

Appeal Summaries for Cases Determined 01/04/2019 to 30/06/2019

Application No: 17/02899/FUL
Appeal by: Mr R Padgett
Proposal: Change of use of dwelling (use class C3) to House in Multiple Occupation (use class C4) (resubmission)
Site: 33 Hadrian Avenue York YO10 3RD
Decision Level: DEL
Outcome: DISMIS

Application property is a 4 bed mid block of four house with an alleyway that leads to a rear garden and it is located in a small cul-de-sac. As a result of proposal the HMO threshold on the street would be 23% (limit is 10%) and in the area 18.2% (limit is 20%). The application was refused because it was considered it would erode of residential amenities and be detrimental to the character of the area as a result of comings and goings of occupiers being likely to be more often than those of a conventional dwellinghouse, and therefore more harmful in a quiet residential cul-de-sac, and because of lack of off street parking. The inspector dismissed the appeal on the grounds that the activity associated with occupation by 4 independent residents would be greater than that of a single family and it would likely give rise to a significantly greater overall variation in movement patterns with increased visitors and fewer linked trips. Also increased activity including likely audible conversations and comings and goings potentially at times when neighbours would seek peace and quiet. He felt the car parking could be addressed by provision of a dropped kerb

Application No: 18/00264/FUL
Appeal by: Mrs Fereshteh Hurst
Proposal: Use as a 7 bedroom house in multiple occupation.
Site: 64 Newland Park Drive York YO10 3HP
Decision Level: CMV
Outcome: DISMIS

The application site comprised a semi-detached house with self-contained annexe and was in use as an HMO within the C4 use class. Sub-committee refused permission for use as a 7 bed HMO because of the impact on the living conditions of nearby residents and the residential qualities of the area from increased noise and disturbance and parking pressures, in the context of existing high levels of HMOs in the area. There is only one car parking space for the property and no proposal to increase the provision. The Inspector noted the considerable parking pressures in the locality and concluded that the potential for further car parking pressures to the detriment of the area would not comply with Council policy or the NPPF. In terms of living conditions, whilst noting that noise and disturbance currently experienced in the area could not necessarily be attributed to this HMO, she concluded that an extra occupant would inevitably result in more trips to and from the property as well as potentially more late night noise and disturbance. This would be contrary to draft Local Plan policies and the objectives of the NPPF.

Application No: 18/01102/FUL
Appeal by: Mr Samuel Leach
Proposal: Variation of conditions 1 and 3 of permitted application 17/00274/FUL to amend approved plans to omit timber cladding from containers and for external artwork and vinyl lettering
Site: Spark York Piccadilly York YO1 9PB
Decision Level: CMV
Outcome: DISMIS

The appeal was against not having timber cladding around the exterior of the site. This left the containers, scaffolding and void beneath the containers exposed. The containers vary in their decoration. The scheme was refused by members. The inspector agreed with the views in the appeal statement provided by the council. The timber cladding that was to be installed would have screened the harsher, more industrial elements of the development, whilst still retaining the modern, contemporary ethos of the site. The works as completed expose the industrial nature of the site in its totality, which the inspector found to be at odds with the Conservation Area designation. With regards the temporary nature of the development the inspector noted that despite the master-planning proposed for the area there were no definitive timescales for re-development and consequently the development could remain on site for longer than the initial temporary permission, causing longer-term harm to the conservation area. With regards the cost of the cladding the inspector gave this little weight, the cost should have been considered at the outset and no financial evidence had been provided to support the statement that the cladding would be cost prohibitive.

Application No: 18/01369/FUL
Appeal by: Mr & Mrs D. McKinney
Proposal: Two storey rear extension with dormer to rear and single storey side and rear extensions.
Site: 56 Shipton Road Clifton York YO30 5RQ
Decision Level: DEL
Outcome: DISMIS

Application for single storey side and rear extensions and two storey rear extension. No objections were raised by Officers to the single storey elements. The two storey rear extension was refused on loss of light and overdominance. The Inspector did not agree that there would be an unacceptable loss of light on habitable rooms of external amenity space. The Inspector concluded that the extension would block the flank view from the projecting bay window. This window has an outlook beyond the rear elevation of the house and this would be lost. They referred to the SPD in relation to openness and views of the sky. The Inspector noted that the kitchen window may be classed as a tertiary window but it currently has views of the sky which would be obscured by the extension. The Inspector stated 'In this regard, I consider that, even if afforded lesser weight, the proposal would also dominate the outlook from this window.'

