

## Appeal Summaries for Cases Determined 01/01/2012 to 28/03/2012

**Application No:** 10/01714/FUL  
**Appeal by:** Mr Pready  
**Proposal:** Retrospective application for amendments to single storey extension granted under application 06/00552/FUL  
**Address:** 4 Scarcroft Lane York YO23 1AD

**Decision Level:** DEL

**Outcome:** ALLOW

The appeal related to a detached cottage along Scarcroft Lane which is grade 2 listed. The cottage had two small single storey lean to extensions prior to 2006. Permission was granted for an L - shaped extension, which would sit behind the boundary wall that runs parallel with Scarcroft Lane. It was also proposed to enclose the opposite side of the yard area (parallel with the alley behind Dale St) but this part of the scheme was omitted as the high rendered wall on this side was deemed to be too dominant in relation to the cottage (higher than the window cill at first floor level) and as boundary walls in the area were all brick and around 1.7m high. A C - shaped extension was then built without permission and the yard enclosed with rendered walls around 2.4m high. Retrospective applications for retention were refused, deemed to be harmful to the appearance of the listed building and the setting. Inspectors opinion was that the setting of the building was defined by its shape and generous size of the plot. The extension built would not harm this setting, given that public views are from Scarcroft Lane only (the other alley is now gated).

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**Application No:** 10/01715/LBC  
**Appeal by:** Pready  
**Proposal:** Retrospective application for amendments to single storey extension granted under application 06/00690/LBC and internal alterations.

**Address:** 4 Scarcroft Lane York YO23 1AD

**Decision Level:** DEL

**Outcome:** ALLOW

The appeal related to a detached cottage along Scarcroft Lane which is grade 2 listed. The cottage had two small single storey lean to extensions prior to 2006. Permission was granted for an L - shaped extension, which would sit behind the boundary wall that runs parallel with Scarcroft Lane. It was also proposed to enclose the opposite side of the yard area (parallel with the alley behind Dale St) but this part of the scheme was omitted as the high rendered wall on this side was deemed to be too dominant in relation to the cottage (higher than the window cill at first floor level) and as boundary walls in the area were all brick and around 1.7m high. A C - shaped extension was then built without permission and the yard enclosed with rendered walls around 2.4m high. Retrospective applications for retention were refused, deemed to be harmful to the appearance of the listed building and the setting. Inspectors opinion was that the setting of the building was defined by its shape and generous size of the plot. The extension built would not harm this setting, given that public views are from Scarcroft Lane only (the other alley is now gated).

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**Application No:** 11/00449/FUL  
**Appeal by:** Mr G Topping  
**Proposal:** Change of use from office (use class B1) to 2no self contained flats (use class C3) with external alterations to rear (resubmission)  
**Address:** 70 The Mount York YO24 1AR

**Decision Level:** DEL

**Outcome:** DISMIS

Officers refused an application for the change of use of 70 The Mount from offices to 3 flats as based on the noise report submitted and the context of the surrounding area, it was considered that future occupants would constantly be disturbed by noise. The appeal premises occupy a corner plot adjacent to the junction of Holgate Road and The Mount and a public house. The submitted noise impact assessment indicated that the building fell within Noise Exposure Category C, where permission should not normally be granted. The appellants noise assessment detailed a sound attenuation scheme which would achieve satisfactory levels of noise within the proposed flats. This would involve non opening acoustic double glazing on both the front and rear elevations and proposed the use of acoustic wall ventilators which could provide natural ventilation without the need to open windows. This was disputed given the sites location within an Air Quality Management Area. The Inspector accepted that it would be technically possible to overcome the issue of noise and the effects of poor air quality within the building but only through the use of mechanical ventilation and agreed with the Council that sealed windows and a reliance on mechanical ventilation would not be a particularly sustainable development and would not offer the same level of amenity provided in most dwellings with the external environment in terms of both noise and air quality being below normally recommended and required standards. The Council contention that the demand for flats is well provided for elsewhere within the City was noted. The Inspector concluded that in the absence of evidence demonstrating a significant need for such accommodation, the proposed development would not normally be permitted given the sites noise level classification and stated that there are no other factors put forward which are sufficient to outweigh that general approach. The Inspector dismissed the Appeal.

