

Appeal Summaries for Cases Determined 01/08/2009 to 31/10/2009

Application No: 05/02470/FUL
Appeal by: Mr S N Smallwood
Proposal: Retention of agricultural buildings to house livestock and equipment
Site: Fircroft □ Moor Lane □ Haxby □ York □ YO32 2QW □
Decision Level: DEL
Outcome: DISMIS

A farmer had built two sheds for industrial use on agricultural land in the green belt. A subsequent enforcement notice (upheld at appeal) required the farmer to remove the buildings. Instead, he sought planning permission to use the buildings for agriculture. The council refused planning permission on the grounds that agricultural need had not been demonstrated and that the design of the buildings was out of keeping with the rural/green belt location. The inspector found that: (a) The buildings were inappropriate development in the green belt because they were built for a non-agricultural purpose, did not look like agricultural buildings and were not needed for agriculture even though they currently had farm machinery in them; (b) The buildings eroded the openness of the green belt and their stark industrial appearance was harmful to the rural character of the area. He took into account that the farm had permitted development rights for new buildings. But they would only allow a much smaller volume of development, would have to be reasonably needed for agriculture and, in any case, would need prior approval from the council. The inspector concluded that the case made by the applicant did not amount to very special circumstances that outweighed the harm caused by the development. The appeal was dismissed.

Application No: 08/00525/OUTM
Appeal by: Robert Laverack
Proposal: Erection of 14 dwellings after demolition of existing factory
Site: Laverack Joinery□Unit 1□Birch
Park□Huntington□York□YO31 9BL□
Decision Level: CMV
Outcome: PAD

The council granted outline planning permission, subject to conditions, for the erection of 14 dwellings. The appeal was against nine of those conditions. The inspector's findings are as follows: Condition 4 (Details of security gate). The substance of the condition could be included within Condition 17. Condition 5 (Submit sustainability assessments to show compliance with CoSH Level 3) was allowed subject to slight rewording. Condition 6 (Minimum of 10% of energy from on-site renewable sources) was allowed. Condition 8 (A noise survey shall be carried out and any sound insulation measures installed prior to first occupation). Whilst in this case there is some uncertainty over the potential for noise disruption from an existing business, a noise survey and possibly noise mitigation is necessary. The condition was allowed subject to slight rewording. Condition 12 (No development until details of the road layout have been approved). The appellant felt that the timing set by the condition was too onerous. During the hearing more onerous wording was agreed and the condition was varied accordingly. Condition 13 (Measures to prevent mud, etc during construction) was deleted. Condition 15 (£31,500 for public open space) agreed subject to very minor rewording. Condition 16 (£32,540 education) was deleted because two secondary schools in the adjacent catchment, and not much further from the appeal site than Huntington School, have available spaces and the nearest primary school had surplus places. Condition 17 (Secured by Design) was allowed subject to a variation to include reference to the security gate. See Condition 4.

Application No: 08/00770/FUL
Appeal by: Mr And Mrs Gatenby
Proposal: Alterations and extensions to existing dwelling and erection of a detached double garage
Site: The Old Gatehouse□Wheldrake Lane□Elvington□York□YO41 4AZ□
Decision Level: DEL
Outcome: DISMIS

The works mainly comprise an extension to a modest detached house to provide enlarged living accommodation and a new double garage in connection with the adjacent caravan park/B&B. The council refused planning permission on the grounds of (a) inappropriate development in the Green Belt due to disproportionate additions to the original dwelling; and (b) cumulative impact on the openness of the Green Belt. The site lies within open countryside in the green belt. The premises mainly comprise bed and breakfast accommodation and a seasonal caravan park, both operated by the applicants. The business has a range of buildings including a large house (which has been considerably enlarged over the years to provide separate living and B&B accommodation). The rear part of the site comprises the caravan park. Within the grounds is a modest brick building which the applicants converted it to a residential dwelling without planning permission. It subsequently became established. This is the building the applicants wanted to extend and add the garage. The inspector found that although the size of the extended dwelling would still be modest the additions proposed amounted to disproportionate additions to the very small existing building. It was therefore inappropriate development in the Green Belt. Existing screening from most vantage points would not prevent the loss of openness. Enlarging the residential use would have an urbanising effect on the site, harming its character. Whilst the proposed removal of some of the outbuildings on the site would increase openness their removal would not arise from the development. The existing dwelling has been occupied by the applicants for some years, during which their circumstances have not significantly changed, so there is little evidence of need for the extension. The inspector concluded that the case made by the applicant did not amount to very special circumstances that outweighed the harm caused by the development.

