

Appeal Summaries for Cases Determined 01/10/2014 to 31/12/2014

Application No: 13/01973/FUL
Appeal by: Mr Jim Cutajar
Proposal: Erection of single storey dwelling to rear
Address: Fair Oaks Sandy Lane Stockton On The Forest York YO32 9UT
Decision Level: DEL
Outcome: DISMIS

Planning permission was sought for the erection of a dwelling on agricultural land behind a row of houses. The site mainly comprised redundant agricultural buildings and farm machinery. The houses were within the settlement limit but the application site was in the green belt. The application was refused mainly due to impact on the green belt, no open space contribution, no justification for cesspool and no justification for soakaway. The inspector found that : (1) the site should be treated as being in the green belt despite absence of a defined green belt boundary (2)The development was inappropriate development in the green belt, would have an adverse impact on openness and would conflict with the encroachment purpose (3) sufficient evidence had been submitted by the council to justify the principle of the open space contribution and the specific sum required (4) no conclusive evidence had been submitted by the appellant to justify a cesspool in preference to a septic tank (5) as the suitability of soakaways had not been demonstrated a condition requiring details of surface water drainage would not pass the preciseness test and lastly [the inspector had already referred to the Court of Appeal overturning the Redhill Aerodrome decision] (6) there were no very special circumstances to outweigh harm by reason of appropriateness or any other harm. The appeal was dismissed.

Application No: 14/00099/FUL
Appeal by: Mr Martin Sledmore
Proposal: Conversion of detached garage to 1no. dwelling
Address: 105 Temple Lane Copmanthorpe York YO23 3TE

Decision Level: DEL

Outcome: ALLOW

The application site comprises a former orchard lying directly to the west of a modest detached Victorian property within the Green Belt to the south east of Copmanthorpe village. The proposal related to an application to convert a garage/workshop building of very recent construction into a dwelling. The garage building was unusually large when related to the adjacent domestic property and had been constructed in 2009 in short succession following on from the grant of permission to convert the previous garage at the site into a dwelling in 2006. The application site also lies within Flood Zone 3b). Planning permission was refused on the basis that in view of the design of the garage and the extremely short elapse of time since construction, that it had been built with the intention of conversion to circumvent the policy restrictions on building within the Green Belt and within an area deemed to be at high risk of flooding. A further reason for refusal was based upon the increased intensity of use of the site impacting upon the open character of the Green Belt in that area. Whilst he agreed that the increased intensity of use would impact upon the openness of the Green Belt he felt that, that impact would not be such as to warrant refusal of the proposal. At the same time whilst he agreed that the length of time the building had been in use as a garage had been extremely short and whilst he understood the logic behind the measure of time chosen to establish whether or not a building had been built for the stated purpose, he felt that this had no formal basis and as such could be afforded little weight. In terms of the Flood Zone designation the applicant had contended that there was no historic evidence of it having flooded and in the absence of information to challenge it this was discounted and the appeal as a whole allowed.

Application No: 14/00362/FUL
Appeal by: Mrs Biba J Reid
Proposal: Erection of detached dwelling with associated access
Address: Tree Tops Nursery To Red Lion Upper Poppleton York
YO26 6QB
Decision Level: DEL
Outcome: ALLOW

The application was for a dwelling in the back garden of an existing dwelling. The site is at the edge of the settlement. The green belt boundary is such that the location of the approved house was not in the green belt, but its rear garden was. A part of the condition challenged would not allow extensions under parts D (porches), E (out-buildings) and F (hard-standing); additions which could have been added in the green belt. The appeal was allowed. The condition also removed PD rights for extensions under Classes A, B and C of the Town and Country Planning (General Permitted Order) 1995. There was no dispute with the removal of these PD rights and therefore the inspector did not address this part of the condition. The inspector referred to Paragraph 017 of the NPPG, which states that conditions restricting the future use of permitted development rights will rarely pass the test of necessity and should only be used in exceptional circumstances. The setting was referred to, in that it was noted that domestic outbuildings could clearly be seen in the adjoining gardens beyond the well-vegetated boundaries. The inspector advised that the location of a site simply by being in the Green Belt does not constitute the exceptional circumstances necessary for the withdrawal of permitted development rights.