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**Application No:** 11/00860/OUTM  
**Appeal by:** Water Lane Ltd  
**Proposal:** Outline application for redevelopment of site for uses including offices (B1c), hotel (C1), residential institutions (C2), dwelling houses (C3) and non-residential institutions (D1) including parking and new access arrangements after demolition of existing warehousing units (application to extend time period for implementation of 07/01992/OUTM allowed on appeal dated 15/09/08)  
**Address:** Grain Stores Water Lane York

**Decision Level:** COMP  
**Outcome:** DISMIS

The appeal relates to an application for extension of time for submission of reserved matters and implementation of a mixed use development including a significant residential element previously granted on appeal in 2008 at the former York Grain Stores, Water Lane. At the previous public enquiry the appellant had submitted a Unilateral Undertaking indicating that he would be willing to support a quantum of 38% affordable housing as part of the proposal. The previous appeal inspector had accepted this and it was taken forward as part of the permission. In the application for extension of time a revised Unilateral Undertaking was submitted which deleted all reference to affordable housing although the applicant indicated a willingness to negotiate a lower figure. In the meantime the Interim Target Figures had been adopted based upon the Dynamic Viability Model and the detailed study of the housing market in the City by Richard Fordham Associates. The applicant initially took exception to having a target set through the Dynamic Viability Model though they were eventually persuaded to consider a target in the range of 19%. Then without warning he appealed non-determination and submitted a twin-track planning application. The twin track planning application was refused at Committee in December. The appeal duly went to public inquiry at which the applicant took issue with the Council's Five Year Housing Land Supply also. The Inspector after due deliberation dismissed the appeal ruling that there should be no impediment to an affordable housing target at the adopted figure of 25% for the site. She did however take issue with the Authority's mode of establishing a Five Year Housing Land Supply which she felt wasn't properly compliant with Central Government Guidance outlined in PPS 3 as a consequence the Five Year Supply was in fact a 3.6 year supply.

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**Application No:** 11/00909/LBC  
**Appeal by:** Mr Peter Mandy  
**Proposal:** Erection of two storey dwelling to rear attached to retained outbuilding  
**Address:** 25 The Green Acomb York YO26 5LL

**Decision Level:** DEL

**Outcome:** DISMIS

The application was for a two storey dwelling the rear garden of 25 The Green. The dwelling would be attached to an existing small outbuilding. The division of the site had already been undertaken. The site is within the Acomb Conservation Area and the host dwelling is Grade II listed. The application was refused on the following grounds: the proposed dwelling by virtue of its scale, design, subdivision of the plot, and expanse of hardstanding would be prominent in views of the site, appear incongruous with the scale of the outbuilding and the setting of the listed building. The development would fail to preserve or enhance the character and appearance of the curtilage listed out building, parent dwelling, and their setting; In addition there was no evidence that the applicant has assessed the significance of the designated heritage asset. The proposed development has not been adequately justified. The proposed plans of the outbuilding were inadequately detailed. As such the information submitted failed to demonstrate that there would not be harm to the historic, architectural interest, and setting of the listed building. The Inspector dismissed the appeal and agreed with both reasons for refusal. The Inspector agreed that the proposed dwelling overwhelmed the existing outbuilding by virtue of its design and scale. Its greater presence would alter the subordinate visual relationship with the listed building, while its design to suggest a range of outbuildings would give a false perspective to the historic relationship. The subdivision of the rear garden into separate plots was considered to disrupt the integrity of the garden's relationship with the listed building. Fences would form visually intrusive features and the large area of hardstanding at the centre of the garden would adversely affect its contribution as a garden space. As such the Inspector considered that the proposed development would not preserve the interest of the appeal building or of the lis

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**Application No:** 11/01477/FUL  
**Appeal by:** Mr & Mrs Whitford  
**Proposal:** Two storey rear and single storey side extensions  
**Address:** 27 Church Street Dunnington York YO19 5PP

**Decision Level:** DEL

**Outcome:** ALLOW

The appeal related to an application to erect a wide single-storey side extension (incorporating a garage and conservatory) to a cottage in Dunnington conservation area. The application was refused as it was felt that the large amount of development would detract from the linear character of the former burgage plot. The Inspector allowed the appeal stating that as the extensions were set well back from the frontage they would not be prominent and trees to the rear would still be clearly visible. She also referred to other similar developments in the area and felt that the linear character of the former burgage plot would remain.

