

Appeal Summaries for Cases Determined 01/07/2015 to 30/09/2015

Application No: 14/01657/CLD
Appeal by: Mrs A Carrington
Proposal: Certificate of lawfulness for conversion of stables/outbuildings to habitable annexe
Address: Hendwick Hall Farm Scoreby Lane Scoreby York YO41 1NP
Decision Level: DEL
Outcome: ALLOW

The attached appeal related to an application for a certificate of lawful use/development to use part of an as a 2 bedroom bungalow. A large en-suite bedroom/guest suite was also proposed within the building but this had no internal link with the proposed bungalow. The building is located within the curtilage of a large detached house in a rural location. The LPA did not issue the certificate considering the external changes were material and that the scale and separation of the proposed annex was such that a new planning unit would be formed. The inspector allowed the appeal. He considered the external changes would not be material and that the proposed detached residential accommodation would be incidental/ancillary to the main house and would not create a separate planning unit. In justifying the decision he made reference to Uttlesford D.C. v. SSE and R.J. White (1992). He pointed to the fact that there was a shared access and parking and that the close proximity of the two buildings would be convenient for social interaction. He also seemed to base his judgement on the accommodation only being occupied by the parents of the occupiers of the main house, or close family members.

Application No: 14/01720/FUL
Appeal by: Mr And Mrs J Benson
Proposal: Erection of two storey dwelling with detached garage (resubmission)
Address: Brook House Main Street Elvington York YO41 4AA
Decision Level: CMV
Outcome: DISMIS

The appeal related to the refusal of planning permission for a new two storey detached dwelling in Elvington Conservation Area. It was refused because of its impact on the landscaped and treed character of the application site and its immediate surroundings which is important in providing an attractive natural backdrop to the village hall and also in terms of forming part of the intact landscaped approach to the heart of the village. The Inspector agreed that the trees as a group were of value to the appearance of the Conservation Area. He did not consider that the applicant had shown that if they were removed there was sufficient space to incorporate suitable replacement planting and a dwelling.

Application No: 14/01750/FUL
Appeal by: Mr Shaun Thomas
Proposal: Change of use of land for siting 20 holiday static caravans in place of touring caravans
Address: Home Lea Elvington Lane Elvington York YO41 4AX

Decision Level: DEL

Outcome: DISMIS

The appeal site comprises a touring caravan site with an extant permission for the siting of 20 touring caravans on land in open countryside within the Green Belt to the north west of Elvington village. The site had been the subject of a previous refusal for the erection of 23 static caravans in 2011 which had been dismissed at appeal at that time. The current proposal was for the erection of 20 static caravans and had previously been the subject of a pre-application enquiry shortly before. It was indicated that there had not been a material change in circumstances since the original refusal and dismissal at appeal. The appellant's agent contested this claiming that the site was previously developed land and therefore appropriate development within the Green Belt in line with the exceptions outlined within paragraph 89 of the NPPF at the same time an appeal judgement in respect of a site at Rochdale in 2010 involving a change from touring to static caravans was sited in support of their case. Planning permission was applied for and duly refused on the grounds that the development was inappropriate within the Green Belt and would at the same time conflict with the purposes of including land within the Green Belt as being an encroachment into open countryside. The refusal was appealed and the Inspector agreed that the development was clearly inappropriate within the Green Belt, it would cause substantial harm to its openness and it would clearly conflict with the purposes of including land within it. The contention that the site was previously developed land was firmly rejected and the appeal decision from Rochdale was dismissed as irrelevant. A claim for our costs was made at the same time and the Inspector agreed that the appeal had been pursued in the full knowledge that it had no reasonable prospect of success and costs were awarded to the Local Planning Authority.

Application No: 14/01760/CLU
Appeal by: Mr David Palliser
Proposal: Use of detached garden building as separate dwelling
Address: The Annexe 20 Asquith Avenue York YO31 0PZ

Decision Level: DEL

Outcome: DISMIS

The appeal relates to the non-determination of a certificate of lawfulness to use a detached rear garden building as a dwelling. The building is occupied by the owner of the host property that is in use as a HMO. The LPA argued that inadequate clear information had been provided by the applicant to indicate that the building had been used as a separate dwelling continuously for 4 years. The Inspector dismissed the appeal. The Inspector stated that the appellant had not provided evidence to show that the garden building had been used continuously for 4 years as a separate dwelling rather than a retreat from the main house. The Inspector did not feel it necessary to assess the issue of deception given the above judgement.

