

Appendix B

Appeal decision summaries between 01/01/23 and 31/03/23

Case number	Description	Address	Outcome
22/00039/REF	Variation of conditions 3 only of application 21/01923/FUL to alter permitted opening times of hair salon from 09:00 hours to 16:00 hours to 09:00 hours to 18:00 hours Monday to Friday and not at all on Saturdays, Sundays and Bank Holidays.	3 Malham Grove York YO31 0QG	Appeal Allowed

Notes

The appeal related to an application that was refused to vary a condition at a hairdressers that had been approved retrospectively. The hairdresser operates from an outbuilding in a domestic garden in a suburban cul-de-sac. The original permission was subject to a number of conditions including noise details, maximum of 6 customers per day, operation only by the owner and that it should only operate between 09:00 and 16:00 Monday to Friday. The variation sought to extend the hours condition to allow one customer at a time to be present until 18:00. It was refused because it was considered that the extended hours would create a likelihood that disruption, including from car parking, would take place at a time when it would have a greater ability to cause disruption in the residential cul-de-sac. The appeal was allowed. The Inspector considered that the other conditions in place were sufficient to ensure that there would be no additional harm to amenity. Reference was also made to the ability to park 3 cars on the drive of the property.

Case number	Description	Address	Outcome
22/00048/REF	Single storey rear extension and hip to gable with dormer to rear	45 Queenswood Grove York YO24 4PW	Appeal Dismissed

Notes

The development relates to a hip to gable roof extension with dormer to the rear and single storey rear extension to the semi-detached two storey dwelling. Located in a prominent position in Queenswood Grove, the house has previously been extended to the side and rear with a two storey hipped roof extension to echo the roof form of the original house. The application was refused

consent as it was considered that the hip to gable roof extension would appear incongruous and at odds with the hipped roof form of the two storey side and rear extension and the prevailing hipped roof form of surrounding houses in Queenswood Grove. The large scale, flat roof rear dormer, with a standing seam cladding finish, would further dominate the extended dwelling house and clash with its appearance, resulting in harm to the host dwelling and the wider streetscene. The appeal inspector considered that the proposed development would notably alter the property's scale and appearance. The design of the gable roof extension would not be sympathetic to the form and distinctive features of the existing dwelling and would look harmfully out of place, undermining the balanced appearance of the semi-detached pair of houses. The proposed wide flat roof rear dormer would extend across the entire width of the gabled roof and would dominate the host building. The external materials and large scale windows would not integrate well with the roof and would further accentuate the size of the dormer. The inspector considered that the size and design of the dormer would dominate the rear elevation, overwhelm the roof and appear as an incongruous feature. Overall the proposed development would harm the character and appearance of the host property and the area and would be contrary to paragraphs 130 and 134 of the NPPF. On this basis, the appeal was dismissed.

Case number		Description	Address	Outcome
22/00042/REF		Single storey rear and side extension, change window colour throughout	6 The Village Strensall York YO32 5XS	Appeal Dismissed

Notes

This application was for a single storey rear and side extension to a two storey detached dwelling in the Strensall Village conservation area. Also proposed were replacement windows, with grey frames and in a significantly different style, as well as black flashing/fascias and concrete tiles to the roof, to replace the existing timber/slate. The application was refused on the grounds of failing to preserve or enhance the character and appearance of the conservation area, resulting in harm to the significance of a designated heritage asset, specifically with regard to the design/colour of the windows, and the replacement roofing materials. The proposed extensions did not form part of the reasons for refusal. The inspector agreed that the dwelling is relatively prominent within the street scene, and that the use of traditional building materials (including natural slate roofing and white window frames) provides a unity to the character and appearance of the conservation area. In terms of the roof, they found that the proposed black fascia had a neutral impact, but that the concrete roof tiles could not be considered to be like-for-like replacements for the natural slates, and that they were visually discordant and did not reflect the specific context of the site, causing Conservation Area harm. The dark grey window frame colour was found to emphasise the bulky proportions of the proposed openings, again failing to preserve the character or appearance of the Conservation Area. The inspector did not consider the private benefits of the renovation to outweigh the less than substantial Conservation Area harm.