Application No: 18/01501/FUL
Appeal by: Mr & Mrs Gregor Blasiak
Proposal: Single storey rear extension including raised decked external seating area and external staircase to rear (amended scheme) (retrospective).
Site: 59 Westfield PlaceAcombYorkYO24 3HL
Decision Level: DEL
Outcome: ALLOW

The host dwelling is two-storey, semi-detached and on a sloping site. This application sought permission (retrospectively) for a single storey rear extension, along with external staircase and raised balcony, which was refused on the grounds of loss of privacy and outlook for adjacent residents, further to the proposed balcony and staircase being sited along the common side boundary with the adjacent residential site. This application was a re-submission of a recently refused scheme, though now proposed to move the location of an external staircase away from the common side boundary and also now provided a side screen to the balcony area. CYC still considered a balcony sited adjacent to the common boundary, providing views over the neighbouring garden area, was still harmful to privacy levels, despite the provision of a screen. The Inspector, however, disagreed, and considered that removing part of the balcony and providing a Juliet balcony, would increase overlooking of the neighbouring garden, thus the appeal was dismissed.

Application No: 18/01753/FUL
Appeal by: Mr Paul Smith
Proposal: Construction of vehicle access from Heslington Lane
Site: 99 Heslington Lane York YO10 4HP
Decision Level: DEL
Outcome: ALLOW

Application site is at the corner of Heslington Lane and Barmby Avenue. It was refused on grounds that the new vehicular access would lead to the loss of a wide section of the front boundary hedge and replacement of front garden with a gravelled parking surface would have a harmful impact on the streetscene and be at odds with the character and appearance of the road which is one of low boundary walls and/or hedges and natural vegetation to the frontages. The Inspector felt that the provision of a driveway was not a wholly uncharacteristic treatment of front gardens along the street and although the vehicular access would be reasonably wide and require the removal of a section of hedgerow, the remaining hedge to the front and side would contribute to the natural vegetation that was characteristic to boundaries along the street frontage and as he considered that the retention of the remaining hedgerow could be controlled by condition he concluded that the appeal should be upheld. Costs appeal grounds. Development should have been allowed because some parts were permitted development not following case law. Inconsistency. Failing to consider conditions to mitigate harm. The Inspector gave negligible weight to permitted development fallback and considered the officer report clearly set out an assessment of relevant planning policy. The applicant refers to case law and similar proposals in the vicinity but these were only submitted at the appeal stage and the Council did not have the opportunity to respond under the householder appeal process plus the planning decision was a matter of judgement and was supported with reasons. A condition for a replacement hedge to the side boundary would not overcome concerns about the loss of hedge to the front so he did not find that the Council acted unreasonably in discounting such a condition. He found that unreasonable behaviour resulting in unnecessary expense had not been demonstrated and an award for costs was not justified.

Application No: 18/01802/FUL
Appeal by: Mr T Cantrell
Proposal: Extension above existing two storey rear extension to create a third storey, dormer window to rear and single storey rear extension.
Site: 74 Alma Terrace York YO10 4DJ
Decision Level: DEL
Outcome: ALLOW

This application was refused on the grounds that the extensions would result in incongruous and overbearing additions to the property that would impact adversely on the amenity of neighbours and the character of the building and location. The second floor extension and rear dormer would be clad in zinc and the second floor extension incorporated an unusual canted slope with angular edges that officers considered would be incompatible with the original roof form. This awkward appearance was exacerbated by a large square dormer that was considered to be top heavy and when combined with the second floor extension would result in an unbalanced addition to the rear roof slope of this traditional terrace of properties. The inspector noted there were large dormers in the area and no public vantage points to the rear of the appeal property. She considered the use of contrasting materials was appropriate because it would reduce the vertical impact of the extension and successfully bridge the transition from the Victorian terrace to the more modern flats to the west, she also felt that its canted roof would reduce the apparent extent of the dormer. Because it would not be visible from public vantage points she considered it would not have a harmful impact on the character of the area. She also considered there would be no undue harm to the living conditions of neighbours