Application No: 08/02361/FUL
Appeal by: Mr Simon Crowther
Proposal: Erection of a replacement dwelling
Site: Newlands □ Back Lane South □ Wheldrake □ York □ YO19 6DT □
Decision Level: DEL
Outcome: DISMIS

Planning permission was refused by the Council for a replacement dwelling. The existing house is a small, timber clad, single storey dwelling which offered a modest level of accommodation space. The replacement dwelling was approx. 6 m longer, 5 metres deeper and 2.5 m higher than existing. The application was refused on the grounds that it amounted to inappropriate development in the Green Belt as the replacement was much larger than the one it was replacing. It was also deemed to harm the openness of the Green Belt. A further reason for refusal was on flooding grounds as no drainage information was submitted with the application. The Inspector agreed with the Council that the 'far larger building than the one it would replace' was inappropriate development and therefore, by definition, harmful to the Green Belt. He also concluded that the larger building would also 'erode the character of the Green Belt'. He concluded this not only on the basis of size, but also on design grounds. The existing house is a timber building with 'rustic character that fits easily within its rural setting'. The replacement was a larger, brick built bungalow which the Inspector concluded would have an 'urbanising effect on the site' which would harm its character further, particularly against the backdrop of open fields. This effect, he concluded, further harmed the openness of the Green Belt. On the question of flooding, given there was an existing house on the site, the Inspector concluded that the additional effect on drainage was likely to be minimal and no evidence had been forwarded by the Council that the existing house had caused any drainage problems in the past. Therefore a condition could reasonably be imposed to agree details which would be acceptable, even though the proposed house would be larger. Appeal therefore dismissed on the harm to the Green Belt only.

Application No: 08/02441/TCNOT
Appeal by: Vodaphone Limited
Proposal: Proposed installation of 12.2 metre high telecommunications mast with associated equipment
Site: Proposed Telecommunications Pole Fronting 39 Oak Tree Lane Haxby York
Decision Level: COMM
Outcome: DISMIS

The appeal was against a refusal, by the Council, to grant approval for a Telecommunications mast and associated equipment. Its height, including antenna, was 12.2 metres and was sited on a footpath fronting a two storey parade of shops with flats above in a locality that is predominantly residential in character. Officers recommended that approval be granted but members overturned this at committee on the grounds that by virtue of its appearance and height it represented an intrusive development which harmed the character of the streetscene. The Inspector agreed with this view saying that the mast would be considerably higher than adjacent lampposts and distinctly thicker. This was made worse by there being no scope to provide effective landscaping or other screening to reduce the impact of the mast, as PPG8 advocates. It would therefore be a prominent feature within the street scene which would project significantly above the ridge line of adjacent buildings and dominate the skyline. It would also be visible from surrounding dwellings and gardens, which added weight to the Inspector's concerns. The Inspector also considered that the appellant had not clearly demonstrated why a less visually harmful site could not be provided within the search area. For example, the appellant rejected an installation could not be provided at the nearby church as it required 'significant structural works' but did not specify what these works entailed. It was also noted that a number of nearby grass verges and open areas nearby had not even been considered, let alone rejected. Other concerns expressed by residents over the appearance of the equipment cabinet, health and restricting the footway width were not considered reasons for dismissing the appeal. Therefore, appeal dismissed on grounds of the intrusive impact of the development and effects on the character of the streetscene.

Application No: 08/02487/FUL
Appeal by: Mr White
Proposal: Bungalow to rear garden of 10 Burton Avenue with access from rear of Cromer Street
Site: 10 Burton Avenue □ York □ YO30 6DE □
Decision Level: DEL
Outcome: ALLOW

A bungalow to the side/rear of a two storey semi detached dwelling (10 Burton Avenue) served by a separate vehicular access to the side off Cromer Street. Two main issues were effect on character and appearance of area and on living conditions of neighbouring dwellings. Several properties on Burton Avenue have established vehicular accesses off Cromer Street and the proposed driveway off Cromer Street would not be appear contrived or at odds with the general residential layout of the area. The Inspector considered that a single storey dwelling, which would be modest in size, would not be harmful to the character or appearance of the surrounding area. The driveway would run along the rear gardens of adjacent properties away from existing dwellings. The amount of traffic generated by a one bedroom bungalow would be minimal and thus not create so much noise and disturbance that it would be harmful to the living conditions of adjacent dwellings. 10 Burton Avenue would retain a good sized rear garden, the eaves of the bungalow would be only slightly higher than a 2 metre high boundary fence. The hipped roof pitched away from the boundary would have very limited visual impact. The issue of security was referred to by residents, however the Inspector considered that the proposal would lead to an increased presence of people in the area and improve natural surveillance.

