

Appeal Summaries for Cases Determined 01/08/2010 to 31/10/2010

Application No: 09/01176/OUT
Appeal by: Bonnycroft LLP
Proposal: Outline application for erection of nursing home
Site: Bonnycroft □ 22 Princess Road □ Strensall □ York □ YO32 5UD □
Decision Level: COMM
Outcome: DISMIS

This application related to the development of a 50 bed nursing home in Strensall. The site is occupied by a derelict bungalow set within grounds of 0.5 ha. The site is constrained by a number of TPO's, there are dwellings on three sides and a railway line to the other. The application was in outline with all matters reserved for subsequent approval except access. □ The application was recommended for approval but refused at planning committee on the grounds that the proposal would be harmful to the amenities of local residents and to the character and appearance of the area. Indicative plans were submitted showing a building footprint; the proposal was split into three joined blocks measuring 2, 2.5, and 3 storeys in height. □ The appellants claimed that the Council was unreasonable to refuse the application on issues which were to be determined as part of any reserved matters application and that the Council could have eased any concerns through appropriate conditioning. The Inspector dismissed this stating that Circular 01/2006 expects outline applications to provide sufficient information to demonstrate that proposals have been properly considered in the light of planning policies and site constraints. Therefore the Council was entirely reasonable in refusing the application based on indicative plans. The second case for the appellant was that it had been demonstrated that the indicative plans cause no significant harm to neighbouring or visual amenity. The inspector dismissed this stating that the combination of the length, depth, and height of the proposed building was out of character with an area of modest scale individual buildings with open views above and between buildings. The Inspector also concluded that the structure would appear dominant and overbearing from neighbouring properties and that the vehicular activity along the boundary of a number of residential properties would create an unacceptable level of noise and disturbance. □

Application No: 09/01324/FUL
Appeal by: Mr J Walker
Proposal: Two storey pitched roof extension to rear
Site: 52 School Lane □ Fulford □ York □ YO10 4LS □
Decision Level: COMM
Outcome: DISMIS

The application related to a proposal to extend a granny annex (that was contained within a garage) into a two-storey dwelling (there was no occupancy/severance restriction condition). The building fronts School Lane, though was formally part of the long rear garden of 65 Main Street. The parking for the application property and 65 Main Street is accessed from School Lane and runs past the side of the existing annex. The proposal was refused because it was considered that the space for manoeuvring vehicles was too tight, the design out of character with the conservation area and the proposal would create conflict with neighbours living conditions/safety because of vehicles passing close to windows and an entrance door. □ □ The inspector felt that the design was visually acceptable but dismissed the appeal for the other reasons stated on the decision notice.

Application No: 09/01874/FUL
Appeal by: Mr Patrick Walker
Proposal: Change of use from hairdresser (use class A1) to hot food takeaway (use class A5)
Site: 4 Skeldergate □ York □ YO1 6DG □
Decision Level: DEL
Outcome: DISMIS

Appeal dismissed due to adverse impact on surrounding residents, due to potential noise and cooking smells. Advised that potential litter in the street was not grounds for refusal and that the type of food sold could not be controlled by condition, nor would this mitigate amenity concerns. □ □ Despite the proximity of the site to Micklegate/Bridge Street, Skeldergate is predominantly residential, different in character. The proposal would introduce a late night use (open until 02:00), with associated noise levels and behaviour. Also visitors in vehicles would add to noise levels. This would disturb surrounding residents, in particular the max. noise levels. □ □ Considered that cooking smells would have an unacceptable impact on residents. Despite the installation of equipment, there would be residual odour, and further cooking smells when windows/doors were open. □

Application No: 09/02095/FUL
Appeal by: Mr Nick Wright
Proposal: Change of use from domestic outbuilding to dwelling with additional storage building to side
Site: 1 Springfield Cottages□Hull Road□Dunnington□York□YO19 5LA□
Decision Level: DEL
Outcome: DISMIS

The above application (09/02095) was to convert a relatively large outbuilding to a two bedroom dwelling. The site is close to the Scarborough roundabout on Hull Road. The application was refused for the following reasons:□□"The proposed alterations and creation of a separate dwelling would leave little external amenity space for either dwelling and create a cramped environment for vehicle parking and manoeuvring. Such arrangements have the potential to create a poor living environment and conflict between the occupants of the two properties, particularly through noise associated with late night or early morning vehicle movements. As such the proposal conflicts with policy GP1 (criterion b, g and i) of the City of York Draft Local Plan (fourth set of changes) approved April 2005."□□The inspector did not feel given the location close to Hull Road that noise concerns justified refusal. He did feel however, that the amount of garden space was less than would be expected and that the cramped parking arrangements may prove impractical - he felt this was of particular concern given the property's position adjacent to a dual carriage way a little way from local shops.□□He dismissed the appeal.□

