

Appeal Summaries for Cases Determined 01/04/2018 to 30/06/2018

Application No: 17/00251/CLU
Appeal by: Mr Steven Davis
Proposal: Certificate of lawfulness for use as a House in Multiple Occupation within Use Class C4.
Site: 54 Barstow Avenue York YO10 3HE
Decision Level: DEL
Outcome: DISMIS

The appeal was refused ostensibly, because an original CLU had been refused on the grounds that there had not been 3.no unrelated persons occupying the property. Even if the applicants evidence was considered to be credible, the application would have been refused. In terms of that appeal. The applicant re-submitted and introduced an additional tenant, previously not mentioned. The inspector noted contradictions in the appellants statements and changes in the spelling of the name of the newly mentioned tenant. The spelling of this 'tenant's' family name, on the tenancy agreement submitted by the applicant' is different to that on on her affidavit and ID card. Given the Inspector gave little weight to the evidence relating to the previously unmentioned tennant; he refered back to the circumstances at the critical date of 20th April 2012. He considered it more than likely that the property was occupied by the applicant, his wife and 2.no unrelated tenants. Therefore it did not fall into Use Class C4.

Application No: 17/00954/OUTM
Appeal by: Enita Europe Limited
Proposal: Outline planning application with all matters reserved for erection of petrol filling station, restaurant and 50-bedroom hotel with associated access, car parking and landscaping (resubmission)
Site: Land Adjacent Hopgrove
RoundaboutBeechwoodHopgroveYork
Decision Level: CMV
Outcome: DISMIS

The proposal relates to an application for Outline Planning Permission for the erection of a 50 bed hotel, petrol station, restaurant and petrol station comprising a signed Trunk Road MSA on land adjacent to but not accessed from the A64 at Hopgrove. The site lies within Green Belt and the applicant contended that the proposal constituted local transport infrastructure and was therefore appropriate development within the Green Belt. It was felt that it would give rise to significant harm to the openness of the Green Belt and was clearly not local transport infrastructure within any accepted definition and therefore inappropriate. The applicant contended that the proposal was required in order to secure compliance with the DTR Circular in respect of roadside services on Trunk Roads and that there was a clear need in the locality. Notwithstanding that planning permission was refused on Green Belt and residential amenity grounds. The Inspector agreed that the proposal was not local transport infrastructure and therefore inappropriate development within the Green Belt with further significant harm to openness and encroachment into the open countryside. He concurred with the view that the development would further harm the residential amenity of two neighbouring properties and whilst he agreed that such a facility would be desirable in terms of catering for traffic travelling east bound on the A64 he felt that the need for Green Belt location had not been demonstrated. The appeal was therefore dismissed.

Application No: 17/01259/FUL
Appeal by: Mr G Wilkinson and Mrs J Sunderla
Proposal: Two storey side and rear extension, single storey rear extension and alterations to existing single storey front projection (revised scheme)
Site: Orchard Cottage Moor Lane Bishopthorpe York YO23 2UF
Decision Level: DEL
Outcome: DISMIS

The appeal relates to a two storey side and rear extension, single storey rear extension and alterations to the existing front porch belonging to Orchard Cottage, a semi-detached property situated in the green belt. The scheme was refused due to its scale, mass and design which was considered disproportionate to the main house (36% increase in footprint over two floors) resulting in inappropriate development in the green belt that would also harm its openness. In addition the design and appearance of the extension failed to relate to the existing building, specifically the first floor feature glazing to the front gable which would have resulted in an incongruous form of development. The Inspector agreed that the extension would represent a significant increase in footprint resulting in a disproportionate addition, and that the use of the 25% increase threshold in policy GB4, whilst having limited weight, serves as a reasonable benchmark to assess the proportionality of a proposed extension. In addition the extension would be positioned in a prominent and visible location and the scale and massing would have a significant visual impact on the surrounding green belt. Furthermore it was also reasoned that the extension would fail to reflect the simple character of the rural cottage appearing prominent and non-subservient. The appeal was dismissed.

