

Appendix B - Summaries of Planning Appeals decided between 1 July and 30 September 2024

Case number	Appeal by	Description	Address	Outcome
24/00016/REF	Mr Jeremy Preston	Single storey rear extension with pergola to rear and installation of solar panels to rear roofslope	The Nursery79 Bishopthorpe RoadYorkYO23 1NX	Appeal Allowed

Notes

Permission was sought for a large, single storey rear extension occupying the full width of the site, extending some 10m into the garden. The extension would extend no further than existing extensions to the property, however it would infill the full width of the site up to 10.2m. The extensions was of unconventional design, which given its significant scale, massing and materials was considered by officers to appear at odds with the prevailing linear development of the terrace and resulting in a harmful addition to the dwelling. The application was refused on the grounds of poor design. The inspector noted however that this approach (contemporary detailing, metal finishes) would assist in distinguishing the new elements from the original and this would not represent poor design or detract from the character of the dwelling. The inspector also noted that the extension would not be seen in public views and whilst the level of unity of neighbouring properties would be reduced and the historic footprint altered it was concluded that the new detailing would not represent poor design or result in harm to the existing character or appearance of this property or the wider area. No specific comment was made in terms of the scale or massing or that it would go against the prevailing linear development. The inspector referred to the Council's House Extensions and Alterations SPD and acknowledged that contrasting materials would be considered on a case by case basis. It was then concluded that as the works overall, would not dominate the house or clash with its appearance, it would not be at odds with SPD guidance.

Case number	Appeal by	Description	Address	Outcome
24/00013/REFCPD	Mr Timothy James (Tim) Clark	Certificate of lawfulness for proposed development of a single storey rear extension and rear extension to existing outbuildings	Botland House Main StreetHeslingtonYorkYO10 5EG	Appeal Dismissed

Notes

The appeal related to a semi-detached dwelling at Botland House, Main Street Heslington and the refusal of a Certificate of Development for a single-storey rear extension. The issues of contention related to when the property (originally detached) became semi-detached and when the existing outbuildings were added to the property. The reason for refusal was that, the resulting new entrance lobby extension (as shown on drawing 004 revision 2) would project more than 3.0m beyond the original rear wall of the dwelling and would therefore breach the tolerance for a non-detached dwelling, set out in Class A (i) of the General Permitted Development Order. The Inspector considered the conflicting positions taken by the applicant and Local Authority and concluded that for planning purposes the property constituted an end of terrace and not a detached dwelling. He then considered the historical development of the property, including existing outbuildings and concluded that the proposal did not fall within Class A tolerance, as it would project more than 3.0m beyond the original rear wall.

Case number	Appeal by	Description	Address	Outcome
24/00023/REF	Mr Ivan Zhou	Single storey side/rear extension, additional storey and installation of solar panels to side roofslope following demolition of garage (resubmission)	9 Eastfield CourtYorkYO10 5JA	Appeal Dismissed

Notes

Planning permission was refused for a 'Single storey side/rear extension, an additional storey and installation of solar panels to side roofslope'. There were 3 reasons for refusal, an over-development of the plot, mainly through the introduction of the additional storey being an over dominant and incongruous addition to a modest sized property, loss of privacy from the additional storey resulting in windows in close proximity to the boundary with neighbours, and poor design eroding most of the front garden through the introduction of a cycle store, harming visual amenity and the character of the house and streetscene. The Inspector upheld the reasons for refusal on over-development and loss of privacy to neighbours. They supported the LPA with particular regard to the additional storey which would add bulkiness and scale which was at odds with the character of the area, which is characterised by bungalows and smaller houses, but with a consistent form. The increased scale was significant and attention would be drawn to the house and its contrasting form which would appear 'cramped and austere'. When all elements of the proposal were considered, a large and incongruous development would ensue. The Inspector also concluded that given this increase in size and scale, the relationship with neighbours would change in the tight knit context. In particular the close proximity of a new first floor bedroom window to 5 Sussex Close, resulting in a clear and unobstructed view into the rear garden would be introduced where currently there was no such impact. However, the Inspector did not support the erosion of the front area for a cycle store refusal reason, concluding that a scheme could be provided which was appropriate in the streetscene, and a condition could be imposed to safeguard this.