Case number		Description	Address	Outcome
22/00030/REF		Erection of a detached pool house and gym with associated plant room	Village Farm Bungalow Main Street Askham Richard York YO23 3NY	Appeal Dismissed

Notes

A Lawful Development Certificate was refused for a detached pool house and gym with associated plant room in the curtilage of a detached dormer bungalow situated outside Askham Richard village within the Green Belt. The application was refused as despite its accordance with Classes E.1, E.2 and E.3 it was not considered incidental to the enjoyment of the dwellinghouse by virtue of the footprint relative to that of the host property and the intended uses had not been demonstrated to be reasonably required for purposes incidental to the enjoyment of the dwellinghouse. In dismissing the appeal the Inspector noted that in principle a pool house, gym and plant room could be considered incidental. He stated that it is however a matter of fact and degree as to whether the nature and scale of the proposed uses are reasonably required for incidental purposes. The Inspector shared the Council's view that the poolside area was excessive, being larger than the pool itself and this had not been justified as being reasonably and necessarily required for the incidental enjoyment of the dwelling. In addition the Inspector agreed that the plant room seemed oversized and its use was rather vague, imprecise and ambiguous. He therefore confirmed that the overall size of the proposal is excessive and therefore unreasonable in terms of being incidental to the enjoyment of the main dwellinghouse. He concluded that the development is therefore not permitted development under the terms of Class E of Part 1 Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 as amended and the appeal was dismissed.

Case number		Description	Address	Outcome
22/00045/REF		Removal of condition 4 of permitted application 18/01979/FUL to allow use of caravans by persons not engaged in equestrian based holidays	Hall Farm Strensall Road York YO32 9SW	Appeal Allowed

Notes

The scheme was for seasonal touring caravan pitches. It was approved by members (officers recommended refusal). A condition of permission was that the pitches were only used for persons engaged in equestrian based holidays. The appeal was to remove the condition. The appeal was allowed. However, the inspector found it necessary to retain a link between the caravan site and the equestrian facilities, to avoid conflict with Green Belt policy of maintaining openness. An alternative condition was imposed; that the use would cease if the livery stables ceased to operate.

Case number	Description	Address	Outcome
22/00040/REF	Third floor roof extension to form 1no. apartment with balcony and dormers to front and rear, alterations to first and second floors in association with change of use from office (use class B1) to residential (use class C3) to form 2no. apartments	Barry Crux20 CastlegateYorkYO1 9RP	Appeal Allowed

Notes

The application was refused because the works which would re-instate a tiled gambrel roof to the building included a modern design of dormer zinc cladding and glazed balustrade that were considered to be out of character with the historic fabric of the listed building. In addition internal partitioning to form lobbies on the first and second floors would mean the loss of integral parts of the historic layout resulting in significant harm to the character of the building. The Inspector considered that the proposed roof extension would appear generally proportionate and that the materials would not be at odds and also that it would reinforce the former grandeur and enhance historic legibility and the significance and enhance the character and appearance of the conservation area. She considered the internal partitions would adversely affect the spatial quality of the landings and erode the historic layout detracting from internal architectural features and that removal of the door and wall on the second floor would result in loss of historic fabric. However she felt that three residential units would contribute to housing land supply and would be a modest public benefit. On balance she considered that the public benefits outweighed the harm and concluded that the proposal overall would preserve the special interest of the listed building and enhance the significance of the conservation area and the settings of the nearby listed buildings

Case number	Description	Address	Outcome
22/00043/REF	Outline application for 1no. dwelling with associated garden and 1no. parking spaces, with only access being considered	Land Adjacent Electricity Sub Station Eason View York	Appeal Dismissed