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**Application No:** 11/01562/LBC  
**Appeal by:** Punch Partnerships Ltd  
**Proposal:** Installation of extract/intake vents and cellar cooling system to the rear (retrospective)(resubmission)  
**Address:** Royal Oak Inn 18 Goodramgate York YO1 7LG

**Decision Level:** DEL

**Outcome:** DISMIS

This joint listed building and planning application for the retention of a ducting/flue, intake unit and condenser unit at the rear of the Royal Oak Public House was recommended for refusal given the adverse visual impact on the listed building without sufficient justification and compelling evidence that a more suitable system could not be provided. The Inspector considered that the combination of the three additions, with their disparate shapes, proportions and finishes, amounted to a clutter of equipment, functional and utilitarian in appearance, out of keeping with the special character of the building. The effect was exacerbated by their proximity, in a narrow and constrained wall area, immediately adjacent to two windows and a door. Whilst the Inspector considered that the equipment was required to allow the business to operate effectively, he did not consider that more suitable alternative measures had been fully investigated. The visual impact would be aggravated by the requirements of the Noise Impact Assessment which are necessary to ensure that the living conditions of the occupiers of the adjacent flat would not be harmed. The appeals were dismissed.

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**Application No:** 11/01564/FUL  
**Appeal by:** Punch Partnerships Ltd  
**Proposal:** Installation of extract/intake vents and cellar cooling system to the rear (retrospective) (resubmission)  
**Address:** Royal Oak Inn 18 Goodramgate York YO1 7LG

**Decision Level:** DEL

**Outcome:** DISMIS

APP/C2741/E/11/2161856 is the main appeal reference number - teamp p16, case officer Debbie Smith direct line 0117 372 8607 This joint listed building and planning application for the retention of a ducting/flue, intake unit and condenser unit at the rear of the Royal Oak Public House was recommended for refusal given the adverse visual impact on the listed building without sufficient justification and compelling evidence that a more suitable system could not be provided. The Inspector considered that the combination of the three additions, with their disparate shapes, proportions and finishes, amounted to a clutter of equipment, functional and utilitarian in appearance, out of keeping with the special character of the building. The effect was exacerbated by their proximity, in a narrow and constrained wall area, immediately adjacent to two windows and a door. Whilst the Inspector considered that the equipment was required to allow the business to operate effectively, he did not consider that more suitable alternative measures had been fully investigated. The visual impact would be aggravated by the requirements of the Noise Impact Assessment which are necessary to ensure that the living conditions of the occupiers of the adjacent flat would not be harmed. The appeals were dismissed.

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**Application No:** 11/01656/FUL  
**Appeal by:** Mr Sukhvinder Dhillon  
**Proposal:** Demolition of out-buildings to rear and erection of single-storey building comprising 3no. bedsits  
**Address:** Bridge Fisheries 4 Intake Avenue York YO30 6HB

**Decision Level:** DEL

**Outcome:** DISMIS

Bridge Fisheries occupies a two storey semi-detached shop unit with a large rear yard and ancillary service buildings to the north west of the District Hospital. The owner had applied for planning permission to clear the service buildings and erect a series of single storey bed-sit type properties within the yard but with the take-away use continuing. The existing substantial boundary wall and gate would also remain to seal off the site from the adjacent highway. Planning permission was refused on the grounds that the development would create unacceptable living conditions for future occupiers of the site and that it would appear cramped oppressive and represent over development of the site. The appellant duly appealed on the grounds that the first reason for refusal was highly subjective and that the second was contrary to the general thrust of emerging government policy. The Inspector totally disagreed indicating that the proposed bed-sits would provide a standard of accommodation well below that usually accepted and that the form of the development would appear cramped and highly incongruous within the wider street scene. The appeal was dismissed.