Application No: 18/01820/FUL
Appeal by: S Headley
Proposal: Hip to gable roof extension, two storey side and rear extension, single storey rear extension, dormer to rear and detached bin and bike store to rear in association with use of property as an HMO.
Site: 50 Heslington Lane York YO10 4NA
Decision Level: DEL
Outcome: DISMIS

Application refused as it failed to provide the number and size of parking spaces to the standard required for maintenance purposes, leading to parking on street. Also with all 3 cars parked up it would be impossible to move bikes/bins from the proposed bin/cycle store in the rear garden to the front street and vice-versa, discouraging bicycle use and leading to bins/cycles being stored in the front garden creating clutter. It was considered pertinent that 6 unrelated residents would have bin/cycle storage requirements greater than those of a single family household. Also the loss of the front boundary wall and exposure of a parking surface to view would have an adverse visual impact on the streetscene and the proposed extensions would be over dominant, unbalanced and incongruous additions. The Inspector noted that 2.7m wide parking spaces would not meet the 3.6m width required by CYC Highway Design Guide. He felt the greater independence of HMO individuals would significantly reduce the potential for shared journeys compared to a single family household, concluding it was likely that the increase in occupants and inadequate parking provision would lead to increased demand for on street parking; noting that parking problems had been referred to in the area. He also noted that occupants cars would extend across the full width of the frontage restricting access to the rear garden, leading to storage of bins/cycles at the front, creating clutter. He felt that the loss of the front wall/hedge, extent of hard surfacing and vehicle parking, occurrence of bin and cycle storage and loss of grass verge due to widening of the dropped kerb would detract from the character and appearance of the area. He felt that although the extensions would not be readily visible from the front they would be visible from private gardens to the rear and would be incongruous/obtrusive additions, harmful to the character and appearance of the area.

Application No: 18/01821/FUL
Appeal by: S Headley
Proposal: Hip to gable roof extension, two storey side and rear extension, single storey rear extension, dormer to rear and detached bin and bike store to rear in association with use of property as an HMO.
Site: 58 Heslington Lane York YO10 4NA
Decision Level: DEL
Outcome: DISMIS

Application refused as it failed to provide the number and size of parking spaces to the standard required for maintenance purposes, leading to parking on street. Also with all 3 cars parked up it would be impossible to move bikes/bins from the proposed bin/cycle store in the rear garden to the front street and vice-versa, discouraging bicycle use and leading to bins/cycles being stored in the front garden creating clutter. It was considered pertinent that 6 unrelated residents would have bin/cycle storage requirements greater than those of a single family household. Also the loss of the front boundary wall and exposure of a parking surface to view would have an adverse visual impact on the streetscene and the proposed extensions would be over dominant, unbalanced and incongruous additions. The Inspector noted that 2.7m wide parking spaces would not meet the 3.6m width required by CYC Highway Design Guide. He felt the greater independence of HMO individuals would significantly reduce the potential for shared journeys compared to a single family household, concluding it was likely that the increase in occupants and inadequate parking provision would lead to increased demand for on street parking; noting that parking problems had been referred to in the area. He also noted that occupants cars would extend across the full width of the frontage restricting access to the rear garden, leading to storage of bins/cycles at the front, creating clutter. He felt that the loss of the front wall/hedge, extent of hard surfacing and vehicle parking, occurrence of bin and cycle storage and loss of grass verge due to widening of the dropped kerb would detract from the character and appearance of the area. He felt that although the extensions would not be readily visible from the front they would be visible from private gardens to the rear and would be incongruous/obtrusive additions, harmful to the character and appearance of the area.

