

## **Appeal Summaries for Cases Determined 01/04/2012 to 31/10/2012**

**Application No:** 11/00497/FUL  
**Appeal by:** Mr Robert Winston  
**Proposal:** Conversion of stable to 2 bed holiday let (resubmission)  
**Address:** Holly Tree Farm Murton Way York YO19 5UN

**Decision Level:** DEL

**Outcome:** ALLOW

The application was refused because the site was in the functional flood plain (zone 3b). As part of the appeal the applicant commissioned a Flood Zone Investigation which re-categorised the land within Zone 3a. This was accepted by the Environment Agency and the City Council and as such the appeal was contested only in respect of an inadequate flood risk assessment and the raising of ground levels around the site. The Inspector concluded that the conversion of the building could proceed without an unacceptable increase in flood risk in the area, and as such would not conflict with the NPPF, its associated Technical Guidance of the Council's Strategic Flood Risk Assessment. In imposing conditions he considered it necessary and reasonable to restrict the use of the building to holiday accommodation and that a further flood risk assessment was necessary to safeguard future users of the accommodation. He also required that the existing ground levels be retained to prevent the displacement of water in the event of flooding. An application for the Council to pay the appellant's costs was refused.

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**Application No:** 11/00869/FUL  
**Appeal by:** Miss J Graves  
**Proposal:** Erection of 2no. pig rearing units to rear (retrospective)  
**Address:** The Market Garden Eastfield Lane Dunnington York YO19 5ND  
**Decision Level:** DEL  
**Outcome:** DISMIS

The application sought retrospective planning permission for the erection of two pig rearing units at the Market Garden in Dunnington. The application was refused on the grounds that the development is harmful to neighbouring amenity through odour generated within the pig rearing units and the associated storage of waste. The pig rearing units are in close proximity to a large number of residential dwellings and evidence provided by local residents clearly identified that the units have a significantly harmful impact on the living conditions of local residents and their ability to enjoy their homes and gardens. The Inspector concluded that the proposed pig activities at the site represented a substantial business venture which is in close proximity to a large number of residences. Despite weather conditions on the day of the site visit resulting in relatively low odour levels, the Inspector concluded that the proposal could cause significant odours which would harm the amenity of local residents. The Inspector stated that the number of objections received highlighted the odour problems which the pig enterprise creates. The appeal was dismissed.

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**Application No:** 11/01015/FUL  
**Appeal by:** St Peters School  
**Proposal:** Erection of two storey dwelling to the rear  
**Address:** St Catherines House 11 Clifton York YO30 6AA

**Decision Level:** DEL

**Outcome:** DISMIS

The application sought planning permission for the erection of a two storey dwelling to the rear of 11 Clifton. The application site would be occupied in connection with St Peter's School and the proposed house would be accessed via the school grounds. The application was refused on two grounds. The first was the visual impact on the character and appearance of Clifton Conservation Area. The second was that the proposed building could result in the loss of two trees within the curtilage which were considered to positively contribute to the character and appearance of the area. The appeal was dismissed on the grounds of the Council's reasons for refusal. The Inspector concluded that the application site is an important open space and provides a suitable interface between the older residential developments along Clifton and the later higher density developments to the south west. Views of the site from North Parade were considered to be particularly important as the application site provides a green open outlook from what is an enclosed victorian street. The proposed development would erode this. The Inspector agreed with the Council that the Sycamore and Copper Beach trees on the site are of importance and contribute to the character and appearance of the area. Whilst the applicants specialist stated that the development could be created without harming these trees, the Inspector felt that the plans had no margin for error and the trees could be damaged despite tree protection measures. It was also felt that the size of the trees and their closeness to the proposed house would result in pressure for them to be felled in the future. For the reasons above the Inspector did not feel that the application represented sustainable development and the appeal was dismissed.

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**Application No:** 11/01046/FUL  
**Appeal by:** P.K. Homes Ltd  
**Proposal:** Two no. dormer bungalows to rear of 36 Beech Grove and 30 Carr Lane with access from Rosedale Avenue (resubmission)  
**Address:** 36 Beech Grove York YO26 5LB

**Decision Level:** DEL

**Outcome:** DISMIS

The application site consists of a plot carved out of the site of a former garage between Carr Lane and Beech Grove. A permission had previously been given by the Authority for a single dormer bungalow on the site with only very minimal external amenity space. The applicant came forward with a re-submitted scheme for two semi-detached dormer bungalows on a slightly smaller footprint. The proposal was refused planning permission on two grounds. The first was that the proposal would have an adverse impact upon the residential amenity of adjoining properties and the second related to the proposal being an over-development of the site. The applicant duly appealed and sought costs on the grounds that the decision was inconsistent and unreasonable in the light of the earlier permission. The Inspector agreed with the second reason for refusal on the grounds that the area of external amenity space fell well below that considered acceptable for prospective occupiers of the properties and that the proposed form of development was alien to the wider area. On those grounds he dismissed the appeal. However, in respect of the first reason for refusal he felt that a refusal on residential amenity grounds was unsustainable and even perverse in view of the earlier permission as it cut to the acceptability of any form of development on that site. As a consequence he agreed to a partial award of costs in respect of the first reason for refusal.

