

Appeal Summaries for Cases Determined from 01/12/2009 to 31/03/2010

Application No: 08/02089/FUL
Appeal by: Mr Andrew Shewan
Proposal: Retention of 1.8m high timber fence
Site: 11 Farmlands Road
York YO24 2UA
Decision Level: DEL
Outcome: DISMIS

This application was for the retention of 1.8m high timber fence to the front and side boundary. The officer recommendation was refuse. The property is situated in a residential street on a prominent corner of Farmlands Road and Wains Road. The majority of properties are characterised by low lying walls/hedges to the front boundary. Reasons for refusal were its height, appearance and close proximity to the front boundary, which resulted in the fence having an overdominant and overbearing impact upon the streetscene. The inspector agreed that the height, length and position of the fence so close to the adjacent footpath is a visually dominant and intrusive feature which has an adverse impact on the visual character of the neighbourhood. The appeals were therefore dismissed and the enforcement notice upheld.

Application No: 09/00548/FUL
Appeal by: Mr Daniel Russell
Proposal: Change of Use from Agriculture to Equestrian Use.
Erection of a Six Bay Stable Block and Layout of an
Equestrian Surface.
Site: The Garth
Yew Tree Close
Rufforth
York YO23 3RG
Decision Level: DEL
Outcome: ALLOW

The appeal relates to a site in the Green Belt at the north western edge of Rufforth village. The applicant applied for planning permission for a maneage together with two timber built stable blocks on an area to the north west of his property which was principally accessed via a residential cul-de-sac at the north western edge of Rufforth village. Permission was given subject to a series of conditions including one making the development subject to a personal permission as the access to the site was substantially unsuitable for use by a commercial equestrian operation. The appellant challenged this on the basis that it would prevent for example, family friends or other bona fide visitors from using the maneage. The Inspector agreed with this line of reasoning and up held the appeal substituting his own condition which would preclude commercial/business use of the equestrian facilities.

Application No: 09/00622/FUL
Appeal by: Mr Chris Georgiou
Proposal: Part single/part two storey pitched roof rear extension
resulting in 3-bed flat above ground floor shop and detached
building at rear to provide 2-bed dwellinghouse.
Site: 68 Clarence Street
York YO31 7EW
Decision Level: COMM
Outcome: ALLOW

Officer Recommendation was to Approve. The appeal proposal was for a single storey 2-bed dwelling in the back garden of a terraced unit. The main building accommodated a shop and residential above. The dwelling would rely on access through a narrow alleyway, which already served the back yards of terraced houses. The reconfiguration of the existing building also meant that the upper floors would only have access from the alley. The backyard was reasonably deep and the proposed building had a separation of 2m from the back wall, and 8m to the main building. The proposed house was 37.5 sq m. Officers had recommended approval but planning permission was refused at committee on the grounds that the proposed dwelling would offer inadequate levels of amenity, mainly due to its size, and that the access was unsuitable. The inspector allowed the appeal ruling that the 'compact' house would be suitable for some, it would have reasonable outlook, amenity space and storage. It was deemed the access was adequate, although difficult for those with cycles/pushchairs etc. However it could serve the proposed development and already did serve some dwellings (although not the main entrance). There was no objection to the upstairs flat being re-configured so it relied on the rear access also. The inspector did not support the suggested condition which required a contribution toward open space, due to the lack of evidence provided. Although referrence was made to the open space Interim Policy Statement , there was no text supplied which demonstrated need specific to this development, i.e. that there was either a shortfall in the amount or quality of open space in the locality.

Application No: 09/00646/FUL
Appeal by: Mr Jawed Kadhim
Proposal: Two storey side and single storey rear extensions after
demolition of existing garage (resubmission)
Site: 18 Brentwood Crescent
York YO10 5HU
Decision Level: COMM
Outcome: DISMIS

Officer Recommendation was to Approve. The application property is a modern semi-detached house at the head of a cul-de-sac. The appeal related to the refusal of a planning application for a two-storey side extension and single storey rear extension. Officers recommended the application for approval, however, the decision was overturned at committee because of concerns in respect to overdevelopment, harm to the living conditions of the adjoining property and highway safety. The Inspector dismissed the appeal. He did not feel that the proposal would harm neighbours living conditions, he felt however, that in the local context, two-off street car parking spaces were insufficient for the resultant four-bedroom dwelling. In addition, despite the proposed two-metre set back at first floor level he felt that the development as a whole amounted to overdevelopment of the site and would detract from the spacing that existed between properties.

