Appendix 9** and also **CD B9**) advised of a range of issues that should be covered in a site management plan. The Council's overall position is therefore that the scheme is unacceptable, but in particular with regard to management mechanisms it is noted that that the following are absent:
- (a) an operational management plan setting out matters such as staffing levels, the provision of on-site facilities and activities for occupants, site security procedures and community liaison mechanisms. This should be a 'living document' that can respond to 'lessons learned' and should be submitted and approved in writing.
- (b) this should also include arrangements for a Local Forum to be put in place, where representatives of local residents can raise concerns with Serco and with local service providers including the police.
- 4.60 In conclusion therefore, the Council's position is that the proposal gives rise to a lack of social inclusivity, public fear of crime arising from the nature and scale of the proposals including its location close to schools and therefore involve a more vulnerable section of the community. The concerns are genuinely held as reflected in the significant levels of local objection the LPA

⁹ DER/05/17/00698 - Proposal: Change of use from student accommodation (sui generis) to a hostel (sui generis) - Laverstoke Court, Peet Street - Granted with conditions - 16 Oct 2017

received to the planning application. They are also objectively justified in the light of the above and give rise to unacceptable risks. It is 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 paragraph 130 of the Framework

- 4.61 As set out above, *West Midlands Probation Committee v Secretary of State for the Environment, Transport and the Regions*¹⁰ (CD G2) found that a justified expectation of crime can be valid material consideration in a planning decision. Lord Justice Pill went on to note that the weight to give to this fear of crime is a matter of planning judgment.
- 4.62 In this case it has been shown that there are reasonable grounds for entertaining fears of a rise in crime. The concerns are substantiated and we submit that significant weight must be given to these considerations. We comment further on the planning balance under proposition 4 below.

Impact on social inclusion within the community

- 4.63 The Council considers that the proposals do not represent an acceptable approach to housing people seeking asylum safely within the existing community. As set out above the proposal would create a large and segregated group within the wider local community. As such it would be harmful to social inclusion and would not represent sustainable development.
- 4.64 In the example of the appeal decision at **Appendix 3b** regarding a 130-bed hostel for the homeless / asylum seekers, the inspector considered that “*the sheer numbers of residents at the proposed hostel would make them prominent in the local community*” and considered this would “inhibit their full integration into that community” (see paragraph 28).
- 4.65 The Council therefore considers that the appeal proposals run fundamentally counter to the approach set out in paragraphs 92 and 130 of the Framework. These seek that “*Planning policies and decisions should aim to achieve healthy, inclusive and safe places which: a) promote social interaction, including opportunities for meetings between people who might not otherwise come into contact with each other – for example through mixed-use developments, strong neighbourhood centres, street layouts that allow for easy pedestrian and cycle connections within and between neighbourhoods, and active street frontages*” (Paragraph 92) and that developments “*d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit*” and “*f) 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*” (paragraph 130).
- 4.66 The local planning authority’s reason for refusal of the application referenced these paragraphs of the Framework and these weigh against allowing the appeal.

¹⁰ *West Midlands Probation Committee v Secretary of State for the Environment, Transport and the Regions* (1998) 76 P. & C. R. 589

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

- 4.67 Paragraph 92(c) of the Framework 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.
- 4.68 In responding to the planning application, the NHS consultee (see **CD B3**) advised therefore that the proposal would result in existing demand for local primary care services above the current baseline of a vacant building and “more intensive” than the previous student accommodation use. In a response dated 13 July 2022 Staffordshire County Council Director of Children and Families (see **Appendix 9** and also **CD B9**) considered that the impact on local services is “*likely to be considerable*”.
- 4.69 There are 2 issues to note at the outset in respect of potential public health care impacts:
- The occupants of Dispersed Accommodation (up to 310 persons) would require their primary care needs to be met from existing local provision and would need to be accommodated with local GP surgeries and health centres.
 - In addition, any referrals for all more complex issues or emergency care needs that arise for all 481 potential occupants of the facility would need to be addressed by the local NHS.
- 4.70 The issues arising are considered below.
- 4.71 The applicant suggests the facility would provide health services in-house for the Initial Accommodation (IA) occupants. The NHS consultee has advised that at 19.7sqm the medical room as indicated on plan ref. NPS-ZZ-00-DR-A-023 rev P5 (**CD A12**) is a suitable size (room ref. BR015A ‘Medical Room’), there is no planning mechanism in place however to ensure that a suitably equipped facility would be provided within the physical space secured.
- 4.72 Furthermore, whilst the applicant suggests the facility would provide health services in-house for the Initial Accommodation (IA) occupants, there is no assurance here that the staffing resource would not be drawn from the existing local provision. Indeed, the applicant has indicated it will be the Health Authority that would arrange the provision and therefore it is considered that this could impact upon the resources available more widely.
- 4.73 Local services would also be required for any referrals for all more complex issues or in the event of more significant medical issues such as emergency care needs. These would need to be addressed by the local NHS and could impact on overall resources available.
- 4.74 Furthermore, the applicant suggests the occupants of the Dispersed Accommodation (DA) would not access the in-house provision and would use local primary care facilities. These are already relatively stretched.