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**Application No:** 11/01468/OUTM  
**Appeal by:** Smith And Ball LLP  
**Proposal:** Outline application for erection of a retail warehouse following demolition of existing office building (resubmission)  
**Address:** Arabesque House Monks Cross Drive Huntington York

**Decision Level:** COMPV

**Outcome:** ALLOW

The was an appeal against the refusal of planning permission for the demolition of an office building and erection of retail warehouse development at Monks Cross. The reason for refusal related to the need to maintain a menu of office properties around different sites in the city, of varying sizes and quality providing for the immediate and longer term employment requirements of York. The Inspector allowed the appeal considering :-In spatial terms that the site is as much a part of the retail area as the partially developed office area Weight attached to RSS diminished by forthcoming likely abolition but in any event its relevance, other than in the broadest sense is minimal. Inspector says relying on the core strategy policies at the stage when it has not been independently examined and tested against the evidence base is counter to the intention of national policy that decision taking should be genuinely plan-led. The draft local plan does not accord with Paragraph 215 of the NPPF and so little weight can be afforded to it, but the employment aims of E3b are similar to the framework requirements. The Inspectors view was that the choice and churn required by the core strategy policies have not been sufficiently tested through the independent assessment process and little weight could therefore be attached to having an excess of supply to provide choice in the office market. The Inspector attached weight to the fact that the building could be demolished even without any new scheme being brought forward and to the fact that employment would come from the retail use of the site despite the proposal being speculative and such employment not be certain. Despite objections from third parties the Inspector saw no reason why a bulky good retail could not be acceptable on the site. The view was that when the core strategy got closer to adoption policies within it may preclude further such developments

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**Application No:** 11/01791/FUL  
**Appeal by:** Mr Ian Lear  
**Proposal:** New shop front (retrospective)  
**Address:** Athena 5 Feasegate York YO1 8SH

**Decision Level:** DEL

**Outcome:** ALLOW

The Council refused retrospective listed building consent and planning permission for a replacement shopfront at 5 Feasegate (currently occupied by Patiserie Valerie), a Grade II listed building located within the Central Historic Core Conservation Area. Officers considered the design, form and proportions of the replacement shop front failed to respect the slender proportions and detail of the original cast iron and plate glass principal elevation of this listed building and the adjacent listed building at No.7 Feasegate with which it forms a pair. The Inspector considered the deep fascia above the shopfront to be similar to that of the immediate predecessor (Athena). The Inspector did not consider the failure to align with mullions above or the offset positioning of the shop doorway would result in an unacceptably jarring appearance. Also whilst the Inspector notes that sections of the framing of the shop windows appear thicker and less elegant than those on the upper floors, he considers their dark, low sheen colouring makes them unobtrusive. The Inspector concluded that the scheme provides a clean and unfussy treatment that does not appear bulky or ill at ease with the facade and does not try to mimic the existing components and therefore is one which neither has a harmful impact on the building or on the Conservation Area. The appeal was allowed.

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**Application No:** 11/01792/LBC  
**Appeal by:** Mr Ian Lear  
**Proposal:** New shopfront and signage (retrospective)  
**Address:** Athena 5 Feasegate York YO1 8SH

**Decision Level:** DEL

**Outcome:** ALLOW

The Council refused retrospective listed building consent and planning permission for a replacement shopfront at 5 Feasegate (currently occupied by Patiserie Valerie), a Grade II listed building located within the Central Historic Core Conservation Area. Officers considered the design, form and proportions of the replacement shop front failed to respect the slender proportions and detail of the original cast iron and plate glass principal elevation of this listed building and the adjacent listed building at No.7 Feasegate with which it forms a pair. The Inspector considered the deep fascia above the shopfront to be similar to that of the immediate predecessor (Athena). The Inspector did not consider the failure to align with mullions above or the offset positioning of the shop doorway would result in an unacceptably jarring appearance. Also whilst the Inspector notes that sections of the framing of the shop windows appear thicker and less elegant than those on the upper floors, he considers their dark, low sheen colouring makes them unobtrusive. The Inspector concluded that the scheme provides a clean and unfussy treatment that does not appear bulky or ill at ease with the facade and does not try to mimic the existing components and therefore is one which neither has a harmful impact on the building or on the Conservation Area. The appeal was allowed.

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**Application No:** 11/01813/FUL  
**Appeal by:** Market Town Taverns PLC  
**Proposal:** Change of use of recruitment consultancy (Class A2) to bar/restaurant  
**Address:** Relay Recruitment 116 Micklegate York YO1 6JX

**Decision Level:** DEL

**Outcome:** ALLOW

Permission refused as the site is in an area where there are a high proportion of licensed premises where residents experience problems of antisocial behaviour. An additional A4 unit (or the expansion of an existing A4 use with a greater capacity for custom) was considered to have the potential to cause cumulative harm to amenity and to have a detrimental impact on the Conservation Area. This decision was in the context of Policy S7 (no net increase in the number of pubs on Micklegate). The Inspector makes the distinction that the scheme is an extension rather than a new use and would result in no net increase in pubs/bars within Micklegate. The Inspector notes the Council provided no substantive evidence to support the claims that the proposal would lead to greater disturbance to residents. Whilst identifying the property as within the licensing cumulative impact zone and identifying Micklegate as under "stress", the Council failed to present evidence that such problems are specifically connected with the present establishment. The Inspector accepted that the business may change, however considered the proffered S106, which would place restrictions on the manner in which it is operated would provide assurances as to the management of the premises in the future. With respects to the impact on the Conservation Area, the Inspector did not accept the Councils assertion that the proposal would lead to a dilution in the mix of uses and a cumulative impact on its character through an increase in evening uses. It was considered that as the proposal is an extension to an existing use which operates during the daytime as well as the evening, the proposal would not have any harmful effect on the role of Micklegate as a mixed, diverse thoroughfare. The appeal was allowed and cost awarded on the basis of the lack of evidence provided by the Council to substantiate its considered impact on residential amenity and its failure to have regard to the proffered obligation.