Application No: 09/00694/FUL

Appeal by: Mr Tony Lumb

Proposal: Removal of conditions 1, 2 and 3 (requiring amendments to fence, planting of a hedge and erection of domestic paraphernalia) of planning application 08/01177/FUL for the replacement of 3no. moorings

Site: The Orchard

Tyn Garth

Acaster Malbis

York YO23 2LX

Decision Level: DEL

Outcome: PAD

The appeal relates to a site with a complicated Enforcement History. An Outline Planning Permission followed by a Reserved Matters Consent had been given for erection of a four bed roomed detached house on an adjacent site. This had stipulated the erection of an open post and rail fence separating the domestic curtilage from the adjacent river side and river side footpath. Whilst implementing the planning permission for erection of the house the appellant refurbished three river side moorings without consent including erection of a 1.8 metre high close boarded fence and subsequently was given retrospective planning permission for the work. The appeal relates to the conditions applied to that permission. Permission was given subject to three conditions: that the fence be redesigned to be a post and rail design as originally intended, that a hedge be planted along the riverside walk and that Permitted Development Rights be withdrawn in respect of domestic paraphernalia within the fenced area surrounding the moorings. The appellant contended that this was highly unreasonable and didn't comply with the six statutory tests of planning conditions outlined in Circular 11/95. A costs application under the new "fair playing field rules" was also submitted. The Inspector endorsed the Local Planning Authority's view that the fence should be redesigned as a post and rail structure and upheld the condition, he similarly upheld the Local Planning Authority's intention in respect of the third condition restricting the erection of domestic paraphernalia within the fenced area but re-worded the condition. The Inspector however rejected the reasoning behind the condition requiring the planting of a hedge and furthermore made a partial award of costs against the Local Planning Authority in respect of the imposition of this condition.

Application No: 09/01125/FUL

Appeal by: Mr Peter James

Proposal: Change of use of land to a private gypsy site for a single gypsy family and the retention of existing hard standing (retrospective)

Site: The Homestead

Murton Lane

Murton York

Decision Level: COMM

Outcome: ALLOW

Officer Recommendation was to Approve. Retrospective planning permission was sought for the change of use of land to a private gypsy site for a single gypsy family of 2 adults and 4 children. Reason for refusal was conflict with green belt policy. The authorised use of the site is agriculture but it has been surfaced in gravel for many years. The site is largely screened from public view by a 2m-high wall along the highway frontage and by a fence and trees along the side boundaries. The inspector attached significant weight to the harm to the green belt due to inappropriateness. He acknowledged a small amount of additional harm to the openness of the green belt and to the purposes of including land in it. Against these factors he acknowledged that there were a number of weighty considerations in favour of the proposal namely the significant need for additional gypsy sites in the York area; that the shortage was unlikely to be addressed until the end of 2011; that some of the sites to be allocated as part of the LDF process would be in the green belt; the family's need for gypsy accommodation; the absence of any identified available site to which they could move; and the hardship they could face by being made homeless. The inspector was of the view that these factors clearly outweighed the harm (mainly due to inappropriateness) caused by the proposal. He concluded that the circumstances of the case were very special and justified the development, subject to conditions. They included that planning permission be limited to the appellants and their dependants only and that only two caravans shall be stationed on the site at any one time. In consideration of human rights the inspector felt that dismissing the appeal or granting consent for a temporary period would be a disproportionate response to the degree of harm that the development causes and the considerable interference that either option would cause to the family's home, private and family life.

Application No: 09/01156/FUL
Appeal by: Moorside Developments Ltd
Proposal: Erection of 4no. dwellinghouses to rear of 5 and 6
Northfields (amended scheme)
Site: 5 Northfields
Strensall
York YO32 5XN
Decision Level: DEL
Outcome: DISMIS

Planning permission was refused for four houses on the basis that the density of the development would result in a very hard street frontage relative to the rest of the street contrary to policies H4a,GP1, GP10, PPS3 and PPS1 . The inspector dismissed the appeal on the basis that the scheme failed to take the opportunity to improve the character and quality of the area and was inappropriate to the character and form of the area.