Application No: 14/01835/FUL
Appeal by: Mr D Whiteley
Proposal: Erection of two storey and single storey rear extension, conversion of garage into habitable room and change of use from small house in multiple occupation (use class C4) to large house in multiple occupation (sui generis)
Address: 42 Newland Park Drive York YO10 3HP

Decision Level: DEL

Outcome: DISMIS

The appeal related to the change of use of a small House in Multiple Occupation (HMO) to a 7 bed large HMO. The works involved the erection of a two storey and single storey extension and the conversion of the existing attached garage to a habitable room. The application had been refused because of a lack of car parking and the harm to the streetscene if the front garden were used for bin and cycle storage. It was also considered that 7 people occupying the HMO would harm neighbour amenity. The Inspector dismissed the appeal. She considered that the increase in occupants would be material and unacceptable, that the front garden bin and cycle storage arrangements would be unsightly and that it was inappropriate to remove parking provision and increase the number of occupants. In considering the appeal she made reference to the street being a quiet and pleasant residential environment. She also considered that there would be on street parking pressure in the evenings. In assessing parking provision she noted that the property was occupied by students but stated that this would not necessarily always be the case.

Application No: 14/01917/LBC
Appeal by: Mr Keith Hilton
Proposal: Conversion of basement and ground floor flats into 1 no. residential dwelling with associated works including blocking up existing window, opening existing staircase from basement to ground and installing partition wall between ground floor and first floor
Address: Flat 1 9 Bootham Terrace York YO30 7DH

Decision Level: DEL
Outcome: DISMIS

The proposal was the conversion of two flats into one at 9 Bootham Terrace, a Grade II listed building. The scheme included the formation of a stud wall partition in the entrance hallway. LBC was refused for the reason that the stud partition would detract from the aesthetic and historic importance of the staircase, which appears visually unsupported and pleasingly decorated. It would fail to preserve the character of the building as one of special architectural or historic interest. The Inspector noted that the proposed stud wall would wholly obscure the cantilevered engineering of the staircase. Whilst the Inspector accepted that the wall has been designed as a temporary structure, he concluded it would cause significant detriment to the heritage asset through the loss of views of an important internal architectural feature for an indeterminate period. The Inspector noted that the wall would also reduce the spaciousness of the main entrance hall and that the benefit of reinstating the connection between the basement and the ground floor would be negated by the fact that the original circulation pattern would still be disrupted by the proposed stud wall. Also that further harm would be caused by a resulting loss of natural light to the entrance hallway. Whilst the harm to the significance of the heritage asset was determined to be less than substantial, no evidence was provided to demonstrate that any public benefit would outweigh that harm.

Application No: 14/01963/FUL
Appeal by: Mr John Stabler
Proposal: Change of use from dwelling (use Class C3) to house in multiple occupation (use Class C4)
Address: 75 Heslington Road York YO10 5AX

Decision Level: DEL

Outcome: ALLOW

The proposal was for a change of use from a family dwelling (Use Class C3) to a house in multiple occupation (Use Class C4). The property was in a predominantly residential area and had a reasonably long front garden, so was set back from Heslington Road. The application was refused because the existing density thresholds of HMO's (neighbourhood area 20.7% - street level 35.05%) already breached policy thresholds (Neighbourhood 20% - Street Level 10%). The planning authority did not consider there were any exceptional circumstances, which warranted a departure from policy. The Inspector disagreed, considering the 'property would not be attractive to many families.' She continued by saying 'the intention of the proposal is to provide accommodation for single, professional people' This would add to the diversity of accommodation available and in doing so would 'contribute to mixed and balanced communities.' So rather than conflicting with the policy, as set out in the SPD of April 2012 'Controlling the Concentration of Houses in Multiple Occupation.' the Inspector considered this proposal was in fact compliant with it. In order to achieve and maintain this dynamic, the Inspector imposed a condition to be attached to the consent requiring a management plan to be submitted, establishing the 'types and numbers of occupants.'