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**Application No:** 11/01981/FUL  
**Appeal by:** G M Allison  
**Proposal:** 2no. semi-detached dwellings  
**Address:** Site To Rear Of 22A Huntington Road Dennison Street  
York  
**Decision Level:** DEL  
**Outcome:** ALLOW

Application was for a house in flood zone 3a. Planning permission was refused on the grounds that the proposed development would not pass the exception test, because there would be no means of escape from the site to higher ground if the area were to flood. Flood Risk Management and Emergency Planning were concerned occupants could potentially be stranded in the house at times of flood and would have to be rescued by the emergency services. The proposed house had sleeping accommodation at 1st floor level, the site would be surrounded by a flood wall which would protect against the projected worse case flooding and occupants would sign up to the Environment Agencies flood warning service. The inspector considered there would be limited extra strain on the emergency services in times of flood due to the measures proposed to protect against flood risk. The appeal was allowed.

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**Application No:** 11/02028/FUL  
**Appeal by:** Mr Phillip Macer  
**Proposal:** Two no. 2 storey detached dwellings with garages after demolition of existing bungalow and outbuildings (amended scheme)  
**Address:** 12 Malton Way York YO30 5SG

**Decision Level:** DEL

**Outcome:** DISMIS

The application was for the erection of two houses following the demolition of an existing bungalow. The site is 12 Malton Way which is just outside the Clifton (Malton Way/Shipton Road) Conservation Area. No objections were raised to the demolition of a bungalow or the principle of creating two new houses on the site. The site contains a number of mature trees. The application was refused on the grounds that 1) the height and footprint of the two houses is excessive giving them undue visual prominence on the edge of a conservation area. The houses were also considered to be of a design which would detract from the visual quality of the conservation area. 2) loss of amenity to neighbours through overlooking and the visual dominance of Plot 1 which extended well beyond the neighbouring house and sat close to the curtilage boundary. 3) no bat survey was undertaken despite requests from the Council as it was considered that the existing bungalow contains features which provide roosting opportunities for bats. The Inspector agreed that the existing bungalow is 'undistinguished' and its demolition was acceptable. It was determined that the proposed houses were 'bulky and ill-related' to neighbouring houses and would appear incongruous within their surroundings. The Inspector stated that the ill fit of the houses to the site would result in pressure to remove existing mature trees in the future which currently make a positive contribution to the area. The Inspector agreed with the LPA that the proposal would result in an unacceptable loss of privacy for neighbours of 14 Malton Way. The Inspector agreed with the LPA that a bat survey should have been carried out, citing Circular 06/2005 'biodiversity and geological conservation' - it is essential that the presence of any protected species and the extent they may be affected by a proposal be established and taken into account within a decision - this cannot be conditioned. The appeal was dismissed.

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**Application No:** 11/02217/FUL  
**Appeal by:** Mr Sukru Akgul  
**Proposal:** Conversion of dwelling into 2no. flats with alterations to front elevation (resubmission) (retrospective)  
**Address:** 9 Landalewood Road York YO30 4SX

**Decision Level:** DEL

**Outcome:** ALLOW

Planning permission was applied for retrospectively in relation to the conversion of 9 Landalewood Road, a three storey terraced town house within Clifton Moor into two flats involving the conversion of the existing ground floor garage into living accommodation and the provision of a roof terrace to provide amenity space for the upper flat. Permission was refused on two grounds. The first was that the ground floor flat had a sub-standard access from a narrow unlit alleyway to the rear. The second was that the proposal would result in an erosion of the character of the area by removing a unit geared to single family occupation. The appellant modified the access arrangement to allow for the access to both the newly created properties to be taken from the frontage of the property prior to the appeal being heard. The Inspector disagreed in respect of both reasons for refusal and allowed the appeal. In respect of the first reason the Inspector felt that any form of rear access would be clearly unacceptable but ruled that as both newly created properties would be accessed from the front when fully complete then the access arrangement would be rendered acceptable. In respect of the second reason the Inspector ruled that in the absence of any up-to-date evidenced based research into the need for family homes of the type involved in the local area then a refusal on the basis of loss of family housing was unsustainable.

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**Application No:** 11/02318/FULM  
**Appeal by:** Miss Tracey Kay  
**Proposal:** Erection of 3 storey 64 bed care home for older people  
**Address:** Plot 6 Great North Way Nether Poppleton York

**Decision Level:** CMV

**Outcome:** ALLOW

The decision was recommended for refusal following a strong objection from City Development and their concerns that the loss of the site would cause the loss of usable employment land that was immediately available for development (CD argued that the usable employment land figure availability was less than the figure for employment land availability) and that the use was not considered an employment use as set out in PPS4. Committee refused the application on the same grounds. Between the decision and the appeal the NPPF was issued which stated that policies should avoid the long term protection of employment use sites. The definition of employment that was in PPS4 was not carried over into the NPPF. The Inspector considered that as a garden centre has been allowed on the neighbouring site and that the Monks Cross Stadium site was being considered that the loss of this site was not considered to be significant. The Inspector concluded that the benefits of the provision of employment opportunities through the provision of a care home, together with the community benefits associated with that provision, outweighs any disbenefit from the loss of a relatively small area of B1, B2 or B8 employment use land.

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**Application No:** 11/02371/FUL  
**Appeal by:** Mr And Mrs Luke-Wakes  
**Proposal:** First floor side extension  
**Address:** 1 Meam Close Osbaldwick York YO10 3JH

**Decision Level:** CMV

**Outcome:** DISMIS

The East Area Planning sub-Committee refused the application because of the oppressive and overbearing impact on the adjacent neighbours and impact on the street scene. On the basis that the proposal would create an incongruous feature by occupying part of the gap above the adjoining garages. The inspector dismissed the application because of the extension would articulate the overall facade of the building creating a poorly proportioned gap that would be incongruous in the street scene. However, the inspector ruled out the neighbour amenity issues.