Case number	Appeal by	Description	Address	Outcome
24/00014/REF	Mr M Atkins	Erection of detached garage	Berkshire3 Newsham House BarnsMain StreetHoltbyYorkYO19 5UD	Appeal Allowed

Notes

The site is in the green belt and involved relatively new build homes following demolition of buildings previously on site. The permission for the new builds removed permitted development rights for additional outbuildings. The appeal was for a triple garage. An exception to inappropriate development in the Green Belt is for extensions, provided the extension does not result in disproportionate additions over and above the size of the original building. The Inspector considered that whilst the building was an outbuilding rather than an extension, with it being incidental to the main house, it can be considered under the aforementioned criteria, as established by case law. The proposed building would only increase the footprint of the dwelling by 20%; it was therefore not a disproportionate addition. The garage was found not to conflict with Green Belt policy and the appeal was allowed.

Case number	Appeal by	Description	Address	Outcome
24/00015/REF	Network Rail (Infrastructure) Ltd	Demolition of existing light industrial building	Camerons Gt Autos Ltd Vehicle Repair Workshop12 The CrescentYorkYO24 1AW	Appeal Allowed

Notes

The application site relates to a light industrial building dating to the early 20th Century framing the end of The Crescent. It sits within the Central Historic Core Conservation Area at the boundary of the The Crescent and Station Area character areas. The building is of no particular townscape merit but it is representative of the characteristic railway related structures in the environs of the station and forms a valuable townscape function of closing off the pattern of development. The previous motor trade use had ceased and Network Rail applied for planning permission to demolish the unlisted building in the Conservation Area. Following on from the Inspector's Site Visit we were informed that Network Rail had partially undertaken the work removing the roof and part of the rear wall of the building on alleged safety grounds. The Inspector requested views on any approval being conditioned to secure the remaining walls and gable end to ensure that the function of the site in townscape terms remained. The Inspector duly allowed the appeal with that condition in place.

Case number	Appeal by	Description	Address	Outcome
24/00012/REF	Mr Michael Overington	Change of use from residential dwelling to short term holiday let	14 Newlands DriveYorkYO26 5PQ	Appeal Dismissed

Notes

The proposal was to change the use of a two-bedroom detached bungalow (C3) from a residential family home to a short-term holiday letting property in a predominantly residential area. The applicant lives in an adjacent property and confirmed they would be responsible for the future management of the holiday let. The LPA acknowledged that holiday let accommodation would support tourism that would contribute to the economy for York. However, it was considered that the proposed use would have the potential to create harm to neighbour amenity on the grounds that a short stay holiday let would result in more comings and goings near neighbour's gardens and houses, and potentially greater levels of noise and disturbance at more anti-social hours than would normally be reasonably expected with a family home. The harm established was not considered to be outweighed by the intension of the applicant to manage any disruption to neighbour amenity resulting the applicant being refused. The Inspector agreed with the LPA on matters of harm to neighbour amenity and did not consider any disturbance to the property could be controlled by the applicant. The Inspector was not made aware of any other management plan to demonstrate the control of activities that would be practicable or enforceable. The Inspector balanced their assessment of the proposal on draft local plan polices D1(placemaking) and ENV2 (managing environmental quality) and concluded they weighed against planning permission being granted. The appeal was dismissed.

