

# Appendix B

## Summaries of Planning Appeals decided between 1 July and 30 September 2022

Case number	Appeal by	Description	Address	Outcome
21/00052/NON	Ms Ruth Yeadon	Change of use of public house to 1no. apartment at ground floor level	Murton Arms Moor Lane Murton York YO19 5UQ	Appeal Dismissed

### Notes

The appeal against non-determination of the application related to the change of use of a vacant Public House to two flats. The property is located in a conservation area and has a beer garden to the front with car parking and additional grass land to the rear. The LPA contested the appeal because it was considered that marketing had not shown that the property was unviable and its loss would therefore be unacceptable due to the negative impact on the community's ability to meet its day to day needs and also because of harm that would be caused to the character and appearance of the conservation area. The appeal was dealt with by an Informal Hearing. The Inspector dismissed the appeal making reference to the lack of clear information to show what interest had been expressed in purchasing the property. He also stated that the most recent accounts for the Pub use lacked clarity and the period in which it had been operated by the appellant (6 to 9 months) was insufficient to assess viability. He did not consider that the Derwent Arms located around 1 mile away was in the context of the linkages an alternative facility that would meet the day to day needs of the villagers.

Case number	Appeal by	Description	Address	Outcome
22/00018/REF	Mr and Mrs Leung	Single storey side extension	3 The Grove York YO24 1XD	Appeal Dismissed

### Notes

This appeal was against the refusal of planning permission for a single storey side extension at this detached house. The reason for refusal was the impact on adjacent TPO protected trees of important landscape value brought about by the close proximity of the extension and the subsequent damage/ harm the extension may cause. The TPO trees in question are of significant height, making them a notable feature in views in the area, positively contributing to the leafy and pleasant nature of the area, and also helping to obscure views of the large college building next door. The Inspector noted that the house was already built quite close to the trees and there were no plans showing a root protection area (RPA) or canopy spread of the trees, and no tree survey or arboricultural assessment provided with the application. The inspector noted that the applicant had suggested a number of design and construction solutions, but these were also lacking in detail and nothing in them to suggest that there would be no harm to the protected trees. The inspector concluded this was 'fundamental to the acceptability of the scheme' and imposing conditions would not comply with the decision makers legal duty under Section 197 of the TCPA 1990 regarding the protection of trees. They concluded that 'given the close proximity of the proposal to the TPO trees and the glazed nature of its design, it is reasonable to anticipate that this would increase pressure to alter or remove the trees, particularly if the property were to change ownership within the natural lifespan of the trees'. The proposal therefore failed to 'adequately protect the TPO trees, resulting in a potential adverse impact on the character and appearance of the area'.

Case number	Appeal by	Description	Address	Outcome
22/00019/REF	Mr I Furby	Single storey side extension in association with existing use of property as a house in multiple occupation (use class C4) (retrospective)	29 Deramore Drive York YO10 5HL	Appeal Dismissed

#### Notes

The application was refused on the grounds that it expanded HMO use at the property without properly addressing car and cycle parking and bin storage. It failed to provide the number of car parking spaces required and the tandem arrangement would likely to lead to parking on the street. The size of the car parking spaces was also below standard meaning there would be insufficient maintenance area for vehicles further increasing on street parking. No cycle or bin storage was provided and there was inadequate width at the sides of the property to access the rear. In addition the tandem parking would make it virtually impossible for the movement of bicycles and bins to occur. It was considered it would result in bins and bicycles being stored at the front creating an unsightly appearance in the street and problems for cars accessing parking spaces exacerbating on street parking. The Inspector considered the car parking spaces provided little to no circulation space to allow for ease of access unloading maintenance etc. Furthermore they would not allow for a vehicle in the space closest to the dwelling to be moved independently of another in the space to the front inconveniencing residents of the HMO. In addition a vehicle parked in the gap between the appeal property and the neighbour would block access for those on foot and access with wheeled bins or bicycles would be extremely difficult if not impossible. The inadequate parking provision and further parking pressures arising from the increase in HMO occupants was likely to lead to on street parking in an area where parking pressure is high. He noted that a residents parking zone operated between 0800 and 1700 Monday to Friday but because parking demand was likely to be highest in the evening and weekends he felt it would do little to mitigate the additional parking generated. He also noted that HMO residents were not eligible for parking permits serving to further demonstrate the need for adequate parking provision.