Application No: 18/01827/FUL
Appeal by: Mr Paul Housam
Proposal: Single storey side extensions and erection of boundary wall
Site: 9 Boltby Road York YO30 4UW
Decision Level: DEL
Outcome: DISMIS

Planning permission was refused for erection of boundary wall. Number 9 Boltby Road is a detached dwelling located on the corner with Dale Dyke Grove. The boundary to Dale Dyke Grove is enclosed by a low brick wall of approximately 0.5m in height. The character of dwellings on Dale Dyke Grove, which is a small cul-de-sac, is derived principally from their comparable set back from the road behind an open front garden area. The proposal was to enclose part of the front garden with a 1.8m high wall built to the back edge of the footway. The Council considered the proposed boundary wall by virtue of its corner position, height, appearance and position projecting from the front of the house, across the front garden and along the front boundary to Dale Dyke Grove would appear incongruous, significantly out of character and unduly imposing feature to the front boundary of this cul-de-sac. Dale Dyke Grove is characterised by its openness and open plan layout to the fronts with no equivalent sized front boundary means of enclosure and the proposal here will be at odds with this. The Inspector concluded that the boundary wall would harm the character and appearance of the area, in conflict with the NPPF and the Councils SPD on domestic alterations.

Application No: 18/01862/FUL
Appeal by: Miss Alison Kathryn Kay
Proposal: Single storey rear extension, dormer window to rear and 2no. rooflights to front
Site: 72 Dale Street York YO23 1AE
Decision Level: DEL
Outcome: ALLOW

Application was refused on grounds that both the rear roofscape of the terrace in which this property lies and the row of terraced properties immediately to the north nos. 32-42, both terraces being Buildings of Merit, is relatively undisturbed, apart from one rear dormer on an end property, and make a strong contribution to the qualities of the conservation area. It was considered that any further intervention should be avoided in order to protect the important contribution that the roof of the terrace as a whole makes to the character of the historic townscape. The full width extension was also considered to be out of character with historic grain of the area, where rear extensions generally occupy only one side of the rear yard, with the proposed low pitched roof to the extension being at odds with the higher slope of the main roof to the terrace and the use of the proposed low pitch eternit roof tile appearing incongruous on this traditional slate roofed terrace. It was also considered that the proposed 3.88m high rear extension would have an overbearing and oppressive impact on the narrow rear yard and rear windows of the adjoining property no.74 Dale Street, reducing natural light and being harmful to the outlook of these occupants and the sense of space within their rear rooms and rear yard. The inspector considered that the extension would not detract from the qualities of the conservation area, the roof slope would not be out of keeping, the use of fibre cement tiles would not be discordant and the full width nature of the extension would not harm the urban grain. The dormer was of modest proportions and would appear as an incremental development. She considered that as no.74 lies south west of no.72 it was unlikely that natural light would be reduced and the overall effect would be to increase the sense of space within the yard and rear rooms of no.74 and would not be oppressive.

Application No: 18/02145/FUL
Appeal by: Mr Martin Taylor
Proposal: Erection of 2no. bungalows (resubmission)
Site: Land Fronting 18 Oak Tree Way Strensall York
Decision Level: DEL
Outcome: DISMIS

The application sought permission for 2 small bungalows and associated parking on a strip of land running parallel to the curve of a residential estate road. The application was refused as result of the impact on the character and appearance of the area. The properties would almost entirely fill the site within the only remaining space being taken up by the parking area. The Inspector recognised that the character of the area was of large properties in spacious plots with a set back from the highway and generous rear gardens. The proposal would harm this identified character and would result in the loss of existing trees; it was thereby contrary to policies D1 and G14 of the emerging Local Plan. Issues relating to drainage were also raised. No detail had been provided with the application and it was suggested that soakaways or a nearby culvert would be used. The inspector noted that soakaways would not be possible given the constricted nature of the site. Issues had been raised by the LLFA, IDB and residents regarding surface water drainage issues in the area; given the lack of detail, and issues raised, the inspector considered that conditions would not be appropriate and it should be established prior to granting planning permission that adequate drainage could be achieved. The appeal was dismissed.

Application No: 18/02202/FUL
Appeal by: Mr Mark Allen
Proposal: Dormer window to rear (retrospective)
Site: 19 Tisbury Road York YO26 4UJ
Decision Level: DEL
Outcome: DISMIS

Retrospective permission was sought for a large flat roof rear dormer to a recently extended traditional semi-detached dwelling. As part of the approval for the previous extensions, a flat roof rear dormer was also approved but never built. In building the dormer, the applicants enlarged the space believing it to be p.d. however due to the scale of previous extension there is no p.d. fallback position. The dormer was very large, occupying the full rear roof slope of the original dwelling and was built off of the eaves causing it to take on the appearance of a third floor. The inspector noted that whilst the dormer would not have a significant impact on neighbours amenity, the design, scale and massing of the dormer window substantially alters the two-storey character of the original property.