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**Application No:** 11/01720/FUL  
**Appeal by:** Mr Will Cook  
**Proposal:** First floor side extension  
**Address:** 112 Hamilton Drive York YO24 4LD

**Decision Level:** DEL

**Outcome:** DISMIS

The Inspector considered the main issues in this case are the impact of the proposed extension on the street scene and on the amenity of adjacent residential occupiers. The side boundary to the appeal property is angled to the frontage, with the space narrowing towards the rear of the house. The proposed extension would follow the boundary so that it would be around 4m wide along the frontage. The ground floor would project forward of the building line, whilst the first floor would be set back. The Inspector felt that since the roof of the extension would exceed the ridge height of the existing roof, the result would be an unbalanced appearance to the semi-detached pair of houses which would appear incongruous in the street scene. From the east the side elevation and roof of the extension would appear prominent, with a significant impact on the street scene contrary to Local Plan Policy H7 (a) and (e). Secondly he felt the extension would have a significant adverse impact on the neighbouring property through an overbearing appearance. This would be contrary to Policy GP1 (i) in the Local Plan, specifically criterion i).

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**Application No:** 11/01831/OUTM  
**Appeal by:** Bonneycroft LLP  
**Proposal:** Residential development of 10 dwellings (amended scheme)  
**Address:** Bonneycroft 22 Princess Road Strensall York YO32 5UD

**Decision Level:** CMV

**Outcome:** DISMIS

Inspectors Main Findings. The loss of trees would be unfortunate but would be mitigated by replacement planting and retaining the main trees. The height and mass of the terrace, the main concern of local residents, would not look out of place in the street scene nor would it have an unacceptable impact on the conservation area. Locating the private amenity space alongside the public highway would also be acceptable in terms of the street scene and conservation area. However, it is unclear whether the amenity space on the highway frontage could be termed private because it would be largely open and overlooked. The only truly private space available to the occupiers would be on the west side of the terrace, i.e. away from the public highway. However, this space was small, cramped and out of keeping with the spacious, suburban character of the rest of the development. For this reason, only, the inspector dismissed the appeal. The appellant applied for costs. The inspector concluded that despite the officer recommendation to approve the application, none of the three reasons for refusal was unreasonable and all were supported by adequate evidence in the councils appeal statement. He said it was not unreasonable for members to disagree with their officers on the impact of the proposed terrace of three houses. The landscape officer had commented that the revised scheme was on the side of acceptable. That, said the inspector, reads as a close decision and, on that basis, it cannot be unreasonable for members to have come to an equally close but different view. The application for costs was refused.

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**Application No:** 11/01836/ADV  
**Appeal by:** Cloverleaf Restaurants Limited  
**Proposal:** Display of 4no. externally illuminated fascia signs, 2no. freestanding signs and 2no. panel signs on proposed new restaurant  
**Address:** Plot 5 Monks Cross Drive Huntington York

**Decision Level:** DEL

**Outcome:** DISMIS

A split decision was issued in relation to signage for a new restaurant at Monks Cross. The fascia signage and two freestanding signs were granted consent however a refusal was issued in relation to two freestanding signs proposed along the Monks Cross Drive frontage. The Inspector agreed with the Council that although predominantly commercial, the area in the vicinity of the proposed restaurant has an open and spacious feel complemented by the high quality of landscaping. Existing signing is minimal and non-illuminated and has little impact on the character of the area. The Inspector considered that the addition of two further illuminated signs on the site frontage, in close proximity to one another, would be excessive and cause significant harm to the character and appearance of the area. Although one sign could be accommodated (as we also accept) the Inspector felt (like us) unable to issue a split decision because neither position proposed would be appropriate if there is to be only one sign.