Case number	Appeal by	Description	Address	Outcome
22/00010/REF	Gladman Retirement Living	Erection of 60no. retirement apartments with care, communal facilities, parking, landscaping and associated amenity space following demolition of existing 3no. bungalows.	1 Cherry Lane York YO24 1QH	Appeal Dismissed

#### Notes

The application site comprises an elongated plot at the junction of Cherry Lane and Tadcaster Road directly adjacent to the Dringhouses Conservation Area and directly opposite the former Dringhouses School and associated cottages, each Grade II Listed Buildings. The site is presently occupied by a grouping of chalet bungalows dating to the 1960s with a low pattern of density. The proposal envisaged the construction of a single block of 60 extra care apartments in a three storey building virtually filling the site. Significant concerns were expressed in terms of the impact of the proposed development upon the setting of the Conservation Area, the setting of the nearby Listed Buildings and also the impact of the proposed form of development on the form and character of the wider street scene. The application was considered by Committee and refused on the grounds of harm to the setting of neighbouring heritage assets. A further reason for refusal was added in respect of impact upon the operations of the adjacent racecourse stable. The Inspector indicated that he did not feel there was sufficient harm to refuse permission on the grounds of impact to the stables, however he concluded that the scale and bulk of the proposal was both harmful to the setting of the neighbouring Listed Buildings and the form and character of the street scene more generally. That harm was not outweighed by the public benefits of the proposal and the appeal was dismissed.

Case number	Appeal by	Description	Address	Outcome
22/00011/REF	Mr and Mrs J and K Johnson	Conversion of 2no. buildings to form holiday letting accommodation with alterations to existing vehicular access (resubmission, revised scheme)	125 Temple Lane Copmanthorpe York YO23 3TE	Appeal Dismissed

**Notes**

The site comprises a semi-detached bungalow dating from the 1930s set within a long narrow plot within a detached part of Copmanthorpe to the south east of the main village. The site lies within the general extent of the York Green Belt as well as Flood Zone 3. The proposal was refused planning permission as being inappropriate development in the Green Belt and also on flood risk grounds. The Inspector concluded that whilst the buildings could be capable of conversion the proposed access track and associated curtilage which would be created for the properties would give rise to harm to the openness of the Green Belt and the development was therefore inappropriate development in the Green Belt. At the same time he felt that it had not been demonstrated that the site was not at risk of flooding particularly highlighting the lack of a clear warning system for flood events or a safe means of evacuation. Taking that into account and also policies for encouraging the development of tourist accommodation he felt that the requirements of paragraph 148 of the NPPF in demonstrating "very special circumstances" had not been demonstrated and that the appeal should be dismissed.

Case number	Appeal by	Description	Address	Outcome
22/00012/REF	Mr Paul Lee	Conversion of existing house into two dwellings with single storey rear extension, side and rear dormers, rear extension, demolition of garage and erection of new dwelling to rear	Cedar House 29 Station Road Haxby York YO32 3LU	Appeal Dismissed

**Notes**

Planning permission was refused for the creation of 2no. houses at this site, one by sub-dividing the main house to create a 2nd house, and also the erection of a new, single storey, contemporary detached house in the garden area to the rear. The application was recommended for approval, but was refused by the sub-committee due to the impact of the new house on the character and form of the application site, and its near surroundings, and it being an over-development of the site. The Inspector considered its single storey, contemporary appearance would result in a somewhat squat, cramped appearance which would be an uncharacteristic form and appearance in the area, not sufficiently reflecting the 'scale and identity of neighbouring properties'. The footprint of the property, together with the car parking area, would have resulted in a significantly smaller garden than is typical of the area. They further concluded that 'The constrained nature of the site is therefore such that the proposed detached dwelling would appear as a contrived, conspicuous, and cramped form of development', this discordant impact being clearly visible from neighbouring properties. They concluded that the development, overall, constituted poor design which would be 'wide ranging and long lasting' and in the planning balance this was not outweighed by other matters. Local objectors concerns over impact on neighbour amenity and the additional utilisation of a shared access drive were not put forward as reasons for refusal by the Council and the Inspector agreed with the Council on these matters.