Application No: 17/01336/OUT
Appeal by: Mr Robert Worthington
Proposal: Outline application for the erection of a single storey dwelling to the rear of 69 The Avenue following demolition of existing garage
Site: 69 The Avenue Haxby York YO32 3EJ
Decision Level:
Outcome: ALLOW

The application was to demolish a domestic garage and erect a two bedroom bungalow. The appeal was against non-determination of the application, which the applicant had been told was to be refused. The main issue was the effect of the proposal upon the character and appearance of the area. The inspector concluded that due to the dwellings single storey height and considerable set back, along with the existing built form of the garage, the principle of a dwelling at the site would have a neutral effect upon the street scene and the character and appearance of the area. The application was allowed.

Application No: 17/01372/FUL
Appeal by: Mr Peter James
Proposal: Replacement of mobile home with dwelling
Site: The Homestead Murton Lane Murton York
Decision Level: DEL
Outcome: DISMIS

The application was to replace an authorised mobile home - occupied by a Gypsy family - with a detached dwelling. The site is in the Green Belt. In 2010 personal planning permission for the mobile home had been granted on appeal due to the very special circumstances of the family. The family now wanted to replace the mobile home with a permanent dwelling. The inspector concluded that the dwelling would be inappropriate development in the Green Belt, would reduce openness to a small degree and harm the purposes of the Green Belt. She concluded that the considerations in support of the application carried very limited weight and did not amount to the very special circumstances necessary to justify the development in Green Belt. The appeal was dismissed.

Application No: 17/01413/FUL
Appeal by: Mr & Mrs Bruce Bettison De Bethun
Proposal: Conversion of workshop and erection of three storey extension to create 1 no. dwelling (revised scheme)
Site: Land Adjacent To 15 Monk Bar Court York
Decision Level: DEL
Outcome: DISMIS

Full planning permission was sought for the conversion of a workshop and the erection of a three storey extension to create 1 no. dwelling on land adjacent to 15 Monk Bar Court. The site is located within the Central Historic Core conservation area close to Monk Bar. The area is a quiet residential enclave and most of the buildings off the court are listed at Grade II. Permission was refused on the grounds that the development, due to its design, failed to respect the significance of the Central Historic Core Conservation Area. The design did not reference the details, scale, proportion and character of the surrounding area such that rather than reflecting the modest, unassuming character of the immediate vicinity, the design was over elaborate and too grand for its context. The proposed development, therefore, would not preserve or enhance the character and appearance of the designated heritage asset. The Inspector agreed that for reasons relating to design (for example the roof pitch, fenestration, dormer window, and arch detail on the gable), the proposal would not reinforce local distinctiveness as required by the NPPF nor take account of the desirability of sustaining and enhancing the significance of heritage assets and the desirability of new development making a positive contribution to local character and distinctiveness. The development would therefore not preserve or enhance the character or appearance of the Conservation Area or preserve the setting of the listed buildings within Monk Bar Court. The Inspector forwarded that the provision of 1 dwelling and the re-use of a vacant plot did not amount to public benefits which outweigh the less than substantial harm to the heritage assets, particularly given there was no good reason to believe that this could not be achieved in a more sympathetic manner without resulting in such harm.

Application No: 17/01507/FUL
Appeal by: Mr & Mrs Reynolds
Proposal: Erection of 1 no. dwelling
Site: Cherry Tree Cottage Millfield Lane Nether
Poppleton York YO26 6NX
Decision Level: CMV
Outcome: DISMIS

The application was for the erection of a new dwelling within the green belt on land between applicants existing dwelling and caravan site. A number of temporary and permanent buildings were present on the site. the proposed dwelling was a two storey detached dwelling of considerable size. the applicant argued it was previously developed land but the council did not hold this view as the site did not form part of the curtilage of the adjacent dwelling and as such was not part of the garden. The Inspector dismissed the appeal on the harm to the openness of the green belt. They did not make a decision as to whether the land was classed as previously developed or not. The Inspector stated 'I conclude that given my findings on openness and the purposes of including land within the Green Belt, the proposal would be inappropriate development in any event, even if I were to consider it previously developed land.'