Notes

The application was for outline planning permission for the principle of a two-storey detached dwelling. The dwelling was to be sited on directly to the rear of nos.2 and 4 Gower Road, with a frontage on to Eason View. The scheme included the means of access being the only reserved matter for consideration, which involved the submission of revised plans to improve the access into the site. The proposal was refused because the introduction of a detached dwelling would lack the same sense of scale,

proportion, and rhythm evident of dwellings located on Eason View in so far it would sit awkwardly to the rear boundaries of Gower Road. Also, would result in a loss of openness and a form of development that is uncharacteristic of the established layout and pattern of development of the locality and a two-storey property situated near the boundary of the neighbouring houses would appear unduly oppressive, resulting in a loss of openness and outlook to the garden/amenity space of surrounding property. Also, there would likely be inadequate outlook for future occupants. The Inspector agreed in terms of the impact to street scene and concluded that the development would not be sympathetic to character of the area and local environment. In the planning balance the Inspector did not consider the benefits of providing a housing provision would outweigh the matters of that the scheme would be contrary to Chapter 12 of NPPF and Local Plan Policies contained in the DLP 2018. However, The Inspector disagreed that there would be any harm to neighbour amenity on grounds there would be ample separation and screening provided by future boundary treatments to avoid issues of outlook. Also, the Inspector concluded the relationship and placement of windows would impact on future privacy and overlooking.

Case number		Description	Address	Outcome
22/00051/REF		Single storey extension to side of existing detached garage	38 Tennent Road York YO24 3HF	Appeal Allowed

Notes

The application was refused on the grounds that the development was poorly designed in relation to the host dwelling the surrounding area. With the development being contrary to policies D11 and Policies GP1 and H7 The inspector stated that the as the policies had not been adopted only limited weight would be afforded to the policies in line with paragraph 48 of the NPPF. The Inspector did not agree with the council's position and reasons for refusal. The inspector stated that the garage would be subservient to the host dwelling although they did agree that the industrial style door would be out of context. It was determined that the proposed location of the garage with it being set away from the street and the high boundary wall reduced the impact that the development would have on the street and surrounding character of the area. The inspector said the scheme would contradict paragraph 15.2 of the SPD due to loss of the driveway. As the submitted scheme demonstrated that it would include a number of parking spaces the inspector was satisfied that there would be adequate parking at the property. It was decided that the scheme was compliant with paragraphs 130 and 134 of the NPPF and Policy D11 of the PDLP and Policies GP1 and H7 of the DCLP. The highways department objected on highways safety concerns however the Inspector did not agree that the scheme would have an impact on highways safety.

Case number	Description	Address	Outcome
21/00045/NON	Erection of extra care accommodation including no.70 apartments and decked car park with associated private amenity space, landscaping, substation and vehicular access alterations	Chocolate Works Residents Parking Bishopthorpe Road York	Appeal Dismissed

Notes

The site comprises the former car park to the Terry's Chocolate Works on the south side of Bishopthorpe Road. It was in the Green Belt in the 2005 Plan but due to be taken out in the most recent iteration of the plan in which it is a Strategic Housing allocation for a notional quantum of 33 dwellings. Despite pre-application advice, a proposal to develop the site for 73 Extra Care Apartments for the over 70s was submitted. There then proceeded a protracted period of negotiation involving several minor design alterations to make the development more acceptable in terms of its relationship with the adjoining properties, in highway terms and also to re-route two surface water sewers crossing the site. The size of the development was reduced by three units but design objections on the grounds of its scale, massing and failure to address its wider context remained. There was a further issue as to whether it was C3 Housing and needing to make commuted sum payments in respect of affordable housing etc or C2 Residential Institution. The applicant appealed non-determination rather than continue negotiation and the Use Class issue was resolved subject to safeguards within a Section 106 Agreement. The local CCG also objected on the grounds of impact upon the local medical practices although that was not defended at the inquiry. The Inspector duly considered the appeal and accepted a significant element of the design harm in relation to harm to the wider context on the grounds that the development was orientated in on itself and failed to relate properly in terms of its frontage to Bishopthorpe Road which made it appear highly alien and harmful to the form and character of the street scene. The appeal was duly dismissed.