Application No: 14/00364/FUL
Appeal by: Mr D Robinson
Proposal: Erection of a bungalow with rooms in the roofspace
Address: 31 Carter Avenue York YO31 0UL

Decision Level: DEL

Outcome: DISMIS

The appeal related to a proposal to erect a 3 bedroom bungalow (with a room in the roof space) in the long rear garden of 31 Carter Avenue. This is an end terraced property on a mid-to-low density housing estate in Tang Hall. The application was refused for the following reasons: The existing housing in the surrounding area was built as a single development and has a very ordered form. The block of 30 adjoining gardens located between Carter Avenue and Seventh Avenue create an open area at the rear of homes that remains free from significant development. It is considered that the introduction of a 6.2m high and 12m long house (and associated access) in to this location would detract significantly from the important and attractive openness of the land and change its form, use and character in a way that would detract unduly from the amenities that residents could reasonably expect to see retained at the rear of their homes. As such the proposal conflicts with policy H4a and GP10 of the 2005 Development Control Local Plan and advice contained in paragraphs 58 (bullet points 1 and 4), 60 and 64 of the National Planning Policy Framework. The Inspector dismissed the appeal agreeing that the proposal would harm the areas character and undermine the established building form.

Application No: 14/00613/FUL
Appeal by: Mr Waldron
Proposal: Demolition of existing house, garages and outbuildings and the construction of a replacement dwelling and garages (resubmission)
Address: Raddon House 4 Fenwicks Lane York YO10 4PL

Decision Level: DEL

Outcome: ALLOW

Planning permission was sought to demolish a modest detached house in large grounds and replace it with a larger, wider, grander house and large detached outbuildings. The site is in a part of Fulford Village Conservation Area that has a rural and verdant character. Consent was refused because, in essence, the dwelling would detract from the spacious character and appearance of the site and the contribution it makes to the historic setting of the adjacent (unlisted) house at Gate Fulford Hall. Whilst acknowledging the rural and verdant character of the area the inspector concluded that the new house would more probably add to it than detract from it. He acknowledged that the adjacent Gate Fulford Hall was grandiose and made a positive contribution to the character of the conservation area but considered that the size and scale of the proposed house compared to the existing Raddon House would not result in a materially greater and harmful visual impact. The appeal was allowed.

Application No: 14/00926/FUL
Appeal by: Mr Mark Davison
Proposal: Alterations to shopfront including new serving counter and canopy
Address: Gourmet Burger Kitchen Limited 7 Lendal York YO1 8AQ

Decision Level: DEL

Outcome: ALLOW

Permission was refused for alterations to the shopfront at The Gourmet Burger King, 7 Lendal, which forms part of a modern terrace within the Conservation Area. The proposal included a serving hatch comprising of a solid timber clad infill panel. The reason for refusal was centred on its poor design which was not considered to respect the fenestration pattern of the building, detracting from the appearance of the host building and the Conservation Area. The Inspector noted that as the hatch would be modestly proportioned, made use of an existing opening and utilised timber materials, it would not be disharmonious on the property and would not appear out of character in an area that comprises of a broad range of frontages. The application was also refused for two awnings, for the reason that by virtue of their location, design, fittings and associated advertisement, they would appear intrusive and discordant to the street scene and would detract from the character and appearance of the Conservation Area. The Inspector noted that the location and design of the awnings, which would be in proportion with the existing fenestration would provide a complimentary modern, clean look to the property. In agreeing that its location within a historic environment requires consideration, the Inspector drew attention to the awning on the adjacent property and whilst noting that the Council state that this was justified on the basis that the premises displayed food, noted that it is nevertheless a feature within the Conservation Area. The Inspector therefore did not agree that the awnings would appear as intrusive features in the streetscene. For these reasons, the Inspector concluded that the awnings and the serving hatch would preserve the character and appearance of the host building and the Conservation Area and the appeal was allowed.