Application No: 17/01732/FUL
Appeal by: Mr And Mrs Gibbons
Proposal: Three storey side extension, single storey rear extension and dormer to rear
Site: 56 Nunthorpe Crescent York YO23 1DU
Decision Level: DEL
Outcome: DISMIS

The appeal relates to the refusal of a three storey side extension, single storey rear extension and rear dormer to 56 Nunthorpe Crescent, a traditional two storey semi-detached dwelling situated on an incline. The application was refused due to the excessive height and raised location of the side extension in relation to the neighbouring dwelling as well as impact on neighbour amenity. The basement level garage and its projection were also not considered subservient and would have appeared dominant and overbearing and would have introduced development at a level where there previously isn't any. In addition the design height and scale of the rear extension and dormer were also not considered subservient. The inspector agreed that the three storey side extension, by virtue of its height, level difference, and basement garage, would look unattractive and at odds with the surrounding two storey development. The extension would also fill the width of the plot which in combination with the basement garage would appear incongruous and dominant within the street scene. The inspector did not however agree that the proposals to the rear would appear dominant or have a detrimental impact on the amenity of the adjacent neighbours. The appeal was dismissed on the grounds of harm to the character and appearance of the area only.

Application No: 17/01841/FUL
Appeal by: Mr Richard Lofthouse
Proposal: Erection of dormer bungalow with parking and external alterations to outbuilding
Site: 40 Main Street Wheldrake York YO19 6AE
Decision Level: DEL
Outcome: DISMIS

The appeal application sought planning permission for the erection of a dormer bungalow and works to an existing outbuilding to provide parking on a grassed area of land to the rear of 40-42 Main Street in the centre of Wheldrake Village. The site lies within the the Wheldrake Conservation Area. It was part of the historic curtilage of 40-42 and was proposed to be accessed between the joint vehicular driveway through an archway between 40-42 and 44-46 Main Street. There were four reasons for refusal: failure to preserve or enhance the character and appearance of the conservation area; harm to general visual amenity; and, detrimental impact on living conditions of 40 and 42 Main Street from turning vehicles immediately behind the properties and on 9 Kitty Garth from overlooking. There had been a lengthy planning history including previous attempts spanning 18 years for one dwelling on the land. In dismissing the appeal, the Inspector concurred with the reasons for refusal with the exception of the harm to 9 Kitty Garth from overlooking from first floor windows. He concluded that the proposed dwelling would fail to preserve or enhance the character and appearance of the Conservation Area (whilst the harm would be less than substantial, he attributed it significant importance and weight), would seriously harm the character and appearance of the area from an unduly assertive and dissonant feature out of keeping with the form and pattern of surrounding development, and would materially harm the living conditions of nearby occupiers caused by passing vehicles and loss of available amenity space.

Application No: 17/01971/FUL
Appeal by: Mr And Mrs Balding
Proposal: Erection of 2no. semi detached dwellings following demolition of motor vehicle repair workshop
Site: Rear Of RedthorneMurton WayYorkYO19 5UJ
Decision Level: DEL
Outcome: DISMIS

The appeal application sought full planning permission to build a semi-detached pair of two storey dwellings on land to the rear of Redthorn and accessed from Murton Garth. Redthorn is a bungalow on a corner plot facing Murton Way with access from Murton Garth, with a commercial workshop in the same ownership to the rear accessed from Murton Way. The site lies within the general extent of green belt and close to the boundary of the Murton Conservation Area. Permission was refused on the grounds that the proposal would detract from the character and appearance due to the resulting cramped appearance on site and impact on the occupants of Redthorn from the close proximity to its rear elevation and loss of amenity space. The Inspector considered the appropriateness of the development in Green Belt and concluded that it was infill development and as such was not inappropriate. The Inspector agreed that the proposal would harm character and appearance, including that of the adjacent conservation area and would adversely impact living conditions of residents of Redthorn. The benefits of additional housing in a sustainable location was acknowledged, but this was not considered to outweigh harm. Appeal dismissed.

Application No: 17/02197/FUL
Appeal by: Mr P Smith
Proposal: Two storey side extension to form two bedroom self contained annex including dormer window to front.
Site: 55 Lamplugh CrescentBishopthorpeYorkYO23 2SR
Decision Level: DEL
Outcome: DISMIS

The appeal relates to a two storey side extension to form two bedroom annexe including front dormer to a detached bungalow with substantial rear dormer (constructed under pd rights).The application was refused due to the design, scale and location of the extension in close proximity to the side/rear boundary which would have had a detrimental impact on the appearance of the street scene by virtue of its forward projection beyond the building line. In addition it was proposed to erect fencing to replace existing boundary hedging which was also considered to result in a form of enclosure out of keeping with the open aspect of the street, resulting in an incongruous addition.The inspector agreed that the extension would appear as an incongruous, poorly designed and unduly prominent feature which would significantly disrupt the existing pattern of development and would erode the sense of spaciousness which is a distinctive characteristic of the street scene. It was felt that the information regarding the fencing was limited and therefore no judgement was made regarding its acceptability.The appeal was nevertheless dismissed.