Application No: 09/02099/OUT
Appeal by: Mrs Helen Butterworth
Proposal: Outline application for construction of 4no two-storey dwellings after demolition of existing dwelling
Site: Wellgarth House □ Wetherby Road □ Rufforth □ York □ YO23 3QB □
Decision Level: DEL
Outcome: DISMIS

Outline Planning Permission was refused in respect of an Outline application for erection of four houses on the cleared site of Wellgarth House a bed and breakfast establishment on the eastern edge of Rufforth in November 2009. Rufforth is a village defined as "washed over" Green Belt so any additional housing development should constitute limited "infilling". Reasons for refusal were quite extensive including impact upon the openness of the Green Belt, the design of the scheme not amounting to limited infilling, lack of information in respect of drainage details and lack of information in respect of the provision of affordable housing as part of the wider scheme in line with Draft Local Plan Policy. □ □ The inspector Zoe Hill examined each reason for refusal in turn. She agreed that the proposal amounted to "inappropriate development " in the Green Belt and that the proposed configuration of properties did not amount to "limited infill" in terms of Policy GB2 of the Draft Local Plan. The proposal was also felt to be highly injurious to the open character of the Green Belt. Conflict with the Rufforth VDS, Draft Local Plan Policy GP10 and the recent revision to PPS 3 in respect of the use of garden land for housing was also noted. Whilst not being in Flood Zone 1 the absence of necessary information in respect of surface water drainage was itself felt to be suitable reason for refusal of the proposal and it was not felt that these were appropriate matters which could be conditioned. In relation to the need to provide "affordable housing " in line with the City's Policy the village it was felt that the issue had again not been adequately addressed. The inspector supported the Authority's previous reasons for refusal in their entirety and the appeal was dismissed.

Application No: 09/02221/FUL
Appeal by: Mr Christopher Brown
Proposal: Change of use from 1no. house to 2no. flats
Site: 38 Leven Road□York□YO24 2TJ□
Decision Level: DEL
Outcome: ALLOW

The application was for the conversion of a dwelling to two flats. The semi-detached dwelling is sited in a suburban area characterised by family sized dwellings, this part of the street is set around a relatively large grassed area. The application was refused on the grounds that the scheme would involve the loss of a three bedroom house. Based on the Strategic Housing Market Assessment 2007 it was considered that the conversion of the dwelling to create two flats would have an unacceptable impact upon the city's housing stock, in particular having regard to the higher demand for houses within the city, the levels of 1 bedroom flats already permitted, the significant number of unimplemented permissions for flats and the higher rate of flat completions. As such the application as considered to conflict with Policy H8 of the Local Plan which seeks to retain an adequate supply of family housing stock, as supported by the Strategic Housing Market Assessment 2007. Similar appeal cases which were also submitted to the Inspectorate.□□The appeal was allowed. The Inspector did not give any weight to the Local Plan as it was not adopted and it was some time since it had been placed on deposit in 1998. In addition the Inspector argued that no weight could be given to the Strategic Housing Market Assessment the Inspector questioned the reliance on data from 2005 and 2006 in 2010. The Inspector made the point that it is important that SMHAs are updated, and there is no evidence that that has been done.□□The Inspector agreed to all the conditions put forward by the Council except the standard open space condition. The Inspector considered the policy had little weight, secondly the Council's condition was considered to be of doubtful precision; and thirdly the requirement for a commuted sum is not properly based, the level of occupation of the building would be unlikely to increase and as such suggests that there would be no additional requirement for public open space.

Application No: 09/02308/FUL
Appeal by: Mr David Grierson
Proposal: First floor rear extension
Site: 9A Green Lane □ Acomb □ York □ YO24 3DA □
Decision Level: DEL
Outcome: ALLOW

Proposed first floor rear extension above existing single storey rear extension at carpet shop to allow increased residential accommodation at first floor. Neighbouring house has large window at first floor side elevation, which appeared to be only window to that room (access to rear not possible due to ownership issues) Refused on impact/loss of light. At appeal site visit applicant allowed us into the rear area and became apparent that the side window was a secondary window. Appeal allowed.

