

Appendix B - Appeals summaries between 01/01/24 and 31/03/24

Case number	Description	Address	Outcome
23/00403/FUL	Single storey side and rear extension	9 Farmers Way Copmanthorpe York YO23 3XU	Appeal Allowed

Notes

The appeal related to the erection of a single storey side and rear wrap-around extension to a detached bungalow in Copmanthorpe. The application was refused on the grounds that the extension would, by virtue of its scale and position, result in an overly large and disproportionate addition, approximately doubling the host's overall footprint, and by developing immediately adjacent to a public footpath to the side boundary was considered to be overbearing when viewed from the footpath, having a negative impact upon the character of the area. The proposal was also considered to conflict with the household SPD, in that it developed to form a flush roofscape which lacked subservience to the existing dwelling. The inspector, however, concluded that the works, whilst acknowledged as having some conflict with the SPD in terms of subservience (lacking a set down from the existing ridge), would not present incoherently given the variety in bungalow forms and orientations noted more widely, and as such would not read out of place, with the host's frontage already naturally wider than its most immediate neighbours. The Inspector acknowledged that the addition would reflect a sizeable scale relative to the existing dwelling, although did not place much weight to this given that much of its mass would not be read holistically from the public realm. It was noted the addition would be most noticeable from the adjacent public footpath. However, whilst the roof was higher than the existing flat roofed garage at this boundary, the Inspector considered the hipped roof form to provide satisfactory relief and subservience as to not dominate in appearance or unacceptably enclose the footpath.

Case number		Description	Address	Outcome
22/02121/ADV		Display of 2no. sets of halo-illuminated individual letters to existing front fascia signs, and 2no. projecting signs (retrospective).	Social8 13 High OusegateYorkYO1 8RZ	Appeal Dismissed

Notes

Retrospective application for advertisements, including festoon lights, lanterns, associated wiring, menu boxes which obscured architectural detailing, and modern signs with halo lighting. Appeals dismissed (listed building and advertisement consents). Although some shop signs in street acknowledged as harmful, not justification for further harmful works. Harm arising compounded by the number of advertisements, with large modern menu boxes obscuring the chamfered archway, along with crudely placed lanterns and associated surface mounted electrical wiring. The decorative cornice and pleasant multi-paned sash windows at upper floors are obscured by modern hanging festoon lighting. The proposal would fail to preserve the special interest of the listed building and the character and appearance of the conservation area. The harm arising would be less than substantial in the terms of the NPPF but is nevertheless of considerable importance and weight.

Case number		Description	Address	Outcome
22/02124/LBC		External alterations to include display of 2no. sets of halo-illuminated individual letters to existing front fascia signs, 2no. externally illuminated projecting signs, menu display case, and 2no. coach lanterns to alleyway entrance (retrospective).	Social8 13 High OusegateYorkYO1 8RZ	Appeal Dismissed

Notes

Retrospective application for advertisements, including festoon lights, lanterns, associated wiring, menu boxes which obscured architectural detailing, and modern signs with halo lighting. Appeals dismissed (listed building and advertisement consents). Although some shop signs in street acknowledged as harmful, not justification for further harmful works. Harm arising compounded by the number of advertisements, with large modern menu boxes obscuring the chamfered archway, along with crudely placed lanterns and associated surface mounted electrical wiring. The decorative cornice and pleasant multi-paned sash windows at upper floors are obscured by modern hanging festoon lighting. The proposal would fail to preserve the special interest of the listed building and the character and appearance of the conservation area. The harm arising would be less than substantial in the terms of the NPPF but is nevertheless of considerable importance and weight.

Case number	Description	Address	Outcome
23/01417/FUL	Single storey extension (resubmission)	11 Claremont Terrace York YO31 7EJ	Appeal Dismissed

Notes

The appeal related to the erection of a single storey extension on a mid-terrace dwelling on Claremont Terrace. The host property has a rear off-shoot like many other surrounding properties. It was proposed to infill an existing gap between the off-shoot and the boundary with the neighbour (no.10). The projection of the single storey extension was 7m from the existing rear elevation with an eaves height of 2.4m and would rise to 3.3m where it met the existing off-shoot. The application was refused permission due to the projection, siting and height of the extension; the proposal would have a detrimental impact on the amenity and living conditions of the occupiers of the adjoining residential property at 10 Claremont Terrace by reason of introducing an over-bearing and over-dominant structure on the shared boundary. It therefore conflicted with paragraph 130 within the National Planning Policy Framework, Policy D11 of the Draft Local Plan 2018 and the Council's Supplementary Planning Document 'House Extensions and Alterations'. The Inspector agreed that the development would introduce a dominant structure that would notably and significantly worsen the existing situation. It would appear overbearing and create an increased sense of enclosure when viewed from no.10's habitable room windows. Therefore, due to the increase in height on the boundary, combined with the length of projection, the proposed development would cause significant harm to the outlook from