Application No: 14/02374/CLD
Appeal by: Mr C Johnson
Proposal: Certificate of lawfulness for retention of dwelling without complying with conditions attached to planning permission 4/2/3487 dated 28/07/1966
Address: Grange Lodge Holtby Lane Holtby York YO19 5XQ

Decision Level: DEL

Outcome: DISMIS

The appeal relates to a detached bungalow in open countryside, west of Holtby, that was granted planning permission in 1966 and was completed in 1968. The appeal application sought a certificate of lawful development for the retention of the bungalow without complying with the conditions of approval. The basis of the request was that the bungalow had not been built in accordance with the approved plans and therefore the permission had never been implemented. As such, the conditions, in particular the agricultural occupancy condition, did not apply. Various legal cases were cited. The Authority's view was that the bungalow had been constructed to all intents and purposes in accordance with the approved plan; it was in the same location, of the same size and design, but rotated in its orientation through 8 degrees. The extent of deviance from the plans was not considered to be material nor would the effect of the variation have given rise to any material objection or harm; the change in orientation was not apparent and neighbouring buildings were some distance away. The legal cases cited in the application were considered not to have direct relevance to the application or related to a significant, and therefore material, discrepancy from the approved scheme. In dismissing the appeal, the Inspector concurred with the Authority and considered that the refusal to grant a certificate was well founded.

Application No: 15/00034/FUL
Appeal by: Mr Alistair Smith
Proposal: Two storey side and single storey rear extensions
Address: 17 Derwent Road York YO10 4HQ

Decision Level: DEL

Outcome: DISMIS

This application was a resubmission of a previously approved application for a pitched roof two storey side and rear extension and single storey extension to be situated on the shared boundary with 15 Derwent Road. The difference was that the roof design was altered from a gable to a pitched roof designed with a set down from the main ridge by approx 400mm. A slight increase in the approved width at first floor level was also proposed. The LPA considered that the proposed roof design would be poorly related and at odds both to the existing house and the terrace block, causing harm to both the appearance of the terrace and the wider street scene. The Inspector agreed and dismissed the appeal on the basis that it would introduce a highly unsympathetic design feature that would be at odds with its immediate context and also unbalance the simple rectangular form of the adjoining terrace. The Inspector also considered that the proposal would result in a poorly designed, highly incongruent addition. Furthermore, it was added that the intended benefit of creating a pitch to resemble the pitched roof at no.15 and allowing a slight increase in width would not outweigh the harm that would be caused to the street scene or the adjoining terrace.

Application No: 15/00547/FUL
Appeal by: Mr Tim Dean
Proposal: Single storey side extension attaching the main house to existing detached garage
Address: Burlands Farm Burlands Lane Upper Poppleton York YO26 6QL
Decision Level: DEL
Outcome: ALLOW

The appeal site is Burlands Farm; a detached dwelling house with adjacent detached double garage situated to the south west of Upper Poppleton. Burlands Farm is one of a group of dwelling houses located in an open farmland setting within the Green Belt. The appellant sought planning permission for a single storey side extension attaching the main house to the existing detached garage. The dwelling house had previously been the subject of extension with a 38.5% increase in the footprint. The proposed extension connecting the house and garage building would further increase the footprint to a total of 115% of the original dwelling house. The proposal was refused planning permission on the grounds of being a disproportionate addition to the dwelling that would be inappropriate development and harmful to the Green Belt. The extension would result in an additional massing that would further harm the openness of the Green Belt. The Appeal Inspector acknowledged the increase in the footprint of the dwelling house that would result from the extension. However, he considered that in this instance due to the linkage of the dwelling house and garage by the connecting wall and courtyard, at present there is little sense of openness and therefore the impact of the extension on the perception of openness would be almost nil. The Inspector concluded that the proposal would not conflict with the five purposes of including land within the Green Belt and would have no material impact on openness. He found that in this instance the proposed development would not be inappropriate but stressed that this is an unusual case. He advised that because of its particular circumstances this finding cannot be used as any form of guide or precedent for other extensions in the Green Belt. The appeal was allowed.

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