Application No: 08/02737/FUL
Appeal by: Paul Cooper
Proposal: Erection of studio apartment after demolition of garage
Site: 162 Burton Stone Lane □ York □ YO30 6DF □
Decision Level: DEL
Outcome: DISMIS

Application was for the demolition of an existing garage and erection of a 1 bedroom studio apartment in its place. It was refused on the grounds that by virtue of its size, scale, design and location, it would harm the character and appearance of the area. Considered the dwelling would appear shoehorned into the site which would result in an overdeveloped appearance to the area which would appear out of keeping with the surrounding area. A previous, larger scheme had been refused and rejected on appeal. □ □ Inspector agreed with the Council. He concluded that even this smaller scheme would be twice as high as the building it would replace, with a significantly greater width. Consequently, the openness of the area would be reduced, harming its character. The appellant said that the building would be far smaller than the terraced properties but the Inspector took his reference from the domestic garages and outbuildings serving these properties. He noted that the proposal had 3 windows on the gable fronting the road and this further identified it as a building containing an upper floor. The Inspector concluded that this would appear as an 'oddity' relating to neither the dwellings, nor their outbuildings. This would strike a 'jarring' note in the street scene, harming its character and appearance.

Application No: 09/00221/FUL
Appeal by: Aligul Kala
Proposal: Variation of condition 2 of planning permission 97/02348/FUL (granted on appeal) to extend opening hours of existing take away to 1100-0100 Mon-Thurs, 1100 - 0200 Fri-Sat and Sun to 1100 - 2400 (midnight) (existing permitted hours 11.00-2400 Mon-Sat and 1100-2330 Sun)
Site: 51 Blossom Street□York□YO24 1AZ□
Decision Level: DEL
Outcome: DISMIS

The application was recommended for refusal on the grounds that extended hours would harm the residential amenity of those living near to the site from increased noise and disturbance. The applicant wanted to extend the hours to 11.00 - 01.00 Monday to Thursday, 11.00 - 02.00 Friday to Saturday and 11.00 to 24.00 on a Sunday (the existing permitted hours are 11.00 - 24.00 Monday to Saturday and 11.00 - 23.30 on a Sunday). A previous application has been refused for the extension of the hours (06/02689) to Sun-Thurs and 0900 - 0145 Fri-Sat 11.00 - 24.00 Monday to Saturday. The inspector agreed with the council, that whilst the takeaway was on a busy principle route into York and of a prevailing commercial character the area would be much quieter after midnight and therefore the extended hours and the noise and disturbance caused by patrons of the site would harm the living condition of the residents living nearby. The Inspector also noted that all the nearby takeaways did not open beyond midnight. The Inspector did not consider that the support from a number of businesses and other occupiers in the area was sufficient to outweigh planning objections.

Application No: 09/00331/FUL
Appeal by: Mrs Carolynne Crosbie
Proposal: Detached dwelling and garage to rear of property (resubmission)
Site: Elmgarth□Malton Road□Heworth□York□YO31 9LT□
Decision Level: DEL
Outcome: DISMIS

Application was for a detached dwelling in the rear garden of the host house called Elmgarth. Planning permission was refused on the grounds that the use of the access to the proposed dwelling would result in an unacceptable loss of amenity for the occupiers of Elmgarth. The Inspector concluded that the development represented 'tandem development'. He agreed with the Council that the length and proximity of the access to the new dwelling would result in noise and disturbance and a lack of privacy to the occupiers of Elmgarth from comings and goings of the occupiers and delivery services etc. This could not be overcome by conditions requiring the re-siting of existing side doors and windows. Appeal dismissed.

Application No: 09/00410/FUL
Appeal by: Mr Terry Wheatley
Proposal: Retention of UPVC windows and door frames to flats 1-4,
10 St Marys
Site: Flat 1 □ 10 St Marys □ York □ YO30 7DD □
Decision Level: DEL
Outcome: DISMIS

Officer recommendation of refusal. This appeal relates to the retention of Upvc doorframes and double glazed windows to the front and rear elevations of a mid terraced property, which has been split into 4 flats. The property is located within the Central Historic Core Conservation Area but is not listed. The application was refused by reason of the appearance and detailed design of the frames harming the architectural character and appearance of 10 St. Marys and the streetscene. The Inspector notes the predominance of timber sliding sash windows and comments that the impression of St. Marys is a street where period fenestration is consistent. The Inspector comments that the windows installed in No.10 St. Marys, because of their materials, opening mechanism and design, have a poor appearance and look out of place in this street and diminish the qualities of the conservation area. With reference to the rear elevation, it is noted that although uPVC windows are more common here than at the front, they similarly detract from the conservation area.

Application No: 09/00717/FUL
Appeal by: Mr Charles Kemp
Proposal: Dormer to front
Site: 13 Ullswater □ York □ YO24 2RY □
Decision Level: DEL
Outcome: DISMIS

The host dwelling is a small modern semi-detached bungalow. A side extension with front dormer has already been erected (having been recommended for refusal but overturned at committee). This submission was for another larger dormer within the original roof, and was refused due to the fact it would harm the appearance of the dwelling within the surrounding area. Differing styles of dwellings, one and two-storey, are in place along this long street, but only 1 small front dormer currently in place, some distance from the host. Inspector agreed that the scale and mass, would appear incongruous within the streetscene and harm the appearance of the dwelling

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