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**Application No:** 11/02558/CPD  
**Appeal by:** Mr Hodgson  
**Proposal:** Certificate of lawfulness for proposed siting of caravan/mobile home within the curtilage  
**Address:** 25 The Avenue Haxby York YO32 3EH

**Decision Level:** DEL

**Outcome:** DISMIS

The appellant wanted to site a mobile home in the large rear garden of his house. The mobile home would be used by the appellants son who had recently been divorced and was unable to afford separate accommodation. The intention was that the caravan would also accommodate the sons children when they came to visit. The council refused a certificate on the grounds that the use was not incidental to the enjoyment of the dwellinghouse. The inspector found that care needed to be taken in determining whether the use would constitute development. The nature of the residential use of the caravan was an important factor. Four of the six bedrooms of the house on the site were not occupied and the son lived elsewhere. Significantly the appellant had provided no information about the familys domestic arrangements. The majority of mobile homes contain all the facilities for day to day living so for a caravan to be incidental to the main house it needs to be shown that some of these activities would not take place in the caravan, rather that it would be used only, say, for sleeping and recreation. From the limited information supplied it was likely that the mobile home would be used as an independent dwelling and would not be incidental to the enjoyment of the dwellinghouse. The appeal was dismissed.

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**Application No:** 11/02711/FUL  
**Appeal by:** Mr And Mrs Pierson  
**Proposal:** Removal of condition 7 (open space) for approved outline application 10/02271/OUT for erection of detached bungalow  
**Address:** Yew Tree House Vicarage Lane Naburn York YO19 4RS

**Decision Level:** DEL

**Outcome:** ALLOW

Outline planning permission was granted for a bungalow (10/02271/OUT). The permission included the council's standard open space condition requiring a financial contribution of #1172. A s.73 application later sought to remove the condition on the ground that there was sufficient open space in the area. The council acknowledged that, in the interim, a children's play area had been provided in the village. Nevertheless there remained a shortfall in the other categories of open space. The council therefore did not remove the condition but reduced to #680 the amount quoted in the informative. The applicant appealed. The inspector quoted paragraph 83 of Circular 11/95 which states that, when granting planning permission, a local planning authority cannot require, by means of a planning condition, a financial contribution from the developer. As such, condition 7 was clearly contrary to the advice. He said that if a contribution were justified the council should have negotiated it by means of a s.106 obligation. Notwithstanding this, and even if it were reasonable to seek a contribution by means of a planning condition, there was no certainty or specificity as to the sorts of open space to which the money would have contributed. The council indicated only that any money would probably be spent on improving sports pitches in Fulford without any details of what this might entail or the necessity for it. Condition 7 was neither necessary nor reasonable, contrary to the tests in Circular 11/95. Accordingly, the appeal was allowed and condition 7 was removed.

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**Application No:** 11/02774/FUL  
**Appeal by:** Mr And Mrs Rodwell  
**Proposal:** Single storey side and rear extension with rooms in roof  
(amended scheme)  
**Address:** 42 Dikelands Lane Upper Poppleton York YO26 6JF

**Decision Level:** DEL

**Outcome:** DISMIS

Two main issues regarding the effects of the proposed extension. The effect upon the appearance and character of the host bungalow and the surrounding area. Second, the effect upon the living conditions of the neighbouring residents at No 2 Montague Walk with particular regard to levels of sunlight and visual impact. The proposed rearward extension would be intrusive in views from Dikelands Lane. It would not appear subservient to the modest bungalow but instead disproportionate and unduly dominating the host building in views from Dikelands Lane. The Inspector concluded that the rear extension would harm the appearance and character of the host bungalow and the surrounding area. The works to the front garage elevation would add interest and be more in keeping but does not outweigh the detrimental impact of the rear section. The Inspector also concluded that there would be an increased overshadowing effect upon the secondary kitchen/breakfasting window and a reduction in afternoon/evening sun to the adjoining section of rear garden of the neighbouring property. The enlarged structure would in addition have an intrusive and overbearing effect upon the neighbours rear rooms and garden. He concluded there would be unacceptable harm to the living conditions that the neighbours at No 2 could reasonably expect to enjoy.

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**Application No:** 11/02816/ADV  
**Appeal by:** Sainsbury's Supermarkets Limited  
**Proposal:** Display of 4no. timber frame banner signs  
**Address:** Sainsbury Plc Monks Cross Drive Huntington York YO32  
9GX

**Decision Level:** DEL

**Outcome:** DISMIS

Advertisement consent was sought for the retention of banner signage on the entrance to Sainsburys Supermarket. The signage was refused because of its impact on visual amenity. The Inspector agreed considering the size, positioning and amount of the proposed signage, in conjunction with that which already exists, would result in visual clutter. This would considerably detract from the general appearance and character of the locality, particularly close to the roundabout junction which provides an important gateway to this retail area.

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**Application No:** 11/02949/FUL  
**Appeal by:** Mr Richard Pearce  
**Proposal:** Garage to side after demolition of existing sheds  
(resubmission)  
**Address:** Glencoe Main Street Elvington York YO41 4AG

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

Planning permission was refused on the basis that the garage because of its size and scale would have a negative visual impact on the character and appearance of the conservation area by virtue of its mass, design and inappropriate detailing. The inspector considered that Glencoe is an important component within this part of the Conservation Area, where built development is characterised by cottages in the local vernacular and larger period properties surrounding the open expanse of The Green. The inspector dismissed the appeal on this basis the i the scale and proportions of the building and the inappropriateness of the garage door would be evident, resulting in a disruptive feature in the Conservation Area.

