



Appeal Decision

Site visit made on 27 March 2025

by **R Gravett BA(Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 23 April 2025

Appeal Ref: APP/X1355/W/24/3356018

56 Old Dryburn Way, Durham, County Durham DH1 5SE

- 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 Kieran Purvis of Cosygreen Ltd against the decision of Durham County Council.
 - The application Ref is DM/24/00539/FPA.
 - The development proposed is change of use from C3 (dwellinghouse) to a flexible use of either C3 or C4 (Small HMO), where flexible use is based on Class V of Part 3 of the General Permitted Development Order, the construction of a bin store and bike shelter.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposed development on:
 - the mix and balance of housing in the community; and
 - the living conditions of neighbouring occupiers with particular regard to noise and disturbance.

Reasons

Mix and balance of housing

3. 56 Old Dryburn Way (No 56) is a 3-bedroom dwelling located toward the end of Old Dryburn Way, a residential cul-de-sac to the south-east of the University Hospital of North Durham. It forms part of a short terrace of dwellings which front an area of open space and a footway, which connects Old Dryburn Way to Southfield Way. The proposed development is for the change of use to a flexible use of either a dwelling, or a Class C4 house in multiple occupation (HMO).
4. Policy 16 of the County Durham Plan (2020) (CDP) is concerned, amongst other things, with proposals for changes of use from any use Class C4 (HMO), where planning permission is required. The most recent Council Tax information submitted in the evidence shows that only 6.1% of properties within 100m of the appeal property are currently occupied as student let accommodation, and there are no records of unimplemented permissions for HMOs within the same area. In such circumstances, under criteria c) of CDP Policy 16, an HMO will not be permitted if the site is in a residential area and on a street that is a primary access route between Purpose Built Student Accommodation (PBSA) and the town centre or a university campus.

5. Keenan House and Brackenbury House are located to the north-east, between the appeal property and the University Hospital. From the information supplied, this accommodation is occupied predominantly by post-graduate students, including couples and families and is affiliated with Ustinov College. Whilst recognising that this accommodation is atypical, there is agreement between the parties that both Keenan House and Brackenbury House should be classified as PBSA, managed by the University as such. Furthermore, from the evidence before me, there is no guarantee that this PBSA would not be used for other forms of student accommodation in the future, and this is recognised by the appellant.
6. The area of dispute between the parties is, therefore, whether No 56 is on a primary access route between this PBSA and the town centre or a university campus. The CDP does not define what a primary access route is, but the Council's evidence is that it is *'the most likely route taken by residents of the PBSA when travelling between PBSA and the town centre/university campus(es).'*' In my judgement, this is a reasonable and sensible interpretation.
7. Old Dryburn Way is a cul-de-sac and there is no vehicular access to the Southfield Way and Framwellgate Peth roundabout at its southern end. Nevertheless, I observed it is a well-used pedestrian route from the PBSA, toward this roundabout and then on to either North Road toward the city centre, or the slightly longer route along Framwellgate Peth. I acknowledge that the choice of route taken by pedestrians between the PBSA and the city centre would largely be a matter of both personal preference and the convenience relative to the end destination. However, it would also be influenced by the surroundings on that route.
8. Old Dryburn Way is a pleasant, quiet residential road with well-lit footways and therefore pedestrians would reasonably use this route for much of its length, rather than divert onto Southfield Way which is a busy, noisy road. As the appellant has shown in the evidence, the most direct route to the roundabout at the top of Framwellgate Peth, and on to North Road, would be via the underpass below the residential block at the bottom of Old Dryburn Way. I accept that a proportion of pedestrians would use this route, particularly in daylight hours.
9. However, whilst only a short section of the route, this underpass is not well lit and, because of corners and large bins, there are areas which are partly hidden to a pedestrian. In my view, some pedestrians would therefore choose the alternative route and use the footway which runs along the front of No 56 and exits onto Southfield Way, despite it initially appearing in the wrong direction. In hours of darkness, this route is both safe and convenient benefitting from an open aspect, good streetlighting and natural surveillance from dwellings, and from passing cars on Southfield Way. Indeed, I also observed pedestrians using this route during my site visit at lunchtime on a weekday and it is therefore a likely route taken by residents of the PBSA.
10. The Council has drawn my attention to an appeal decision¹ relating to a similar proposal for an HMO at 4 North End, Durham, where the appeal property was found by the Inspector to be located on a primary access route. The appellant comments that this property is not comparable to No 56 because the paths and roads which pass it directly align with the primary routes into the city centre and provide the only available pedestrian route on one side of a very busy main road. I