Case number	Appeal by	Description	Address	Outcome
24/00011/REF	Mr Reece Fisher-Lowry	Replacement windows and external doors throughout	Mount Court Holgate Road York	Appeal Dismissed

Notes

Planning permission was sought for replacement windows throughout this building, which is one of the more modern buildings on Holgate Road. It is however set within the Holgate Road part of the Central Historic Core Conservation Area. The windows were proposed to be altered from mock sash timber windows to UPVC casement windows. The LPA considered them to be bulky with a poor overall finish, contrasting in a number of ways to the existing openings, and wider area. The use of white UPVC further added to what the LPA considered to be a poor quality design and appearance, which resulted in harm to the character and appearance of the building and the wider conservation area. The Inspector acknowledged that the application building was more contemporary, but that it still harmonised with the well-established character and appearance of the area, which extended to the fenestration details, and which helped provide unity and cohesion across the area. They also noted a particular unity to the northern side of Holgate Rd where the application site is situated, and which they agreed was an important feature of the Conservation area. They concluded that the proposed windows were very much at odds with this unity, introducing bulky UPVC casement style windows, which represented a significant deviation from the historic window form. The Inspector concluded that 'the proposed window treatment would significantly undermine the ability of Mount Court to adequately acknowledge and resonate with its wider predominantly Victorian heritage context'. There were no public benefits which outweighed this harm. The appeal was dismissed.

Case number	Appeal by	Description	Address	Outcome
24/00010/REF	Mrs Janet Astley	Two storey front extension and single storey rear extension	Orchard Farm Wheldrake LaneWheldrakeYorkYO19 6BQ	Appeal Dismissed

Notes

The proposals were for a domestic extension in the Green Belt. In terms of whether the development was inappropriate by definition, the Inspector noted the NPPF doesn't define what is a disproportionate addition - it is a matter of judgement. However householder SPD guidance document advises that to extend the original footprint by more than 25% has traditionally been considered to be a disproportionate addition. The Council calculated a 75% volume increase and the inspector agreed cumulatively extensions would be significant. The building is within a very open agricultural landscape. Spatially, the extensions would result in built development where there is presently none. The appeal proposal would thus increase the volume and massing of the existing dwelling. Visually, the proposal would be predominantly screened from the road and neighbouring properties due to its isolated position and various boundary vegetation. However, the proposal would still be visually apparent at close range. The lack of a public view may mitigate its impact but does not preclude all inherent visual harm to openness. Overall, the proposal would thus result in harm to openness, both spatially and visually. The appeal was dismissed.

Case number	Appeal by	Description	Address	Outcome
23/00047/REF	Arborfield Estates Limited	Change of use from public house (sui generis) to ground floor coffee shop (use class E), 3no. flats to first and second floor levels. Erection of a single storey rear extension following removal of conservatory with associated external works, boundary treatment and parking.	Bay Horse Public House 105 Main Street Fulford York YO10 4PN	Part Allowed/ Part Dismissed

Notes

The application proposed the change of use of the Bay Horse Public House (sui generis use) in Fulford to a coffee shop (use class E) with 3no. residential flats above (C3 use). The first refusal reason related to the loss of a valued community facility (public house with rooms) and the loss was not considered justified (in conflict with paragraph 93 of the NPPF and policy HW1 of the Draft Local Plan). The LPA did not consider the new coffee shop a community facility. It had not been demonstrated that reasonable attempts have been made to actively market the land and premises to demonstrate the community facility was no longer financially viable and no consultation had taken place with the local community. The Inspector however concluded the change of use of the ground floor from a public house to a coffee shop, would not adversely affect the provision of community facilities and considered the coffee shop of equivalent capacity and quality as the public house, therefore re-provision on site. The Inspector noted viability testing and marketing was not required as part i of Policy HW1 had been met (although only limited weight was attached to this policy). The second refusal reason related to concerns regarding works to the front of the building in the Conservation Area (new entrance door, awning and 2m high timber fence). The Inspector agreed these works would be detrimental, therefore issued a split decision, noting the change of use could take place without the refused external works.