Case number	Appeal by	Description	Address	Outcome
22/00020/REF	York Holiday & Cycle Stop	Change of use of land to form 25 pitch touring caravan and motorhome site with associated works including site office and facilities building.	Os Field 0131 Holtby Lane Holtby York	Appeal Dismissed

**Notes**

The appeal related to the proposal for a 25 pitch caravan site with associated internal road and hard standings on a large paddock on the edge of Holtby. It was refused planning permission because it was inappropriate development within the Green Belt and no very special circumstances had been identified that clearly outweighed the harm that would be caused to openness. The Inspector dismissed the appeal. He stated that the proposed development would lead to a significant reduction of openness compared to the existing situation and would conflict with the fundamental aim of keeping land permanently open. He did not consider that the moderate economic and employment benefits that would result from the scheme would outweigh this harm.

Case number	Appeal by	Description	Address	Outcome
22/00003/REF	Transcore Ltd	Erection of 1no. dwelling to rear of No.62 Heworth Road and conversion of outbuilding to dwelling with single storey extension following demolition of detached garage (resubmission)	62 Heworth Road York YO31 0AD	Appeal Dismissed

**Notes**

The application was recommended for approval by officers. However in refusing the scheme sub-committee considered that the proposal would result in an over-development which would be out of keeping with the character of the locality and would result in significant harm being caused to its character and appearance. They also considered that insufficient information had been provided on the impact on trees and biodiversity. The appeal was dismissed. The Inspector found that the new dwelling would be sizeable with a small front and rear garden area. He noted that the urban grain is dense in nature with the appeal site allowing a little respite from development and concluded that additional dwellings would not be a positive feature with regard to the character and appearance of the area, they would fail to harmonise with the established surrounding pattern of housing and that the design of the new dwelling would look incongruous in this area. The Inspector considered that planning conditions could be used to protect the tree during development.

Case number	Appeal by	Description	Address	Outcome
22/00024/REF	Mr Anthony Bell	First floor balcony to front elevation (resubmission)	29 Fylingdale Avenue York YO30 5FP	Appeal Allowed

#### Notes

The appeal related to the refusal of application 21/02747/FUL for a first floor balcony to front elevation. The host property is located within the Clifton area and is a detached two storey dwellinghouse situated in a suburban residential setting in a group of detached houses looking out over a wooded landscape to the south. The application site is also located within the Green Belt. The reasons for refusal related to the design and means of enclosure of the proposed first floor front balcony and also its impact on the amenity of neighbouring residents at 27 Fylingdale Avenue. The inspector allowed the appeal, stating the structure would be relatively small scale, projecting no further than the existing front of the dwelling. The contemporary design of the balcony and associated alterations would be in keeping with the existing dwelling and would not dominate it nor detract from it. Given the position of the property on a private drive, set back from both of its immediate neighbours, the impact on the street scene and the character of the wider area would be negligible. With regards to the neighbouring harm the Inspector agreed the proposal would impact the bathroom. However, the bathroom is a non-habitable room and such an effect on this room would not justify rejection. With regards to the neighbour's kitchen window at ground floor it was felt it was already enclosed by the existing side wall of the appeal property and as this side window is not the only window serving the room, such effects would also not result in significant harm to living conditions. The proposed side wall to the balcony was deemed a sufficient height to preserve the privacy of the neighbouring occupants at No. 27. The Inspector concluded that there was no persuasive evidence to indicate that disturbance from a balcony would be any worse than use of existing gardens in the summer

Case number	Appeal by	Description	Address	Outcome
22/00017/REF	Prof Michelle Peckham	Rebuilding of roof with dormer to rear, 3no. rooflights to front and 1 lantern light to ridge	8 Portland Street York YO31 7EH	Appeal Allowed