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**Application No:** 11/03052/FUL  
**Appeal by:** Mr And Mrs Poole  
**Proposal:** Single storey rear extension  
**Address:** 40 Fordlands Road York YO19 4QG

**Decision Level:** DEL  
**Outcome:** ALLOW

permission was refused for the following reason. 'The proposed rear extension would project approximately 5 metres from the rear elevation of the application property, in close proximity to the boundary with the adjoined semi-detached property at no. 42 Fordlands Road. It is considered that the size and scale of the extension is such that the development would unduly dominate the side boundary and would cause significant harm to light levels and outlook. As such the proposal conflicts with policy GP1 (criterion i) and H7 (criterion d) of the City of York Draft Local Plan (fourth set of changes) approved April 2005.' The inspector stated that the existing high hedge between the properties, although a less permanent, solid feature than the extension proposed, should be taken into account when assessing the impact. He asserted that an extension projecting 3 metres could be erected under permitted development, which together with a 2 m high fence beyond, would not be significantly different to the proposed extension. He considered that the necessary removal of the hedge to make way for the extension would be an improvement to the outlook from the adjoining property.

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**Application No:** 11/03065/LBC  
**Appeal by:** Mr Gordon Harrison  
**Proposal:** Single storey outbuilding to rear  
**Address:** 36 Clarence Street York YO31 7EW

**Decision Level:** DEL

**Outcome:** ALLOW

This listed building application was recommended for refusal, due to the scale and mass proposed, spanning the whole width of the plot; it was also considered the proposed building was domestic in nature, as opposed to reading as a secondary store serving the main building. It was considered to be overly dominant causing harm to the historic form and layout of the plot, including the side boundary walls. The Inspector, disagreed, and considered the scale to be appropriate, and that taking into account the existing unsympathetic additions existing to the rear elevation, and also that the existing concrete rear yard does not contribute positively to the setting of the building, the proposal would not harm the character, setting or appearance of this nor adjacent listed buildings.

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**Application No:** 11/03173/FUL  
**Appeal by:** Miss Sarah Rudd  
**Proposal:** Erection of 6ft boundary fence (retrospective)  
**Address:** 21 Wolsey Drive Bishopthorpe York YO23 2RP

**Decision Level:** DEL

**Outcome:** DISMIS

Retrospective permission was sought for a 1.8m high boundary fence to three sides of the property. The fence replaces a 2m high conifer hedge. The application was refused on visual intrusion and highway safety. 4. The fence can be seen along Beech Avenue, but it also has an impact in views along Wolsey Drive from the west. The existing street scene is that of a mature and largely open plan housing estate where the dwellings are, in the main, single-storey bungalows. Front boundaries are generally a mix of low walls or hedges, with occasional higher evergreen hedges of up to about 2m in height. Some properties have no front enclosure at all. Inspector states the fence is at odds with the open plan nature of the estate, it has a jarring visual impact at an important location on a bend where three roads meet and it introduces an unnecessarily defensive feature which almost completely screens the appeal property from public view. The fence restricts visibility from the driveway of 20 Wolsey Drive. However, the Inspector concluded that as there was no worsening of the situation with the replacement of the hedge with a fence highway safety has not been worsened.

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**Application No:** 11/03175/FUL  
**Appeal by:** Mr And Mrs R Binns  
**Proposal:** Erection of two storey live/work annex (retrospective)  
(resubmission)  
**Address:** 238 Strensall Road York YO32 9SW

**Decision Level:** CMV

**Outcome:** ALLOW

The retrospective application was for a detached two storey accommodation for the son of the applicants. The site was in the greenbelt and the applicant put forward the health of their son as the special circumstances for development in the greenbelt. The application was refused on the grounds that the proposal was inappropriate development in the greenbelt and the special circumstances put forward did not overcome the presumption against development in the GB. In addition the siting and urban appearance was considered to be an encroachment of development and impact on the openness of the greenbelt. The appellant requested that a single storey alternative be also considered as part of the appeal process. A single storey building has been permitted at committee 12/01059/FUL. The Inspector agreed with the LPA in that there was no justification for the scale and accommodation of the building, and that it could not be considered an annex. The Inspector also considered that the appearance and the siting of the building caused harm to the greenbelt. The Inspector considered a single storey building and allowed this building. The Inspector disagreed with committee's reason for approval, she considered the single storey building would have a greater impact on the greenbelt, however she considered the circumstances of the applicant's son were special circumstances that overcame the harm to the greenbelt and that accommodation had been reduced to such that it could only be used as an annex. The partner enforcement appeal decisions were dismissed with a variation to the enforcement notice to extend the time period to 18 months for the removal of the two storey building.

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**Application No:** 11/03187/FUL  
**Appeal by:** Mr And Mrs Prescott  
**Proposal:** Extension to garage and erection of boundary wall  
(retrospective / resubmission)  
**Address:** 4 Springbank Avenue Dunnington York YO19 5PZ

**Decision Level:** DEL

**Outcome:** PAD

The appeal related to alterations to a previously approved garage and retention of a front boundary wall. The Council was not opposed to the alterations to the approved garage. However, planning permission was refused for the retention of the boundary wall as it was considered that the higher section of the wall and timber infill panels would, as a result of its design and scale, appear as an unduly imposing and incongruous feature, which would be out of character with other front garden boundaries within Springbank Avenue. The Inspector concurred, asserting that along Springbank Avenue front boundary walls are generally very low, which gives the street an open and uncluttered character, with views over front gardens. He concluded that amidst such surroundings the front boundary wall at 4 Springbank Avenue looks incongruous and unduly imposing. It makes this part of the road appear far more built up and obscures views of front gardens. As a result it detracts from the streetscene. The appeal was allowed insofar as it related to the alterations to the approved garage, but was dismissed in respect of the retention of the wall. It is understood that the wall has subsequently been reduced in height and now falls within permitted development tolerances.