Application No: 09/01271/FULM
Appeal by: Mr Andrew Wilson
Proposal: Use of land for the stationing of 20 additional touring
caravans and camping pitches (resubmission)
Site: York Caravan Park
Stockton Lane
York YO32 9UA
Decision Level: COMM
Outcome: ALLOW

Officer Recommendation was to Refuse. The appeal was against refusal of planning permission for the extension of an existing caravan site to provide an additional 20 pitches. The site is located within the green belt and within the green wedge identified in the green belt appraisal for York. The Inspector concluded that the development would have limited effect on the openness of the green belt and the purposes of including land in it. The Inspector also concluded that the restriction on maximum sizes for a caravan site in Policy V5 has no support outside the CYDLP and therefore afforded little weight to the policy purpose. The Inspector accepted evidence put forward by the applicant that there is significant unmet demand for additional pitches for people wishing to visit the York area and considered the location on Stockton Lane to be well related (in terms of access options) to the city centre. He also took the sequential test to show that there were few other sites available to accommodate caravan sites.

Application No: 09/01311/ADV
Appeal by: Individual Restaurant Company
Proposal: Display of 3no halo illuminated fascia signs, 1no illuminated hanging sign and 1no internally illuminated menu box (retrospective)
Site: 18 Bridge Street
York YO1 6DA
Decision Level: DEL
Outcome: ALLOW

The application was for 3 no. halo lit illuminated fascia signs (one along the river elevation and two along the Bridge Street elevation), 1 no. illuminated hanging sign, and 1 no. internally illuminated menu box. The application was retrospective. The building was a grade II Listed Building and within the Central Historic Core Conservation Area. The application was refused on two grounds. Firstly the lettering of the fascia signs by virtue of standing forward of the detailing of the listed building and its depth together with its illumination would be visually intrusive and harm the special architectural importance, appearance and visual amenity of the listed building, and also the character and appearance of the Conservation Area. Also the proposed internally illuminated menu box by virtue of its siting (to a rusticated pilaster), scale and illumination was considered to be visually intrusive in views of the building and causes undue harm to the special architectural importance, appearance and visual amenity of the listed building, and also the character and appearance of the Central Historic Core Conservation Area. The Inspector considered that the proposed fascia lettering on the Bridge Street frontage would be located on existing fascia areas and, in terms of size and colour would be discreet and proportionate and the method of illumination subtle. The lettering on the riverside elevation, which is of the same scale and proportions, relative to the fascia area, requires a backing panel to accommodate cabling etc. As a result, it is set forward of the brick surrounds to the windows. The inspector did not consider the projection of the lettering to be an issue. He had noted there was similar in the area (although without advert consent). In regards of the illuminated menu box the inspector did not consider that it would be an unduly intrusive element in the street scene, nor detract from the architectural composition or detailing of the building.

Application No: 09/01406/CLU
Appeal by: Mr Ben Baldwin
Proposal: Certificate of lawful use for the proposed siting of a mobile home
Site: Manor Farm
Towthorpe Road
Haxby
York YO32 9SP
Decision Level: DEL
Outcome: DISMIS

A certificate of lawfulness was sought for the proposed erection of a mobile home up to the maximum size permissible for a caravan (as defined by legislation). It would be located within the grounds of a farmhouse occupied by the appellant. The caravan would be primarily used for the provision of residential accommodation for elderly relatives. The appellant argued that the caravan was permitted development because :- (a) it would be located within the curtilage of the dwellinghouse . Council officers had in the past agreed in writing that the site of the proposed caravan was within the curtilage of the farmhouse - but had added the usual caveat that this advice was officer opinion only. By the time of the CLU application officers had reviewed the history of the site and felt that the earlier advice may not have been correct. Officers imparted this to the appeal inspector. He concluded that on a balance of probability the residential curtilage did not include the application site. Therefore the use of the land for the siting of a caravan in any residential use would not be lawful. and (b) it would be used for purposes incidental to the use of the dwellinghouse The inspector found that the caravan would represent an additional self-contained unit of occupation that could exist entirely separately from the dwellinghouse and not reliant on it for anything. Therefore the siting of such a caravan on the land would be unlawful.

Application No: 09/01421/LBC
Appeal by: Mr A Chaudhry
Proposal: Fascia and hanging signs and two internal neon signs.
Site: 19 Micklegate
York YO1 6JH
Decision Level: DEL
Outcome: DISMIS

Proposed signs were: acrylic built up signage to fascia with LED light below and internal neon signs in windows. Both deemed to harm the character and design of the listed building and conservation area setting. The shop is in a listed building with detailed timber shopfront of Georgian style. The Inspector concluded the signage would be unduly strident, contrary to the style of the building. Of note being the size of the lettering, the materials and illumination.