#### Notes

This application for a rear dormer was refused on the grounds that Portland Street, which is comprised of late 18th and mid to late 19th century terraced housing of high aesthetic value, makes a positive contribution to the character and appearance of the Central Historic Core conservation area. Although, as with many traditional areas, it has experienced some modern additions, such as dormers, that have had a detrimental impact on the historic roofscape, the northern part of the terrace, within which the application property is located, has experienced much less intrusion in its roofscape with only one small dormer and some rooflights in situ. As a result, a much greater sense and appreciation of the historic roof form is possible with large expanses of roof slate in evidence. For these reasons the LPA wished to resist further interventions into the roofscape of the terrace. It was also considered that the proposed dormer, with its contemporary design, would be alien to the historic context and would appear as a dominant and discordant feature with the use of zinc and cedar for external cladding and the window shape and dormer proportions being out of character. The Inspector considered that the proposed use of large glazing panels, modern materials and a flat roof deviate from the traditional architecture of No 8. However, the vertical emphasis of the rear glazing is sympathetic to that of the main elevation windows and, given the scale of the host dwelling, the proportions appear commensurate, do not result in a top-heavy appearance, and will allow original roof features to still be appreciated.

Case number	Appeal by	Description	Address	Outcome
22/00015/NON	Mr Craig Smith	Erection of 8no. dwellings with associated works following demolition of existing buildings	The Wilberforce Trust Wilberforce House 49 North Moor Road Huntington York YO32 9QN	Appeal Dismissed

#### Notes

In dismissing the appeal the Inspector did not take issue with the external appearance of the dwellings and agreed that they would respect the building line of North Moor Road. However they considered the site would be cramped with little visual relief in terms of open or green spaces, stating that open spaces would be occupied by parking spaces. The prominence of cars, lack of turning space and need for a central bin collection and lack of landscaping all emphasise that the site is overdeveloped. The Inspector also concluded that the refuse bin collection area would be in a prominent location and an unacceptable distance from some of the dwellings, and that there was not sufficient space for a refuse vehicle to stop and load safely without impeding traffic and pedestrians. The Inspector considered that the development was contrary to paragraph 112(d) of the Framework, because the site layout did not demonstrate that larger and emergency vehicles could move within the site safely and efficiently. The Inspector was concerned that no noise report had been submitted in relation to the car repair garage to the west, and considered that it was likely that the business would generate large amounts of noise and the proposal would not ensure suitable living conditions in this regard for potential future occupiers of the dwellings proposed. The Inspector agreed that the development would result in a loss of a site capable of employment functions in the future. The scheme did not demonstrate that it would not have an impact of protected species nor that it would provide for bio-diversity net gain. The construction of new dwellings was given moderate weight but did not outweigh the identified harm.

Case number	Appeal by	Description	Address	Outcome
22/00006/CON	Co-op Estates	Installation of louvres, 2no. doors and external Amazon lockers, provision of plant and machinery and changes to previously approved store opening and delivery hours.	David Wilson Homes Limited Marketing Suite Hallmark House Joseph Terry Grove York YO23 1PX	Appeal Allowed

#### Notes

The application site comprises the ground floor of Hallmark House one of the blocks of apartments erected as part of the wider Terry's Chocolate Works re-development. It had previously been used by David Wilson Homes as their marketing suite and planning permission was applied for by Co-Op Stores for fitting out works and also to establish the intended opening hours for the store. Opening hours of 07:00 to 23:00 were applied for and accompanied by a noise management plan. However a closing time of 22:00 was applied by condition because of the amenity characteristics of the wider area. The appellant appealed the condition and in the absence of any further justification for the condition that outweighed the conclusions of the noise report the appeal was allowed.

Case number	Appeal by	Description	Address	Outcome
22/00004/NON	Dr Graham Dykes	Change of use from dwelling house (use class C3) to House in Multiple Occupation (use class C4)	28 Heworth York YO31 1AF	Appeal Dismissed

**Notes**

The proposal was to convert a semi-detached bungalow within Use Class C3 to a 6 no. bedroom HMO within Use Class C4. The property was within HMO thresholds set out in the SPD and Local Plan policy. The Inspector noted that the LPA's main concern was the level of parking provision and referred to Appendix E of the Development Control Local Plan (2005). This required 3.no off-road spaces. He also noted that this document stated that the spaces should all be independent of each other. The Inspector noted that it was apparent from his site visit that due to single yellow lines parking nearby was extremely limited. He therefore considered that 3.no spaces were necessary in this case. He additionally noted that the off-road parking provision as proposed would restrict cycle access to the store at the rear of the property. He concluded that the proposal therefore conflicted with the Local Plan and dismissed the appeal.