- 4.75 It is also noted that the asylum seekers may have important health needs requiring specialist care that may not currently be widely available. The NHS consultee response of 4 July 2022 (**Appendix 10c and CD B3**) said “*Referrals can include to antenatal and post-natal care, for active health problems, mental health services, child health) and appropriate triage and care/treatment for those presenting with communicable diseases or minor illness and/or more complex health issues*”. As the Action Foundation report regarding Institutional Asylum Accommodation¹¹ (**CD G5**) notes “*People seeking asylum often have poorer mental and physical health than the general population, due to their experiences of persecution in their country of origin and their perilous journeys to safety*”. Where such additional needs arise, this could impact upon the wider resources available.
- 4.76 It was also unclear whether transport would be available for all occupants of the facility to access their medical appointments. The NHS consultee response of 24 May 2022 (**Appendix 10a and CD B1**) noted “*The submission suggests transportation would be arranged for occupants to see healthcare providers*” but then asked “*does this offer extend to all occupants within the dispersed accommodation on an ad-hoc basis?*” Whilst County Hospital Stafford is nearby (151 Weston Rd, Stafford ST16 3SA just over 1km away), this hospital is relatively small (it has no 24hr A&E or mental health support for example) and for many services journeys will be required to Royal Stoke University Hospital (Newcastle Rd, Stoke-on-Trent ST4 6QG, approximately 23km from the site) or to New Cross Hospital (Wolverhampton Rd, Heath Town, Wolverhampton WV10 0QP) approximately 24km from the site) where there are larger specialist wards. Asylum seekers will not have access to private cars and, as set out in Appendix 1 their funds to cover public transport or taxi costs will be very limited.
- 4.77 The appellant’s agent’s response to the planning officer dated 10 June 2022 (**Appendix 10b**) stated that “*The existing use provided accommodation for 556 student residents who also required appropriate GP provision. This application reduces the overall requirement by 246 to only 310 people*” and the appellant then contends that “*the proposed development results in a net reduced impact on health services*”
- 4.78 This contention is strongly rejected. As the NHS consultee in a reply dated 4 July 2022 (**Appendix 10c**) explains, (i) as the building is vacant there is no existing demand from this premises for local primary care services and (ii) the access rate to such care for the proposed use will not be comparable with that resulting from its previous use as student accommodation, as asylum seekers have greater and more complex health needs when compared with a student population.
- 4.79 The Council’s position is that it has not been shown that the proposal would not have a detrimental impact upon local public health service resources. The following points are relevant.
- 4.80 Firstly, it is noted that at the start of their stay in DA, all asylum seekers require a health assessment (referred to as ASF1) and it should be noted that the appellant has not indicated that this is to be provided in house. “*Refugees and asylum seekers can have complex health needs. These may be influenced by experiences prior to leaving their home country, during*

¹¹ ‘In a place like prison’: voices from institutional asylum accommodation - Action Foundation December 2021

transit or after arrival in the UK". (BMA Refugee and Asylum Seeker Patient Health Toolkit¹² (CD G6). As this sets out, lack of previous access to regular care is common and health challenges regularly seen include: untreated communicable diseases such as TB, poorly controlled chronic conditions such as diabetes, missing vaccinations or badly healed injuries. Initial health screening should also include screening for infectious diseases that are common in the countries where patients have spent time before coming to the UK

- 4.81 Asylum seekers can also be at increased risk of mental health problems and require specialist support. The government Mental Health: Migrant Health Guide (CD G7)¹³ explains migrants "may be at increased risk as a result of their experiences prior to, during, or after migration to the UK" and also that "*Certain individuals, particularly those from vulnerable migrant groups, may experience elevated risk of mental disorders. Almost all people who have been affected by emergencies will experience psychological distress*". The guide quotes WHO figures that "*in a humanitarian crisis, the prevalence of depression and anxiety is more than doubled [and] among those who have experienced war or conflict in the past 10 years, 1 in 5 will have depression, anxiety, post-traumatic stress disorder, bipolar disorder or schizophrenia*".
- 4.82 **Appendix 8** comprises a series of letters from SCC Director of Health & Care to the Home Office dated November 2022 regarding health and well-being issues associated with hotels being used to house asylum seeker in Staffordshire. These letters refer to "*significant health needs including communicable diseases*" and raises concern that systematic screening for a range of communicable diseases should be undertaken on entry, with results available to local agencies and that asylum seekers should not be dispersed when contagious. An increase in funding for healthcare provision to reflect these health needs of the asylum seeker population is also requested.
- 4.83 Whilst the NHS consultee response to the planning application (CD B1 – B3) was not phrased as an objection, significant gaps were identified:
- The exact nature of the on-site provision for the occupants of the IA.
 - Whether this will be extended to the dispersed accommodation?
 - Whether the transportation for occupants to see healthcare providers extends to all occupants within the dispersed accommodation on an ad-hoc basis?
- 4.84 These questions were not fully addressed. 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 resources.
- 4.85 The appeal should therefore be resisted with reference to paragraphs 92(c) and 93 of The Framework.