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**Application No:** 11/01902/FUL  
**Appeal by:** Mr John Palmer  
**Proposal:** Siting of portable building and use of adjacent car parking spaces as car wash (retrospective)  
**Address:** Site Adjacent To Burger King And Junction Of A1237 Stirling Road York  
**Decision Level:** DEL  
**Outcome:** DISMIS

Inspectors Main Findings. The car wash and valeting business is operated from a steel container near the top corner of the car park. The container is small in comparison with the units in the retail park and its location within the car park avoids congestion. However, the container occupies a very open position adjacent to the access road into the retail park and well away from buildings. It is clearly visible from the car park, the access road and the A1237 ring road. Planting along the roadside and on the edge of the car park is limited in height and does little, if anything to screen the container. The appellant is willing to consider additional landscaping it would need considerable time to mature and may in itself be out of keeping with the area. The utilitarian design of the container and its rather cluttered appearance are out of keeping with the otherwise open nature of this part of the car park and the backdrop provided by the retail and commercial units. Whilst I appreciate that the appellant appears willing to adapt the external appearance of the container, I must determine the appeal on the basis of the proposal before me. I find therefore that given its siting and design, the container is an unduly prominent and obtrusive feature.

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**Application No:** 11/01937/FUL  
**Appeal by:** Mr Colin Packer  
**Proposal:** Two storey side extension and single storey rear extension  
**Address:** 111 Newland Park Drive York YO10 3HR

**Decision Level:** CMV  
**Outcome:** DISMIS

This application was to erect a two-storey side extension and single storey rear extension which was recommended for approval. The East Area Planning sub-Committee refused the application because of the oppressive and overbearing impact on the adjacent neighbour at 113 Newland Park Drive. The inspector dismissed the appeal on the basis that the single storey extension at 4.0 metres in length would appear over bearing and dominant for the adjacent neighbour at 113 Newland Park Drive. The inspector confirmed that the proposal was for a residential extension and the local objections relating to student occupation could not be considered as part of the application.

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**Application No:** 11/02745/FUL  
**Appeal by:** Mr Colin Packer  
**Proposal:** Two storey side extension and single storey rear extension (revised scheme)  
**Address:** 111 Newland Park Drive York YO10 3HR

**Decision Level:** CMV  
**Outcome:** ALLOW

The application is revised version of an earlier proposal for the erection for a two storey side extension of a semi-detached dwelling in order to form an en-suite bedroom and utility room at ground floor with a further bedroom and en-suite facilities at first floor. The proposed single storey rear extension proposed on the previous application (11/01937/FUL) has been reduced in length and repositioned to comply with the rules of householder permitted development. The East Area Planning sub-Committee refused the application because of the oppressive and overbearing impact on the adjacent neighbour at 113 Newland Park Drive. The inspector considered the single storey permitted development extension in connection with the refused application because this was under construction at the time of the site visit. The Inspector allowed the appeal on the basis that the application would not harmfully affect the living conditions of the neighbours at (no.113) subject to a condition for the erection of a close boarded boundary fence of approx 1.8 metres in height. The inspector confirmed that the proposal was for a residential extension and the local objections relating to student occupation could not be considered as part of the application.

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**Application No:** 11/02904/FUL  
**Appeal by:** Mr S Chisholm  
**Proposal:** Single storey side extension and two storey rear extension - resubmission (revised scheme)  
**Address:** 3 Beech Grove Upper Poppleton York YO26 6DS

**Decision Level:** DEL  
**Outcome:** DISMIS

The dwelling lies within the Conservation Area, within a cul-de-sac of semi-detached houses, of two basic designs, many of which largely unaltered, retaining their original form size and symmetrical appearance. This application was the third refused submission. seeking permission for a single storey side and two-storey rear extension. One appeal has also previously been dismissed. The application was refused on the grounds that it would erode the setting of the house and unbalance the symmetry of the group, by virtue of the scale and design. The inspector agreed noting that leaving only 1m space to the side boundary would significantly diminish the open character of the area and that the two-storey rear extension would form a bulky and large addition, dominating the rear elevation and would unbalance the symmetry of the pair of dwellings.

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Decision Level:

DEL = Delegated Decision

COMM = Sub-Committee Decision

COMP = Main Committee Decision

Outcome:

ALLOW = Appeal Allowed

DISMIS = Appeal Dismissed

PAD = Appeal part dismissed/part allowed