

Legal Viewpoint: The use of hotels as accommodation for asylum seekers

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Case: *Great Yarmouth Borough Council v Al-Abdin & Ors*

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Ref: EWHC 3476 (KB)



As a result of the large number of channel crossings made by asylum seekers since 2018, it has become increasingly common for the government to enter into contracts with hotel providers for hotels to be used as temporary accommodation for asylum seekers whilst their applications are being processed. These contracts have, however, come under legal challenge from a number of local planning authorities. They have typically alleged that the use of hotels as accommodation for asylum seekers constitutes a material change of use from hotel to hostel use and, as such, requires planning permission.

A recent high court judgment serves as an important clarification of the developing law in this area. In *Great Yarmouth Borough Council v Al-Abdin & Ors* [2022] EWHC 3476 (KB), the council had applied for an interim injunction in order to prevent the proposed use of a hotel in Great Yarmouth's protected tourism area (subject to local plan policy GY6) for housing asylum seekers. The council alleged that planning permission should have been obtained for the alleged material change of use from hotel to hostel use. In a departure from his decisions in previous cases concerning the issue, Mr Justice Holgate upheld the interim injunction. In summary, this was on the basis that:

- (1) Policy GY6 of the Great Yarmouth Local Plan was specifically aimed at preventing the loss of hotel uses and the resulting harm to the tourist economy that this would lead to. The proposed loss of hotel use could therefore be said to cause planning harm; and
- (2) The hotel in question was already subject to an enforcement notice that prevented a change of use from hotel use (dated 2006 but which remained in force). The use of the hotel to house asylum seekers was therefore a "serious and flagrant breach of planning control".

It was these two specific features that the judge said distinguished the Great Yarmouth case from the earlier cases on the issue – such as *Ipswich Borough Council v Fairview Hotels (Ipswich) Ltd and Ors* [2022] EWHC 2868 and *Fenland District Council v CBPRP Limited & Ors* [2022] EWHC 3132. In these cases, the High Court had refused to grant an interim injunction on the basis that it was not satisfied, on the facts of those cases, that the planning harm caused by the proposed temporary use of the hotel by asylum seekers outweighed the substantial need for accommodation for asylum seekers.

The Great Yarmouth judgment therefore highlights a more nuanced approach taken to the use of hotels to house asylum seekers. If a council can point to a specific local plan policy aimed at preserving hotel use, this may be sufficient to justify an interim injunction, particularly in circumstances where enforcement action has already been taken in relation to such proposed use(s). However, where such a local plan policy cannot be identified, it is more of an uphill struggle for an interim injunction to be granted, particularly in light of the pressing unmet need for temporary accommodation to house the growing numbers of asylum seekers.

Moving forward, this judgment reinforces the need for the government to very carefully consider the suitability of particular sites for proposed temporary asylum seeker accommodation before entering into contracts for such provision. This site selection process should include considering any relevant adopted and emerging policy framework seeking to protect/preserve hotel uses.