Case number	Appeal by	Description	Address	Outcome
24/00003/REF	Beverley Quinn	Single storey side extension after removal of garage/pantry	Greenacres York Road Deighton York YO19 6EY	Appeal Dismissed

Notes

Planning Permission was sought for a single storey side extension following demolition of a garage. The application site is in the general extent of the green belt and within the landscape setting of the Escrick conservation area. The application was refused on two grounds: inappropriate development in the green belt arising from a disproportionate addition, having some impact also on openness, and harm to the character and appearance of the conservation area. The previous planning permission for a garage at the site, which has been implemented, was contingent on the removal of the existing garage/store, in the interests of preserving openness. The proposal would instead replace the existing garage/store with a larger structure, in addition to the approved garage. The inspector concurred with both reasons for refusal concluding that the extension would be inappropriate development in the green belt having both a visual and spatial impact on openness. It was also concluded that the scale and location of the extension would have a detrimental impact on the character and appearance of the conservation area. None of the reasons put forward by the applicant were considered to constitute very special circumstances that would outweigh the harm identified.

Case number	Appeal by	Description	Address	Outcome
24/00009/REF	Mr Isa Demir	Change of use from office (use class E) to Large House in Multiple Occupation (sui generis)	65 Osbaldwick LaneYorkYO10 3AY	Appeal Dismissed

Notes

The application proposed the change of use of an office (E class) to a large HMO (sui generis) on Osbaldwick Lane. The application was retrospective. The first refusal reason related to the proposed loss of employment premises which was unjustified and insufficiently evidenced. The Inspector agreed and noted a lack of comprehensive and meaningful marketing and lack of objective assessment in terms of the shortcomings of the premises for employment generating uses. The proposal was in conflict with paragraph 85 of the NPPF and draft policy EC2 of the Local Plan. A second refusal reason stated an additional HMO in this location would have a detrimental impact on the character of the area, would result in harm to the amenity of neighbours (noise, lack of management, refuse, disturbance, comings and goings) and result in further erosion in the balance of the wider community. The Inspector agreed and noted the large percentage of HMOs at street level and the change in character and intensity of the use. The Inspector concluded the applicant had not adequately evidenced an absence of harm. Neither had the applicant proposed appropriate mitigation for the harm that the appeal proposal could impose on its immediate context so as to align with the clear purposes of the SPD and the requirements of Policy ENV2 and paragraph 135 of the NPPF. The appeal was therefore dismissed.

Case number	Appeal by	Description	Address	Outcome
24/00008/REF	Mr P Waterhouse	Erection of summerhouse to side (retrospective)	Newstead Front StreetNaburnYorkYO19 4RR	Appeal Allowed

Notes

The application was submitted retrospectively for a large wooden summer house with veranda on stilts to the side of a detached bungalow on Front Street, Naburn. The site is the Green Belt and within flood zone 3, high risk of flooding. Planning permission was refused for three reasons, due to the lack of flood risk assessment; its scale, position and design which caused a degree of harm to the openness and permanence of the Green Belt; and loss of privacy. Officers considered that prior to the summerhouse being erected, the adjacent garden was unusually private in that it was not overlooked by neighbouring properties, the summerhouse could have been orientated straight down the garden and therefore not caused loss of privacy and the boundary should not have been reduced in height by the applicant. In dismissing the Appeal, the Inspector gave very limited weight to the policies in the Publication Draft Local Plan (2018 as modified 2023). They considered that the summerhouse, whilst detached from the dwelling, related physically and functionally to it and should therefore be treated as an extension to the house in terms of undertaking a Green Belt assessment. They concluded that it was not inappropriate development in the Green Belt. The Inspector considered the building to be an outbuilding rather than permanently habitable and being raised on stilts, the risk of flood damage was minimised, and would not restrict flood water or increase flood risk elsewhere. Taking a pragmatic approach, in the absence of an FRA, they considered it acceptable on these grounds. They also did not agree that there was an unacceptable loss of privacy for the neighbours as overlooking was to the end section of the garden which was also adjacent to an area of land owned by York Marina and accessible to the public and some overlooking of gardens was not unusual or unacceptable. The Appeal was allowed.