¹² BMA Refugee and asylum seeker patient health toolkit - Unique health challenges for refugees and asylum seekers <https://www.bma.org.uk/advice-and-support/ethics/refugees-overseas-visitors-and-vulnerablemigrants/refugee-and-asylum-seeker-patient-health-toolkit/unique-health-challenges-for-refugeesand-asylum-seekers>

¹³ Mental health: migrant health guide - Advice and guidance on the health needs of migrant patients for healthcare practitioners <https://www.gov.uk/guidance/mental-health-migrant-health-guide>

Proposition 4: Significant weight should be attached to these matters and the appeal should be dismissed.

- 4.86 Section 38(6) of the Planning and Compulsory Purchase Act 2004 makes clear that determination under the Planning Acts “*must be made in accordance with the plan unless material considerations indicate otherwise*”. Having regard to the issues I have outlined above, I comment on the planning balance below.
- 4.87 Paragraph 8 of the Framework explains that achieving sustainable development means that the planning system has economic, social and environmental objectives “*which are interdependent and need to be pursued in mutually supportive ways*”.
- 4.88 The proposals would have social benefits in respect of providing accommodation for asylum seekers and economic benefits in terms of new employment and reuse of a vacant building.
- 4.89 As set out above, in this case however significant harm would also arise in respect of impact on social inclusion, public fear of crime and the potential for public health impacts.
- 4.90 As set out in this evidence due to the nature and scale of the proposals and the location in close proximity to schools an unacceptable level of harm arises in respect of a lack of social inclusivity and an increased public fear of crime leading to unacceptable risks. Additionally, the application fails to demonstrate there would be a detrimental impact upon local public health service resource. It is submitted that significant weight should be ascribed to these adverse impacts. In accordance with paragraph 11 of the Framework, when assessed against the Framework taken as a whole therefore, it is asserted that the benefits must be given the lesser weight and that the greater weight needs to be given to the identified harm. This harm therefore outweighs the benefits.

5. CONCLUSION

- 5.1 The Framework states at paragraph 7 that the purpose of the planning system is to contribute to the achievement of sustainable development. Achieving sustainability requires a balance of social, environmental and economic factors to be reached and paragraph 9 of the Framework advises that pursuing sustainable development involves a social objective to support strong, vibrant and healthy communities.
- 5.2 There are no policies in the development plan specifically regarding asylum seekers accommodation although reference should be had to paragraphs 92 and 130 of the Planning Framework.
- 5.1 Local Plan policy SP1 - Presumption In Favour Of Sustainable Development states “ . . . *Where there are no policies relevant to the application, or relevant policies are out of date at the time of making the decision, the Council will grant permission unless material considerations indicate otherwise, taking into account whether: (i) Any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the National Planning Policy Framework taken as a whole; or (ii) Specific policies in that Framework indicate that development should be restricted*”.
- 5.2 The planning issues arising from the appeal proposals have been considered in detail above. The Council submits that the appeal scheme by virtue of its scale, nature and location close to schools would impact on its surroundings such that harm to social inclusion and significant and justified public fear of crime will arise. Furthermore, the appeal proposals fail to demonstrate there would not be a detrimental impact upon local public health service resources.
- 5.3 The case for the appellant is in summary:
- 1) Fear of crime is a material planning consideration. The weight to give to this impact is a matter of planning judgment.
 - 2) The proposal, due to its nature and scale including its location close to schools will result in a significant lack of social inclusivity and local increase in public fear of crime contrary to Paragraphs 92 and 130 of the Framework. This concern is genuinely held, objectively justified, gives rise to unacceptable risks and would result in unacceptable harm in the locality.
 - 3) The appellant has not shown that the proposal would not have a detrimental impact upon local public health service resources contrary to reference to paragraphs 92(c) and 93 of The Framework.
- 5.4 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 which it is considered does not therefore represent sustainable development.
- 5.5 It is therefore respectfully requested that the appeal is dismissed in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004.

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