Application No: 14/01014/FUL
Appeal by: Claire Bradley
Proposal: 2no. dormer windows to front and obscured glass to first floor side window
Address: 32A Park Crescent York YO31 7NU

Decision Level: DEL

Outcome: DISMIS

This application sought permission for a front dormer on an end terrace victorian dwelling sited outside of the Conservation Area. The dormer proposed was of poor design and did not relate well to the original dwelling being of horizontal emphasis and being sited high in the roofslope. The materials were also at odds with the original dwelling. The Inspector agreed with these points. No other front dormers are in place within this row and it was also considered that the principle of a dormer would harm the simple rooflines of the row of dwellings, which is characterised by this uniformity. The Inspector agreed again, and noted that whilst CYC had granted permission for a front dormer opposite the site, this feature was considered to be inappropriate and out of keeping with the established street scene.

Application No: 14/01155/FUL
Appeal by: Mr A Cairnes
Proposal: Boundary fence following removal of hedge
Address: 23 Church Lane Wheldrake York YO19 6AS

Decision Level: DEL

Outcome: ALLOW

The appeal related to the refusal of planning permission for a 1.8 metres feather boarded fence following the removal of a long section of mature hedgerow on the side return of this property adjacent to Beck Lane . The fence incorporated an initial a height of approx. 1.5 metres extending to approx 1.8 metres after approx. 8m. The application was refused on its impact to the character of the rural area. The Inspector allowed the appeal on the basis that the location of the fence is not in the Conservation area, it would be adjacent to a wide grass verge and that there is no evidence to suggest the protection of the fence so its removal could be achieved without planning permission . The Inspector concluded that the fence provided additional security and privacy for the occupiers.

Application No: 14/01351/FUL
Appeal by: Mr Michael Taylor
Proposal: Two storey side extension (resubmission)
Address: 21 Hawthorne Avenue Haxby York YO32 3RL

Decision Level: DEL

Outcome: ALLOW

The application site is on the corner plot of Hawthorne Avenue, which turns at 90 degrees. The proposed two storey side extension projected more than 50% of the original width, did not incorporate a set down from the ridge and projected significantly forward of the established front building lines east along Hawthorne Avenue. Though the proposal was a revised scheme, it still constituted a clear breach of design guidance. The Inspector disagreed, though conceded the extension was not a 'subordinate addition' and the result would be 'akin to a short terrace' He also conceded that the properties running east along Hawthorne Avenue have a uniform front building line (though not the properties opposite) He did not consider the extension to be 'out of keeping in this area' but considered it to be of 'good design', an efficient use of side garden and considered the size of the plot as being adequate to house a house.

PE. 21.01.2015

Application No: 14/01498/FUL
Appeal by: Mr Gary Crosby
Proposal: Variation of condition 2 of permitted application 12/01877/FUL to introduce gable to north elevation and alter roof lights
Address: Grantchester Stripe Lane Skelton York YO30 1YJ

Decision Level: DEL

Outcome: ALLOW

The attached appeal related to a replacement dwelling in the Greenbelt. The dwelling is located on the west side of the A19 in Skelton. Planning permission had been granted for a new replacement dwelling in 2012. The replacement dwelling (which has not been built) had a significantly larger footprint and instead of a flat roof like the existing dwelling had a pitched roof with dormers within it. In justifying the larger footprint regard was given to permitted development rights. It was also felt unreasonable to seek a replacement dwelling that retained a flat roof. The new building was set further from the road which removed the conflict with mature trees located around the perimeter. It was felt essential that the property appeared as a bungalow with rooms in the roof space rather than a conventional two-storey dwelling. In 2014 the applicant submitted an application to incorporate a two-storey gable in part of the front of the property to replace a dormer within the roof space. The screened nature of the site meant it would not be prominent. The proposal was refused because, the proposed introduction of a two-storey gable to the previously approved dormer bungalow would significantly increase the scale and bulk of the proposed dwelling beyond that of the approved scheme and very significantly beyond that of the existing low profile single storey-dwelling that is proposed to be replaced. The Inspector allowed the appeal stating that she felt that the changes would not alter the existing impression that living accommodation was located within the roof space. She did not feel that the proposed scheme was sufficiently different to the approved scheme to justify refusal.

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