Application No: 18/02470/FUL
Appeal by: Mr Thomas Wood
Proposal: Erection of 1.8m high boundary fence to side and rear boundaries (retrospective).
Site: 9 Celtic Close York YO26 5QJ
Decision Level: DEL
Outcome: DISMIS

Retrospective planning permission was refused for the erection of a 1.8m high boundary fence on a prominent corner site. The estate is open plan in form, giving a spacious character. In the few cases where there is any boundary treatment this is almost exclusively in the form of hedging or low enclosures along the back edge of the pavement. The boundary timber fence was erected to the side and rear garden of the property after removal of the previous hedgerow that ran around the boundary. The Council considered the site to be very prominent in the street scene, by virtue of its corner position and the fence as built introduced a very solid, stark, extensive and incongruous looking form of enclosure into the street which is at odds with the character of the estate. The erection of the fence conflicted with the NPPF guidance on good design and the Council's draft and emerging Local Plans which seek to ensure that development is designed so as to respect or enhance the local environment and be compatible with the character of the area, and also the Council's SPD on domestic type alterations. The Inspector concurred with the Council that the fence was harmful to the character and appearance of the area due to its size, length and appearance which was at odds with the prevailing character of the area, which was open and undeveloped.

Application No: 18/02620/FUL
Appeal by: Mrs Sabine Kelly
Proposal: First floor rear extension (resubmission)
Site: 58 Middlecroft Drive Strensall York YO32 5UP
Decision Level: DEL
Outcome: ALLOW

58 Middlecroft Drive is a 2 storey brick built detached dwelling in a residential area of Strensall. The property has an existing single storey rear extension around 4m wide and projecting around 3.5m from the rear wall of the house. The application sought to add a first floor hipped-roof element above this. In respect to the effect of the proposed development on the living conditions of the neighbouring occupiers, the Inspector acknowledged that No 56 and 60 have quite spacious, open views from their front windows with a large expanse of sky between and above the surrounding houses. However, at a separation distance of 16m the proposed extension would not be unduly proximate or overbearing. The first-floor element would be brought closer, but not so much that the occupiers of No 56, or No 60, might reasonably feel hemmed in by the development. The second issue related to the effect of the proposed development on the character of the dwelling and the local area. In this regard, the Inspector considered that the modest rearward projection would be commensurate with the length of the side wall of the property's western neighbour at No 62 and would not be out of kilter with that or other properties in the vicinity. The extension would appear subservient to the original dwelling. The separation distances between the property and those surrounding it would enable the spacious feel of the estate to be maintained. The appeal was allowed. The appeal was accompanied by a claim of cost, however the award of costs was refused. The Inspector notes that whilst they do not agree with the Council's assessment of the merits of the proposal, it is not an unreasonable planning judgement and is adequately supported by analysis. Endeavouring to determine the application within statutory timescales was a reasonable approach to have taken.

Application No: 19/00054/FUL
Appeal by: Mr Graeme Kyle
Proposal: First floor side and rear extensions (resubmission).
Site: 66 Grantham Drive York YO26 4TZ
Decision Level: DEL
Outcome: DISMIS

The appeal relates to a two storey semi-detached dwelling which along with the attached dwelling, has a distinctive design with a hipped mansard roof which varies from the majority of more uniform dwellings in the street. It is also set well back from the street frontage compared with the majority of neighbouring properties. Permission was previously sought and refused for a two storey flat roof extension which was dismissed at appeal due to the impact on the character and appearance of the area. Permission was sought again for the two storey extension, however in order to try to overcome the character and appearance concerns, a hipped roof was added to the extension, despite advice from officers that this was not sufficient to overcome the existing concerns. The appeal was submitted due to non-determination of the application, and was dismissed again on character and appearance grounds. The inspector agreed with the Council's viewpoint that the extension would have a jumbled appearance and the addition of the roof would increase the massing of development resulting in an imbalance between the host and adjoining property. The inspector also noted that the extension would be clearly visible in wider views from St Swithins Walk opposite, and concluded that the design, scale and location would unduly harm the character and appearance of the host dwelling and the wider area.

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