Case number	Description	Address	Outcome
22/00609/FUL	Change of use from small house in multiple occupation (HMO) (use class C4) to a large 7no. bedroom HMO, with two storey side extension, 1no. new dormer to front, and single storey rear extension (resubmission)	178A Hull Road York YO10 3LF	Appeal Dismissed

Notes

Change of use from small to large HMO. Located within the grounds of no. 178 which is also an HMO and with same operator. Main issues; impact on living conditions of neighbours; noise and disturbance. No increase in number of HMO's and therefore neutral effect on balance of housing stock. Although noise not evidenced as a statutory nuisance, representations from neighbours reported late night noise and disturbance. Complaints had been made to both CYC and the university. Cumulative impact combined with 178. The inspector found that although the level of disturbance could change depending on the nature of any occupants, this is not within the control of the planning system. Given the persistence of existing issues over a period of several years, there was no evidence that increasing the level of occupancy of the property would not further exacerbate these issues both

with regard to 178A itself, and more cumulatively, leading to increased and unacceptable noise and disturbance. Not satisfied that the appellant becoming part of the Council's accreditation scheme would represent an effective means of ensuring that further problems do not occur in the future. Refused due to impact on residential amenity, contrary to draft local plan policy D11. The inspector regarded policy H8 not applicable as this relates to conversions to HMO's, not the expansion of existing ones.

Case number		Description	Address	Outcome
23/00091/FULM		Erection of 2no. blocks comprising 10no. apartments, associated parking and ancillary buildings for refuse and cycle storage after demolition of buildings (amended plans received).	The Wilberforce Trust Wilberforce House 49 North Moor Road Huntington York YO32 9QN	Appeal Dismissed

Notes

The proposal sought the demolition of an existing office building and the erection of 10no. flats at 49 North Moor Road in Huntington. The main issues of concern were the loss of the employment land, the impact on the character and appearance of the area and the impact on residential amenity (proposed occupants). The Inspector agreed that the proposal would lead to the unacceptable loss of employment land, citing no evidence which indicates the site has been marketed for employment purposes. The Inspector noted its condition would not prohibit its future use for employment. There is no suggestion that the reuse of the site for employment use would be incompatible with adjacent uses. The Appellants argument regarding permitted development rights for conversion to residential use was afforded very modest weight. With regards to design and appearance, the Inspector agreed that the bin collection point (design and prominence) would be harmful to the character and appearance of the area. Alongside parking, cycle parking and refuse areas, it was concluded the proposal would be overly cramped. Concerns were also raised with access, no pedestrian routes and cycle parking areas being inconvenient. In terms of external amenity areas, the Inspector agreed that the communal spaces would not provide opportunities for private recreation and were of poor quality. Flats within the western block were deemed to have little outlook, a lack of privacy (due to proximity to shared spaces and vehicle headlights) and lead to rooms being oppressive and having an enclosed atmosphere. The Inspector did not explore the conflict with policy G16 and the absence of a draft S106 to secure off-site open space given the above matters raised. Paragraph 11(d) of the NPPF was engaged and the Inspector did afford substantial weight to the benefits of the scheme (10no. dwellings) however this did not outweigh the harm identified above which significantly and demonstrably outweighed the benefits.

Case number		Description	Address	Outcome
23/00608/FULM		Erection of extra care accommodation including no.72 apartments and decked car park with associated private amenity space, landscaping, substation and vehicular access alterations	Chocolate Works Residents Parking Bishopthorpe Road York	Appeal Allowed

Notes

The appeal site comprises the former Terry's Car Park to the south of Bishopthorpe Road and the last remaining undeveloped section of the former Chocolate Works. It appears as a strategic allocation for housing within the Draft Local Plan. A previous proposal to develop 70 extra care apartments on the site for McCarthy and Stone was subject to an appeal and the appeal dismissed on narrowly focussed design grounds on the basis that the site failed to properly address the Bishopthorpe Road street frontage. Its public facing focus was aligned on the car park with a token pedestrian entrance facing on to Bishopthorpe Road. The scheme was resubmitted with the pedestrian street entrance widened and slightly relocated. It was felt that the redesign still did not adequately address the Bishopthorpe Road street frontage and appeared contrived with the principal public areas still focused on the car park. It was felt that the focus of the building should rather be re-orientated to face directly on to Bishopthorpe Road. The applicant appealed and the matter was considered at a hearing. The Inspector concluded that the re-design was sufficient to address the earlier dismissal reason and that the revised scheme created what was clearly a principal entrance off the street frontage notwithstanding that the main public facing activities remained focused on the car park. The appeal was allowed.