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**Application No:** 11/03191/FUL  
**Appeal by:** Mr Steve Oates  
**Proposal:** First floor side extension  
**Address:** Kilburn View Murton Way York YO19 5UW

**Decision Level:** DEL

**Outcome:** ALLOW

The application was for a first floor rear extension with balcony. The application property is a recent back land development in the conservation area. The area still has in parts the visual character of an agricultural settlement. It was felt that the development would further encroach on open land and that the balcony would appear unduly ornate in its context. The Inspector allowed the appeal. He considered that there was a wide variety of building styles in the conservation area and that the first floor rear extension would have minimal impact on the open character.

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**Application No:** 11/03292/FUL  
**Appeal by:** Mr Keith Lofthouse  
**Proposal:** Dormers to front and rear  
**Address:** 7 The Horseshoe York YO24 1LY

**Decision Level:** DEL

**Outcome:** ALLOW

This appeal was submitted to remove condition requiring a matching hung tile as opposed to lead cladding to a previously approved pitched roof front dormer. It was considered that the dormer was to be rather prominent and bulky, and sited too close to the side hip resulting in a cramped appearance. It was therefore considered that lead cladding would increase the dominance of the dormer. Whilst there are a couple of dormers within the street with lead cladding, there are not highly visible when viewing the host property. The Inspector disagreed stating that because of the small scale of the dormer the use of hung tiles would result in a poor appearance and that all small scale dormers should be lead clad.

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**Application No:** 11/03425/FUL  
**Appeal by:** Mr Cunningham  
**Proposal:** Change of use from storage unit (use Class B8) to vehicle workshop (use Class B2)  
**Address:** Unit 2 Moor Lane Bishopthorpe York YO23 2UF

**Decision Level:** DEL

**Outcome:** DISMIS

The unit is one of a number of buildings in a converted farm complex. All the units have planning permission to be used for storage. The application was for the use of one of these units as a vehicle repair unit. The application was refused on greenbelt grounds, the noise disturbance to the neighbouring dwellings, and it was considered to be an unsustainable location for a car repair business. The Inspector did not consider that the use of the unit would have a materially greater impact on the greenbelt. The Inspector also considered the site to be relatively sustainable. However the Inspector considered that the proposal would result in noise disturbance to the neighbouring dwellings that could not be overcome by a condition. In addition he considered that allowing this use would set a precedent for the other buildings within the complex. The appeal was dismissed.

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**Application No:** 12/00091/FUL  
**Appeal by:** Mr D Rose  
**Proposal:** First floor side and rear extension.  
**Address:** 93 Newland Park Drive York YO10 3HR

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

This application was to erect a first floor side extension and single storey rear extension which was recommended for approval. The East Area Planning sub-Committee refused the application because of the visual appearance within the street scene. The inspector allowed the appeal on the basis that it was felt the extension would be in accordance with the councils SPD, thus it would harmonise with the visual appearance of the surrounding area. Furthermore there would be no impact on residential amenity. 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:** 12/00357/FUL  
**Appeal by:** Mrs Linda Leeper  
**Proposal:** Erection of dwelling following demolition of existing dwelling (resubmission)  
**Address:** Fleurdelys 5 Princess Road Strensall York YO32 5UE

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

The application was for the demolition of a detached house in a conservation area and its replacement with a larger detached house in the same location. The council refused planning permission for the new dwelling because (1) its size and design were out of keeping with the street scene and harmful to the character and appearance of the conservation area (2) a side window would overlook bedrooms of the adjacent house. Regarding reason 1 the inspector found that the new dwelling would not be significantly different from the existing house and the changes would be barely perceptible to a casual passer-by. The character and appearance of the conservation area would be preserved. Regarding reason 2, the level of overlooking would be unacceptable and could not be overcome by conditions. The planning application appeal was therefore dismissed, due only to overlooking. As the replacement scheme was unacceptable the demolition of the existing house was also unacceptable. The CAC appeal was therefore also dismissed.

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**Application No:** 12/00358/CAC  
**Appeal by:** Mrs Linda Leeper  
**Proposal:** Demolition of dwelling (resubmission)  
**Address:** Fleurdelys 5 Princess Road Strensall York YO32 5UE

**Decision Level:** DEL

**Outcome:** DISMIS

The application was for the demolition of a detached house in a conservation area and its replacement with a larger detached house in the same location. The council refused planning permission for the new dwelling because (1) its size and design were out of keeping with the street scene and harmful to the character and appearance of the conservation area (2) a side window would overlook bedrooms of the adjacent house. Regarding reason 1 the inspector found that the new dwelling would not be significantly different from the existing house and the changes would be barely perceptible to a casual passer-by. The character and appearance of the conservation area would be preserved. Regarding reason 2, the level of overlooking would be unacceptable and could not be overcome by conditions. The planning application appeal was therefore dismissed, due only to overlooking. As the replacement scheme was unacceptable the demolition of the existing house was also unacceptable. The CAC appeal was therefore also dismissed.