Case number	Appeal by	Description	Address	Outcome
24/00017/REF	Mr Tony Murphy	Erection of outbuilding to provide covered parking with installation of EV charging point	The Grange Foss Bank Farm Strensall Road York YO32 9SW	Appeal Allowed

Notes

Permission was sought for a detached 3-bay outbuilding to be used for covered parking, EV charging and storage for garden maintenance equipment. The site is within the general extent of the green belt. Permission was refused as the proposal comprised a new building in the green belt which did not fall within one of the exceptions set out in paragraph 154 of the National Planning Policy Framework. As such it was considered to be inappropriate development in the green belt. The applicant put forward that the building should be considered as an extension and therefore should reasonably be considered to fall within the exceptions for extension / alteration of a building providing that it does not result in disproportionate additions over and above the size of the original building. This view is supported by judgement in Warwick DC v SSLUHC, Mr J Storer & Mrs A Lowe [2022] EWHC 2145. The judge found that with regard to the exceptions included in government guidance at that time, an extension can include structures which are physically detached from the building of which they are an extension. The inspector acknowledged that the proposed outbuilding would be located adjacent to the driveway of the property and would be very closely associated with the dwelling. In light of the judgment above the inspector considered the outbuilding to fall within the category of extension to the existing dwelling. As part of the assessment, it was also determined that the scale of the outbuilding would not be disproportionate to the dwelling (large 5 bedroom property) and that there would be no harm to the character and appearance of the area and no harm to openness or to any purposes of the green belt.

Case number	Appeal by	Description	Address	Outcome
24/00018/REF	Mr Simon Dunn	Change of use of agricultural land to the siting of 104 storage containers (use class B8) - retrospective (resubmission)	BHE Self Storage Self Storage Facility Lambshill Towthorpe Moor Lane Strensall York YO32 9SR	Appeal Dismissed

Notes

The application proposed the change of use of agricultural land for the siting of 104 storage containers on land at Lambshill. The application was retrospective. The application was refused at Planning Committee on two grounds; inappropriate development in the Green Belt (and very special circumstances not identified) and adverse impact on landscape character. The Planning Inspector agreed the development would fail to meet any of the exceptions set out in the NPPF, therefore the containers were considered inappropriate development in the Green Belt. The Inspector concluded the development caused harm to the character and appearance of the area. The Planning Inspector gave substantial weight to Green Belt harm and when combined with the other identified harm to landscape character, the harm was not outweighed by the benefits put forward and the very special circumstances necessary to justify the proposal did not exist. The appeal was dismissed.

Case number	Appeal by	Description	Address	Outcome
24/00021/REFLBC	Mr Anthony Vickers	External alterations including display of 1no. non-illuminated painted sign - retrospective	The Little Yorkshire Candle Company72 GoodramgateYorkYO1 7LF	Appeal Dismissed

Notes

The appeal building is a Grade 1 listed building (of the highest importance / significance). The appeal related to painted signs. The signs due to their size were deemed to detract from the simple architectural form, character and appearance of the building. The inspector was unconvinced that such a large sign was the only means of successfully advertising the business. In considering whether public benefits outweighed the harm the inspector found no evidence as to the viability of the business or the degree to which the proposal contributes to that and no specific evidence to demonstrate that more appropriate alternative signage would not have the same benefit as the existing. The appeal was dismissed.

Case number	Appeal by	Description	Address	Outcome
23/00026/REF	Mr Silesu	Change of use of footway to form seating areas to front and side, installation of awning to front and 2no. additional awnings to side and installation of folding glass doors to front (retrospective)	Il Paradiso Del Cibo40 WalmgateYorkYO1 9TJ	Appeal Dismissed

Notes

The scheme was for outside seating on the pavement in front of the premises and for full height front windows and awnings. The site is not within the city centre footstreets. It is in the central historic core conservation area. The footpath is 2-3m wide and the seating encroached over most of the footpath. The arrangement left little space for pedestrians to pass by, still less to pass one another, forcing them to step off the footway into the road. This would be hazardous, and particularly so for those with buggies and wheelchair users. The appeal was dismissed as the arrangement was in conflict with the NPPF in respect of avoiding unacceptable impact on highway safety and to seek to prioritise pedestrian movements. The full height glazing and awning also subject to the appeal were not characteristic of the architecture of the host building and other historic properties in the street. the appeal was also dismissed in terms of harm to the conservation area.