Case number		Description	Address	Outcome
22/02113/FUL		Change of use of existing garage to hair salon with associated external alterations.	50 Green Lane Clifton York YO30 5QX	Appeal Dismissed

Notes

The appeal relates to the conversion of an existing attached garage to a hair salon with external alterations. The converted garage and the garage of the neighbouring property are linked. The Inspector remarked that the disturbance generated by people accessing the proposal as well as the increase in traffic movements would exceed what neighbouring residents could reasonably expect in this residential setting. The Inspector gave significant weight to the fallback position that planning permission is not necessary to convert the garage to a habitable room, with the proposal having a significant effect on waste and cycle storage. The appeal proposal would allow through access to the rear garden and a utility area which would not be an undue hindrance to the movement of cycles, enabling cycle storage to the rear. For the same reasons waste storage to the rear would be possible, and the matter of stepped access could be addressed by a condition requiring the provision of a ramp. The Inspector also makes it

clear that even if no objections had been submitted in relation to the appeal, the Council's concerns would remain well-founded. The Inspector concluded that the proposal would lead to unacceptable harm to the living conditions of neighbouring residents in respect of disturbance.

Case number		Description	Address	Outcome
23/00111/CPD		Proposed development of 1 metre high inward opening gates on the highway to the front of 4 Government House Road	The Sleeping Bear 4 Government House Road York YO30 6LU	Appeal Dismissed

Notes

The appeal relates to a Certificate of Lawfulness of proposed development for the erection of 1m high inward opening gates across a public highway. A separate application for a stopping up order for the affected highway had been submitted to Department for Transport. The stopping up order has not yet been granted. The Certificate was refused on the grounds that at the time the certificate was determined, the spur road remained an adopted public highway and the erection of a gate would cause an obstruction which would have a material effect on the public right to pass and re-pass. As such the erection of the gate was not deemed to be permitted development under the Town and Country Planning (General Permitted Development) Order. The Inspector stated that constructing the gates would have the consequence of effectively changing the land use of the part of the existing highway that would lie beyond the gates. It would, by being accessible only to one household, lose its necessary character of being a highway, in that the public would no longer have the ability to pass and re-pass over it. In addition, although the Class permits the construction of some means of enclosure, it does not permit any change in the use of the land to be enclosed. The inspector also stated that Class A of Part 2 of the 2015 Order is not intended to authorise the construction of any means of enclosure on the highway.

Case number		Description	Address	Outcome
23/00439/FUL		Subdivision of 1no. dwelling into 2no. flats (resubmission)	17 Landalewood RoadYorkYO30 4SX	Appeal Allowed

Notes

The application was refused on the grounds that it failed to demonstrate sufficient car parking space and, as a result, would likely result in additional parking on the street, which was not considered to be acceptable in this case. Furthermore, it was considered likely a car parked on the driveway would inhibit access to the entrance of the property and/or lead to overhanging of a vehicle on the highway, with its depth 1.2 metres shorter than that specified within the Council's Vehicle Crossing Policy (VCP) for a driveway space for 1no. vehicle fronting an opening. The works would also lead to the loss of landscaping and creation of an unduly long vehicle crossing, which would be detrimental to visual amenity. It was acknowledged by the LPA that a similar scheme had been approved in 2017, although since this, new highway guidance had been implemented, and so further weight was given to parking standards. However, the inspector concluded the space as formed, compliant with the spatial requirements for a parking space (4.8 x 2.4m) would provide sufficient space for two cars and for people to walk past, seeing no reason why the parking spaces would not be used or would lead to additional on-street parking, or a highway obstruction. No weight was given to the suspended Subdivision of Dwellings SPD or Highway Design Guide. Further, the inspector considered that the VCP (created under the Highways Act) would not be relevant here so far as this application was concerned, given it does not form part of the development plan. The inspector commented that the housing estate was characterised by driveways on the frontage of properties, and that whilst the parking arrangement would extend the width of the existing driveway, this would be very similar to other properties in the street and surrounding area and so would not materially detract from the appearance of the street or appear uncharacteristic.