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**Application No:** 12/00517/FUL  
**Appeal by:** Mr Kevin Jones  
**Proposal:** Two storey side and rear extension  
**Address:** 71 Anthea Drive Huntington York YO31 9DB

**Decision Level:** DEL

**Outcome:** DISMIS

The above proposal for two storey extensions to the side and rear of a gable fronted detached house was refused for the following reasons: The proposed two-storey rear extension would be located within very close proximity of the side kitchen window of 69 Anthea Drive and a rear bedroom window of 73 Anthea Drive. It is considered that the proposed extension would result in an unacceptable impact on the amenity and living conditions of the occupiers of these adjacent dwellings by virtue of its size, scale, massing and proximity to the boundary and the loss of light and outlook that would result. As such the proposal conflicts with policy GP1 criterion i and H7 criterion d of the City of York Draft Local Plan fourth set of changes approved April 2005. The proposed roof of the two-storey side extension is higher than the roof height of the existing house. In addition, the front elevation of the extension is not clearly subservient. It is considered that if approved the extension would dominate the existing building and create an uncomfortable visual link between two adjoining properties of differing designs 71 and 73 Anthea Drive. As such the proposal conflicts with national advice in relation to design contained within paragraph 56 of the National Planning Policy Framework, and Policies GP1 criterion a and b and H7 criterion a, b and e of the City of York Draft Local Plan fourth set of changes approved April 2005. The Inspector dismissed the appeal. He considered that the 3m deep two-storey rear extension would not be harmful to neighbours living conditions, but considered that the two-storey side extension would lack visual cohesion and balance and result in the disappearance of any significant spacing between the buildings, and the loss of rhythm of spacing that characterises the street.

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**Application No:** 12/00960/FUL  
**Appeal by:** Mr Matthew Charlton  
**Proposal:** Two storey side extension, single storey rear extension and conversion of existing garage into habitable room (revised scheme)  
**Address:** 4 Duncombe Drive Strensall York YO32 5PJ

**Decision Level:** DEL

**Outcome:** ALLOW

The application was to extend forward a garage to the side of a modern house and erect a first floor extension above part of the structure. The application was refused because it was considered it would dominate the property to the side, the rear of which faced towards the side elevation. The Inspector disagreed with the decision. He considered that the proposal was acceptable. In coming to this conclusion he had regard to the fact that the two-storey extension was subordinate to the main house, there were a number of conifers along the boundary and the tenants of the neighbouring property had not objected.

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**Application No:** 12/01098/FUL  
**Appeal by:** Mr & Mrs Mark Whitelock  
**Proposal:** Two storey and single storey side extensions  
**Address:** 8 Rowley Court Earswick York YO32 9UY

**Decision Level:** DEL

**Outcome:** DISMIS

The appeal related to the erection of a two storey side extension and a single storey side extension. The Council's concern related only to the two storey extension. Planning permission was refused on the grounds that the close juxtaposition and significant difference in height between the two storey extension and the adjacent bungalow would adversely affect the appearance of the streetscene and would appear incongruous and out of keeping. The Inspector considered that the extension would substantially increase the overall bulk of the built form and that the design fails to set back the extension sufficiently, resulting in the dwelling appearing cramped within its plot. The neighbouring bungalow is set close to the shared boundary and forward of the application property. As the height and bulk of the proposal would extend close to the boundary, it would dominate the neighbouring bungalow and significantly erode the gap between these buildings. He concluded that the scale of the extension and its relationship with its neighbour would result in the property being out of keeping within Rowley Court, detracting from the character and appearance of the area and conflicting with the design aspirations of the National Planning Policy Framework and Policies GP1 and H7 of the Draft Local Plan.

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**Application No:** 12/01115/FUL  
**Appeal by:** Mr A Kitson  
**Proposal:** Two storey side, single storey rear extensions and dormer to rear (resubmission)  
**Address:** 265 Hull Road Osbaldwick York YO10 3LB

**Decision Level:** DEL

**Outcome:** DISMIS

Planning permission was sought for a two storey side, single storey rear and rear dormer window. This application was a resubmission of a previous application for a two storey extension (Ref: 11/02925/FUL), refused on the loss of amenity to the property at (no.263). The key difference between the applications was that the revised reduced the first floor level in length by approx 1.6 metres. The extension was considered acceptable in terms of its impact on the character of the street scene. However, it is considered that the size, scale and massing are unsatisfactory on the shared boundary and would impact significantly on the outlook from the adjacent neighbouring property at 263 Hull Road. As such the revised application did not over come the previous issues. The Inspector dismissed the appeal on the basis that the two storey extension would appear extremely large and visual dominant when viewed from the small garden of 263 Hull Road. Overall, it was concluded that the two storey extension would have a significant adverse effect on the neighbours living conditions. There were no objections to the single storey extension or the dormer window by the council because they could be erected without planning permission. The Inspector considered that neither of these elements could be constructed independently of the two storey side extension.

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**Application No:** 12/01122/FUL  
**Appeal by:** Mr And Mrs Turner  
**Proposal:** Detached garage to rear (retrospective)  
**Address:** 16 Vicarage Lane Naburn York YO19 4RS

**Decision Level:** DEL

**Outcome:** ALLOW

The application property is located within the defined settlement limit of the village, which is washed over by Green Belt. Retrospective planning permission was sought for the retention of pitched roof detached garage and store situated in the rear garden of this semi-detached dwelling. The applicant originally applied for permitted development under Class E of Part 1 to Schedule 2 of the Town and Country Planning (General Permitted Development ) Order 1995 (GDPO). However, building is subject to an enforcement notice which was upheld on appeal refs APP/C2741/ C/11/2160355 and 2160356, which effectively ruled that the building required planning permission and was, therefore, unauthorised. This was due to the timing of the building operations in relation to changes in the GDPO , which came into force on 1st October 2008. No appeal was made on ground (a), so the Inspector was unable to consider the merits of the building or, if appropriate, grant permission for it. Planning permission was refused because it is considered that by virtue of its size, scale, design and external appearance, the building was not appear subservient to the existing dwelling. Also that it would adversely affect the openness of the Green Belt and constitutes a disproportionate addition to the host property. The Inspector disagreed with the councils decision on the basis of the very special circumstances that out weighed the reason for refusal. The Inspector pointed out that a structure with the same foot print could be erected with a flat roof that does not exceed the height of approx 2.5 m without planning permission. Therefore, the permitted development fall back could have the potential to create a worse effect in terms of visual intrusion on the Green Belt than the current structure.