¹ APP/X1335/W/21/3284492

recognise this location differs in terms of the more limited choice of routes, and mindful that each case has specific locational characteristics, it has had very limited bearing on my consideration of the appeal proposal.

11. For the reasons above, I find that No 56 is located on a street which is a primary access route between the Keenan House and Brackenbury House PBSA and the city centre. I therefore conclude that it would have an unacceptable effect on the mix and balance of housing in the community. As such, it would be contrary to CDP Policy 16 which seeks to limit the introduction of HMOs on primary access routes between PBSA and the town centre, or a university campus.

Living Conditions

12. In addition to preserving mixed and balanced communities, the aim of CDP Policy 16 is to protect residential amenity by restricting numbers of HMOs, and in the case of criteria c) of the HMO part of the policy, the location of them with respect to routes that students are likely to use frequently.
13. The proposal would involve reconfiguring the internal arrangement of No 56, combining two bedrooms at first floor and changing an existing dining room to a bedroom at ground floor. The submitted 'Floor Plan – Proposed' shows that soundproofing measures would be installed along the party wall between the ground floor bedroom and the attached neighbour, and a specification for this soundproofing provided. This would reduce noise levels between No 56 and the neighbouring property, although I note such measures are not proposed for the remaining bedrooms and living room which also adjoin party walls.
14. A Property Management Plan (PMP) has also been submitted which sets out clauses to be included in any tenancy agreement in relation to noise, disturbance and visual appearance, and details ways in which neighbours could report unsatisfactory behaviour and an escalation process for tenants. I accept that these measures would provide some level of safeguard that the behaviour of the occupiers of the property can be monitored and dealt with. I also note that the Council's Nuisance Action Team have commented that, whilst noise generated from an HMO would be greater than a single dwelling use, this is anecdotal, as it depends on the individuals living there, and they acknowledge any noise management issues have been taken into account in the PMP and soundproofing measures.
15. However, Old Dryburn Way is a quiet, residential area and the representations of third parties, shared by my observations on site, is that it is largely occupied by young families. The occupiers of an HMO, particularly students living together, would tend to be relatively transient and would lead independent lives from each other, but also from their neighbours. They would have separate daily routines which would result in frequent comings and goings, and noise at different times of the day, including late into the evening when a level of peace and quiet should reasonably be expected.
16. I acknowledge that there would be no increase in the number of bedrooms, and that the proposed HMO could provide accommodation for NHS staff working at the nearby hospital, or other professionals. Nevertheless, it would result in the concentration of more single adults in a dwelling than an average family. The PMP and soundproofing would not sufficiently mitigate any external noise and disturbance associated with the proposed HMO, which could take many forms,

including doors slamming, people gathered or raised voices. Where there are fewer or no HMOs in a locality, this type of noise can be more intrusive and it would be particularly felt by those immediate neighbours within the terraced row, whose front windows are set very close to the back edge of the footway.

17. I therefore conclude that the proposed development would cause significant harm to the living conditions of neighbouring occupiers with particular regard to noise and disturbance. It would conflict with CDP policies 16, 29 and 31 which together, amongst other things, seek to protect residential amenity and living conditions, requiring that new development minimises impact upon the occupants of existing adjacent and nearby properties.

Conclusion

18. The proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. For the reasons given above, I conclude that the appeal should be dismissed.

R Gravett

INSPECTOR