Application No: 09/01752/FUL

Appeal by: Mr And Mrs Paul Temple

Proposal: 2 storey dwelling attached to side of existing dwelling after demolition of lean-to bathroom extension (resubmission)

Site: 229 Fifth Avenue

York YO31 0PL

Decision Level: DEL

Outcome: DISMIS

Planning permission was sought for the erection of a 2-storey dwellinghouse on the side of a semi-detached house. The existing house occupied a constrained, tapered site at the corner of two residential streets. The council refused consent, mainly due to (a) impact on the street scene and (b) impact on the living conditions occupiers of the existing house and proposed house. In terms of impact on street scene the inspector found that the windows, materials and roof form would reflect the host property and surrounding dwellings. Nevertheless, due to its scale, bulk and siting, the house would be a discordant addition that would visually compete with the existing dwelling and compromise the symmetry of the pair of existing semi-detached houses. With regards to impact on living conditions of occupiers. The inspector found that the living conditions of the occupiers of both houses would be adequate. This is despite: the small amount of living space in the new house; the small amount of amenity space available to the new and existing occupiers; car parking right up to the front window of the existing house; and access to the rear garden of one house being taken across the rear garden of the other. The council felt that the cumulative impact was sufficient to include as a reason for refusal. The appeal was dismissed but only due to impact on the street scene.

Application No: 09/01899/FUL
Appeal by: Mrs Ruth Hildreth
Proposal: Single storey pitched roof rear extension
Site: The Stables
Woodside Farm
Moorlands Farm And Hospital
Wigginton
York YO32 2RF
Decision Level: DEL
Outcome: DISMIS

Planning permission was sought for the erection of a single storey extension to a converted stable block located at the edge of, but detached from, a group of former farm buildings in the York Green Belt. The dwelling had previously been extended to add a study and large garage. The council refused consent as the extension, taking into account the previous extension, represented a disproportionate addition constituting inappropriate development that would be harmful to the openness of the Green Belt and would further harm the open character of the Green Belt due to the extension being built away from the cluster of former farm buildings. No very special circumstances existed to outweigh the harm by reason of inappropriateness or additional identified harm. The inspector agreed with the Council that the extension would, in conjunction with the previous extension, be disproportionate to the size of the original building and consequently was inappropriate development that would reduce the sense of openness and 'undermine the Green Belt purpose of safeguarding the countryside from encroachment', contrary to national and local planning policy. Whilst he felt that the extension would not be unduly prominent nor materially harmful to visual amenity and that the design was acceptable, he considered that these did not constitute very special circumstances to clearly outweigh the harm to the Green Belt.

Application No: 09/00037/EN
Appeal by: Nicola Claire Harrison
Description: Appeal against
Site: 11 Farmlands Road
York YO24 2UA
Outcome: DISMIS

This appeal was against an enforcement notice requiring removal of a 1.8m high timber fence to the front and side boundary of the property. The property is situated in a residential street on a prominent corner of Farmlands Road and Wains Road. The majority of properties are characterised by low lying walls/hedges to the front boundary. Planning permission was applied for retrospectively but refused. Reasons for refusal were its height, appearance and close proximity to the front boundary, which resulted in the fence having an overdominant and overbearing impact upon the streetscene. The inspector dealing with the appeals against the Notice and refusal of permission agreed that the height, length and position of the fence so close to the adjacent footpath is a visually dominant and intrusive feature which has an adverse impact on the visual character of the neighbourhood. The appeals were therefore dismissed and the enforcement notice upheld.

Application No: 09/00037/EN
Appeal by: Mr A Shewan
Description: Appeal against
Site: 11 Farmlands Road
York YO24 2UA
Outcome: DISMIS

This appeal was against an enforcement notice requiring removal of a 1.8m hightimber fence to the front and side boundary of the property . The property is situated in a residential street on a prominent corner of Farmlands Road and Wains Road. The majority of properties are characterised by low lying walls/hedges to the front boundary. Planning permission was applied for retrospectively but refused. Reasons for refusal were its height, appearance and close proximity to the front boundary, which resulted in the fence having an overdominant and overbearing impact upon the streetscene. The inspector dealing with the appeals against the Notice and refusal of permission agreed that the height, length and position of the fence so close to the adjacent footpath is a visually dominant and intrusive feature which has an adverse impact on the visual character of the neighbourhood. The appeals were therefore dismissed and the enforcement notice upheld.

Decision Level:

DEL = Delegated Decision
COMM = Sub-Committee Decision
COMP = Main Committee

Outcome:

ALLOW = Appeal Allowed
DISMIS = Appeal Dismissed
PAD = Appeal part dismissed/part
allowed