Case number	Description	Address	Outcome
22/00038/REF	Single storey garage and store to rear	71 Fourth Avenue York	Appeal Dismissed

Notes

The appeal is regarding a proposed single storey garage and store which would extend almost across the full width and length of the rear yard area. The Inspector concluded that it would be a dominant form of development that would have a significant adverse effect on the character and appearance of the area when viewed from the rear lane and nearby properties. There is a two-storey building is contained within the rear area of the neighbouring property (no.69), however, the Inspector concluded that each case

falls to be assessed primarily on its own merits and that outbuildings in that form are not so prevalent in the locality as to be a characteristic of it, and by reason of its scale does not provide a justification for other harmful development.

Case number	Description	Address	Outcome
02/00047/REF	Replacement of 1m high gates with 1.8m high gates	28 LakesideAcaster MalbisYorkYO23 2TY	Appeal Dismissed

Notes

The planning appeal related to the refusal of householder application 22/00886/FUL for the replacement of 1m high gates with 1.8m high gates. As means of background, the current design of the front boundary wall and gate were influenced following an enforcement case after the erection of a brick boundary wall with railings, which had a total height of 1.6m. For the same reasons as this application the council could not support the changes that had been made to the front boundary and subsequently the applicant fell back on permit development rights. The application was refused on the grounds that the proposals would be at odds with the predominantly landscaped front boundary treatment in the locality, which is an important and distinctive visual characteristic. The gates would have appear incongruous and out of keeping with the key visual elements of Lakeside and thus would be harmful to the streetscene. The Inspector dismissed the appeal agreeing the proposal would appear incongruous and at odds with the breaks in the hedges formed by open driveway entrances that are characteristic of the streetscene. They also went on to say they appreciate the Councils concerns that approval of this proposal could be used in support of similar schemes and that this is was not a generalised fear of precedent, but a realistic and specific concern given the likely similarity of the frontages of properties here. Allowing this appeal would make it more difficult to resist further planning applications for such developments which would gradually erode the existing character.

Case number	Description	Address	Outcome
22/00037/REF	Two storey front extension	18 Weavers Park Copmanthorpe York YO23 3XA	Appeal Dismissed

Notes

The planning appeal related to the refusal of householder application 22/00349/FUL for a Two storey front extension. The application was refused on the grounds that the extension by virtue of its scale, design and excessive length would appear at odds with the form and appearance of the host dwelling. The eaves of the extension compared to the existing house, and the introduction of a front facing dormer, would also result in a jumbled and awkward relationship with the main house. Overall the

development would result in an incongruous and incoherent form of development that fails to relate to the existing house or to the layout and form of the streetscene. The Inspector dismissed the appeal agreeing the proposal would be of a significant scale and a dominant and bulky structure on the street. Its excessive scale and incorporation of a dormer window in the most visible roofslope would also ensure that the proposed extension would appear as a prominent and incongruous addition to the streetscene that would be poorly related to its surroundings. The applicant had claimed that due to the building line and location of the dwelling within a corner on a cul-de-sac, the extension would not cause any harm to the street. The Inspector stated that whilst they accept that the dwelling is located in a corner of the cul-de-sac, it is nonetheless still visible from it and the proposed two storey extension would easily be seen by those using the turning head and is therefore unacceptable.

Case number		Description	Address	Outcome
22/00052/REF		Alteration of attached garage to habitable room including addition of mono-pitched roof.	23 Fordlands Road York YO19 4QG	Appeal Allowed

Notes

The application property is a red-brick, semi-detached dwelling at No.23 Fordlands Road, Fulford. It lies on a prominent corner plot. The proposal was to convert an attached garage into a habitable room and incorporate a mono-pitched, sedum roof. The sole issue was that of visual impact on the application property and wider street-scene. The Inspector noted the use of white render on two other nearby residential properties and also on properties at the newly built development of Germany Beck. She did not consider the sedum roof would result in harm to the character of the area and considered that the environmental benefits cited by the appellant to be persuasive. She also noted that the replacement materials would result in insulation benefits. She did not consider there was any evidence that the roof would not be well maintained and become unkempt in appearance. She noted that the existing boundary hedges, which provide screening, could be reduced in height, or removed by the owner, should they so wish. The Inspector gave limited weight to the Draft Local Plan, unless it was in accordance with the NPPF.