Application No: 17/02284/FUL
Appeal by: Cardtronics UK Ltd, Trading As CA
Proposal: Installation of 1no. freestanding ATM
Site: Todays Local143 Haxby RoadYorkYO31 8JW
Decision Level: DEL
Outcome: ALLOW

This appeal related to the retention of a free-standing Automated Teller Machine (ATM) on the forecourt to the side of a convenience store. Whilst there are a few other retail and service outlets in the vicinity of the appeal site, the area is predominately residential in character. The application was refused due the likelihood of unacceptable noise and disturbance and resultant loss of amenity to the occupiers of residential properties adjacent to the site, particularly between 2300 and 0600hours. At the time of the Inspectors site visit during late-morning, ambient noise levels on Haxby Road were fairly high and the Inspector considered that during late evening periods and early hours of the morning, noise levels would be much lower and the operation of the ATM keypad would be far more apparent to nearby residents. The appeal is allowed subject to a condition restricting the hours of the use of the ATM between 2300 and 0600, which are inline with the hours of the shop it is adjacent to.

Application No: 17/02380/FUL
Appeal by: Mrs Carla Mitchell
Proposal: Variation of conditions 3 and 4 of permitted application 16/00267/FUL (for the change of use from guesthouse to mixed use guesthouse and wedding venue) to increase number of weddings from 15 to 25 in total in any calendar year and to allow the side garden to be used for wedding ceremonies
Site: Deighton Lodge LimitedRush Farm (Game Farm)York RoadDeightonYorkYO19 6HQ
Decision Level: CMV
Outcome: DISMIS

The application sought permission to increase the number of weddings from 15 to 30. The application was refused on impact upon neighbours amenity. The appellants submitted a noise report with the application and appeal and a Noise Management Plan was in place. However, The Inspector noted that existing doors were being propped open and this would be likely to continue. Furthermore, the additional events proposed would lead to increased levels of activity associated with guests outside the building and from the comings and goings of both guests and delivery vehicles. The Inspector went on to state that 'noise and disturbance is likely to arise from dispersing wedding guests waiting for/getting into vehicles, car doors slamming, engines revving and vehicles manoeuvring in the field and along the access track. This would take place late in the evening when background noise levels, including from the A19, are lowered and when local residents could reasonably expect a quieter environment'.

Application No: 17/02442/FUL
Appeal by: Mr William Betteridge
Proposal: Change of use of newsagent (use class A1) to cafe (use class A3)
Site: 18 Eastholme Drive York YO30 5SW
Decision Level: DEL
Outcome: ALLOW

The appeal sought to vary condition 2 (hours of opening) and remove condition 3 (tables and chairs) of a recent approval for a change of use of newsagent (A1 use) to cafe (A3 use) at 18 Eastholme Drive. The hours of operation (condition 2) approved were those given by the applicant as part of the application submission. The applicant decided however that he wished the premises to be open for an extra three hours on a Saturday from 0800-1700hrs instead of 0800-1400hrs. Officers did not have an issue with this. Condition 3 prohibited the siting of tables and chairs on the forecourt as seating in this location was deemed harmful to the amenity of the immediate residents at 20 Eastholme Drive by virtue of noise, disturbance and privacy. The inspector reasoned that the size and location of the forecourt, including the location of the post box would restrict any proliferation of outdoor seating and that the use would be restricted by the opening hours which would close at 5pm. In addition, given the proximity of neighbouring properties to other retail premises it was felt that the area would already experience comings and goings and the addition of seating would not increase the existing amount of activity. It was therefore concluded that due to the site constraints and limited opening hours, the provision of outside seating would not adversely impact local noise or disturbance or privacy to an unacceptable degree. Condition 2 has therefore been varied and condition 3 removed.

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