

Appeal Summaries for Cases Determined 01/01/2016 to 31/03/2016

Application No: 14/02008/FULM
Appeal by: EDP
Proposal: Erection of wind turbine (maximum height to blade tip 78 metres) with associated access tracks, crane pad, sub-station building, underground cabling and temporary construction compound
Address: Ivy House Farm Hull Road Kexby York YO41 5LQ

Decision Level: COMP
Outcome: DISMIS

The appeal relates to a proposal for erection of a single wind turbine with a 50 metre high pylon and an overall height to the blade tip of 78 metres at Ivy House Farm Kexby within the Green Belt to the south east of Dunnington. Planning permission was sought for erection of the turbine for the purposes of securing farm income and to export up to 880kWh of electricity to the National Grid. It is acknowledged in paragraphs 89 and 90 of the NPPF that large scale renewable energy schemes are inappropriate development within the Green Belt although the need for production of low and zero carbon energy could comprise a case for "very special circumstances" to overcome the usual presumption against inappropriate development within the Green Belt. Despite a strong contrary argument by the applicant it was felt that not only was the scheme inappropriate development within the Green Belt its sheer scale(it would have been much the tallest structure within the City area) would cause very substantial harm to the open character of the Green Belt and on that basis it was refused planning permission. The applicant duly appealed but in the meantime Secretary of State for Communities and Local Government issues a written Ministerial Statement indicating that the Government would not be minded to support large scale renewable energy projects where there was not demonstrable local community support. The appeal inspector supported the view of the Local Planning Authority that the proposal would give rise to significant harm to the open character of the Green Belt contrary to paragraph 79 of the NPPF and furthermore identified a significant degree of harm to local landscape character. She furthermore noted the significant degree of local opposition to the scheme and in that light gave significant material weight to the Ministerial Statement of the Secretary of State. The appeal was therefore dismissed.

Application No: 14/02792/OUT
Appeal by: Mr D Blissett
Proposal: Outline application for erection of 4no. dwellings with associated access and parking
Address: Land To Rear Hilbra Avenue Haxby York

Decision Level: DEL

Outcome: DISMIS

The application was an outline application for four dwellings with access road and parking to the rear of Hilbra Avenue, Haxby. The application was refused. The Inspector considered whether the site had Green Belt status and through reference to the Draft DCLP and emerging Local Plan concluded that neither of these documents had statutory development plan status. However, referring to the RSS and retained policies relating to Yorks Green Belt, he concluded that the site was in the general extent of the Green Belt and the development therefore comprised inappropriate development and by definition was therefore harmful. The Inspector agreed that the site was primarily open and that the four dwellings would cause substantial loss of openness, an essential characteristic of the Green Belt. However the development would not materially harm the historic setting of York and any erosion of the gap between York and Haxby would be minimal. It would not safeguard the countryside from encroachment nor check the unrestricted sprawl of large built up areas. The proposal therefore conflicted with two purposes of Green Belt. The Inspector did not find any other substantive harm caused by the proposals, including any harm to the landscape. He attributed substantial weight to the harm to the Green Belt by reason of inappropriateness, loss of openness and conflict with the purposes of the Green Belt. Very limited weight was given to the contribution to meeting housing needs, housing land supply and sustainability. Therefore there were no other considerations that clearly outweighed harm nor any very special circumstances.

Application No: 14/02832/FUL
Appeal by: Mr Thomas Coomber
Proposal: Change of use from a dwelling (use class C3) to a house of multiple occupation (use class C4)
Address: 28 Third Avenue York YO31 0TX

Decision Level: DEL

Outcome: DISMIS

The appeal site is located within predominantly residential street, lying within a predominantly residential area. The CYC Policy data base identified a 13.73% density of HMO's at street level and a 10.00% density at neighbourhood level. The Inspector noted a variance between the Council's figures, and those of local residents. The Inspector was satisfied that policy levels had been breached at street level. The Inspector was satisfied that the application property would meet all the requirements of future occupants and there was adequate off-road parking. However he considered that the proposal, culmulativey with other HMO's within Third Avenue, would adversely affect the residential character and living conditions of Third Avenue with particular regard to the balance and mix of households and found conflict with the provisions of CYC Local Plan Policy H8 and the SPD. The inspector concluded that the proposal would materially harm the character of, and living conditions within the area surrounding the appeal site.

Application No: 15/00555/FUL
Appeal by: Mr S Duggan
Proposal: Erection of dog boarding kennels and siting of temporary dwelling for a period of 3 years
Address: Spring Wood Stables New Road Deighton York YO19 6EZ

Decision Level: DEL

Outcome: DISMIS

The application was for the erection of dog boarding kennels and siting of temporary dwelling for a period of 3 years. The site is within the general extent of the greenbelt. In 2013 planning permission was granted for stables and equine exercise arena, and an agricultural shed together with the change of use of the field for equine use, this development has been constructed. The appellant argued that because of the previous development that the site was considered to be 'previously developed land' and that the proposed development was considered infill as such very special circumstances were not required to be submitted. During the appeal they argued that this area had a shortage of small kennels and travel up to 15 miles was unreasonable. The appellant argued that the proposal was required to be sited in a rural location, and should be considered as a rural workers dwelling. The LPA argued the site was green belt and did not fall within the definition of previously developed land and concluded that the considerations put forward were not sufficient or compelling and did not clearly outweigh the substantial weight given to harm to the Green Belt. The Inspector did not consider that the development fell within the exceptions of the para 89 of the NPPF. He concluded that the kennels, enclosure and caravan would reduce the openness of the greenbelt and would be contrary to the purposes of the greenbelt and inappropriate development in the greenbelt. The Inspector had reservations about the lack of evidence provided with regard to the viability of the proposed business. The Inspector did not consider it to be a sustainable location.

Application No: 15/01156/FUL
Appeal by: Mr And Mrs R Karn
Proposal: Removal of condition 3 of permitted application
07/00102/FUL to allow existing log cabin to be occupied as
a main residence
Address: Log Cabin (Orchard Lodge) Adjacent To Mount Pleasant
House Elm Avenue Acaster Malbis York YO23 2UP
Decision Level: DEL
Outcome: DISMIS

This was an appeal against the refusal of a section 73 application for the removal of an occupancy condition (restricting use to holiday let only). The site had previously been granted a CLU to retain a caravan for holiday purposes. Subsequently the caravan was removed and replaced with the log cabin under a grant of planning permission which restricted occupation to holiday let only. The site is in the Green Belt. The section 73 application was refused on the basis that the consequence of the conditions removal would be the formation of a separate dwelling in the open countryside which would be inappropriate development in the Green Belt (paragraph 89). In accordance with paragraph 87 there was considered to be definitional harm to the Green Belt. Furthermore there would be other harm to openness through the need to accommodate the requirements of a permanent household and to the purposes of Green Belt through encroachment into open countryside and other harm associated with the loss of a tourist facility. The Inspector came to a similar conclusion finding that there was definitional harm, harm to the character and appearance of the area and other (limited) harm associated with the loss of tourism.

Decision Level:	Outcome:
DEL = Delegated Decision	ALLOW = Appeal Allowed
COMM = Sub-Committee Decision	DISMIS = Appeal Dismissed
COMP = Main Committee Decision	PAD = Appeal part dismissed/part allowed