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**Application No:** 12/01138/FUL  
**Appeal by:** Mr Simon Meakin  
**Proposal:** Single storey side extension  
**Address:** 27 Wigginton Road York YO31 8HJ

**Decision Level:** DEL

**Outcome:** ALLOW

The above appeal related to the following refusal for a rear extension: The proposed extension is located on the boundary with 29 Wigginton Road and is 6.3 metres in length. The side elevation of the extension would be located within very close proximity to the facing dining area window and the ground floor habitable room window to the side. The adjacent area of yard, although small, does receive direct sun light during the morning and is of value for quiet recreation adjacent to the kitchen and dining area. It is considered given its proximity that the proposed walling and tiled roof would be unduly dominant, create a tunnel effect and change the character of the internal and external spaces by a degree that is considered unreasonable. As such the proposal conflicts with policy GP1 criterion b and i and H7 criterion d of the City of York Draft Local Plan fourth set of changes approved April 2005. The Inspector allowed the appeal. The main reasons seemed to be that the single-storey extension would be viewed against a two-storey off-shoot, there is a large front garden that is used for recreation and that it would not have an undue adverse effect on reasonable levels of light and outlook.

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**Application No:** 12/01153/FUL  
**Appeal by:** Mr P Brown  
**Proposal:** Single storey rear extension with replacement attached garage to side and canopy to front  
**Address:** 29 Sandringham Close Haxby York YO32 3GL

**Decision Level:** CMV

**Outcome:** DISMIS

The application was for a side extension to a bungalow at 29 Sandringham Close, Haxby. The application was called in by Councillor Richardson at the request of the neighbour from no 31 Sandringham Close. The application was refused at committee on the grounds the proposed extension would overdominate the side elevation of that bungalow and would also result in loss of light to that elevation. The Inspector agreed with members, considering the extension would 'significantly reduce daylight coming in from the rear' and would also have a 'significant adverse visual impact on the kitchen window to the neighbouring window when looking towards the rear' The Inspector did not consider there would be a harmful effect in terms of sunlight, but did consider it would be the case in terms of impact on daylight.

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**Application No:** 12/01164/FUL  
**Appeal by:** Mr Thomas Bilton  
**Proposal:** Two storey side extension and alterations to existing roof  
**Address:** 10 Greencroft Court Dunnington York YO19 5NN

**Decision Level:** DEL

**Outcome:** DISMIS

The application site comprised of a detached single storey dwelling situated in a corner position on the junction of Greencroft Court and Greencroft Lane, in close proximity to the junction of Owlwood Lane. Planning permission is sought to erect a two storey side extension on the south elevation of the property, which lies at an angle of approximately 40 degrees to the highway. The application was refused because the height and location of the extension would appear disproportionate to the size and scale of the dwelling as originally built. In addition its close proximity to the highway would increase the assertiveness of the extension and accentuate the impact on the street scene. As such it was considered that the extension do not relate well to the building and would be unduly prominent and incongruous feature within the neighbourhood. The inspector agreed with the councils decision by stating that the extension would change a modest sized bungalow of similar design to other properties into a house of unsatisfactory design that would be out of keeping with its surroundings. The Inspector did not consider that a similar extension at no7 could be considered as setting a precedence because it appeared to host a different roof design, set back from the road and public views.

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**Application No:** 12/01206/FUL  
**Appeal by:** Dr F Iwu  
**Proposal:** Two storey rear extension (resubmission)  
**Address:** 63 Millfield Lane York YO10 3AW

**Decision Level:** DEL

**Outcome:** DISMIS

The application was for a two storey rear extension that spanned almost the full width of the rear elevation. The application was a resubmission and was set slightly back from the boundary with 65 Millfield Lane. The application was refused on the grounds that the proximity of the extension to the shared boundary and the living room window of 65 Millfield Lane would result in a loss of residential amenity, would result in a sense of enclosure and would be unduly prominent and overbearing feature to the detriment of the outlook from the rear of 65 Millfield Lane. The Inspector agreed, the appeal was dismissed.

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**Application No:** 12/01805/FUL  
**Appeal by:** Mr James Dalby  
**Proposal:** Two storey side extension, re-roofing of existing single storey rear extension and dormers to rear (resubmission)  
**Address:** 38 Almsford Road York YO26 5NX

**Decision Level:** DEL

**Outcome:** ALLOW

The application was for a two storey side extension. It met all design criteria in the fact that it was set back from the front elevation, stepped down from the ridge and constructed with a hipped roof. However, it was located at a junction and turned through 45 degrees from the neighbours. The neighbouring properties are a row of uniform bungalows with a very strong building line. If the extension were constructed it was felt that it would be visually prominent within the streetscene and be over-assertive due to its relationship with the neighbouring bungalows. The Inspector allowed the appeal stating that he found there to be a clear transition from the neighbouring bungalow to the two-storey appeal property due to the separation provided by the detached garage. Although it would extend forward of the existing corner of the dwelling, it would not be overdominant or visually intrusive.

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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