Application No: 09/02322/FUL
Appeal by: Mr Jonathan Brack
Proposal: Erection of detached bungalow to rear after demolition of existing garage
Site: Acomb Chiropractic Clinic □ 60A York Road □ Acomb □ York □ YO24 4NW □
Decision Level: DEL
Outcome: DISMIS

The application was for a detached bungalow to the rear of the 60a York Road. The host building is a chiropractors practice, with a flat above and is set back from the road with a large parking area to the front and a small garden area and double garage to the rear. The proposed dwelling was of a modest scale but it was considered that its siting in the rear garden would result in a development that would appear cramped and out of character with the local form of development and the conservation area. In addition the proposal by virtue of its size, height and proximity to 60B York Road would have an overbearing and over dominant impact on the occupiers and would create an unacceptable sense of enclosure that would harm residential amenity and would result in a loss of outlook for the occupiers of No 60B York Road. The application was also refused on the grounds that insufficient drainage details have been submitted □ □ The appeal was dismissed, the Inspector agreed that the proposal would create a cramped situation, and noted that there was no other situation in the area so "enclosed and hemmed in" and considered that the proposal would adversely affect the character and appearance of the area, which is part of the Acomb Conservation Area. The Inspector agreed the proposal would create a second dwelling which would deprive the original dwelling of its domestic amenity space. The Inspector also considered that although the proposal would be on lowered land levels, and the roof would be hipped, it would still intrude significantly above the wall/fence. The proximity of the new dwelling would harmfully affect the living conditions of the occupants of No.60B by dominating the outlook from those primary windows. The Inspector felt that the drainage issues could be dealt with by condition. □

Application No: 10/00018/ADV
Appeal by: Mr Graham Kennedy
Proposal: Display of 1no externally illuminated fascia sign
(retrospective) (resubmission)
Site: Inner Space Stations□339 - 341 Hull
Road□Heslington□York□YO10 3LE□
Decision Level: DEL
Outcome: ALLOW

This site is the BP Hull Road petrol filling station known as 'Inner Space Station'. Planning permission was granted on appeal several years ago for a number of car wash bays towards the rear of the site behind the main garage forecourt, bays which could open well into the evening. The appellant topped these bays with large internally illuminated bright yellow signs advertising the car washes. These signs faced directly towards houses on Tranby Avenue and were highly visible from the rear gardens and rooms of these houses. It was refused on the basis of the large spread of the signs across quite a substantial area coupled with their brightness and garish colour (bright yellow).□□The Inspector concluded that the level of artificial lighting and other signs on and around the site i.e. the adjacent B&Q site and the rest of the garage forecourt was already quite high. He also noted the fencing on the rear boundary between the houses and the appeal site and that this was supplemented by trees and hedges in most gardens and evergreen planting on the appeal site adjacent to this fencing. As a result the Inspector concluded that the signs were not particularly prominent from the gardens or ground floor rooms of the adjacent dwellings. (the hedges and vegetation had grown up significantly since the application was first refused). He did however agree that the very end illuminated sign should be removed along with the method of illumination as this was the most harmful part of the advert. This was volunteered by the appellant in order to improve the situation in his report the Inspector said that without this suggested deletion he would have dismissed the appeal. □□□□□□□□□□

Application No: 10/00020/FUL
Appeal by: Mr John McGarry
Proposal: First floor rear extension. Boundary wall to front and side. Change of use and extension of garage to form retail unit (resubmission)
Site: 43 West Thorpe □ York □ YO24 2PP □
Decision Level: COMM
Outcome: PAD

The appeal property is a semi-detached house on the corner of West Thorpe and Chaloners Road. The development proposed was a first floor rear extension, boundary wall to front and side; change of use and extension of garage to form retail unit. Sub-committee had refused the application but only in relation to the boundary wall (which was considered should be formed with infill railings rather than the proposed fence panels) and the retail unit (which was considered to harm residential amenity). □ □ The Inspector opined that even a modestly sized retail unit would be significantly at odds with the established pattern of development. Moreover as the intention was to draw business from passing trade the unit would need to be reasonably prominent in the streetscene, so as to attract the attention of potential customers. In these respects she considered that the proposal would cause substantial harm to the character and appearance of the surrounding area. She did not feel that there would be harm to amenity from the key-cutting process but considered that the additional activity around the unit from the comings and goings of customers and vehicles would cause an unacceptable degree of disturbance to neighbouring residents. The Inspector noted that whilst the proposed wall would have a somewhat more solid quality than the low walls and hedges which tend to characterise nearby properties, it would be seen in the context of quite a spacious road junction. Consequently, she was not convinced that it would cause harm to the open aspect of the streetscene. □ □ The Inspector part allowed the appeal and granted planning permission for the extension to the house and the new wall.

Application No: 10/00073/FUL
Appeal by: Mr Richard Foster
Proposal: Garage with berths for 3no. cars and 1no. caravan
Site: Forest Farm □ Lingcroft Lane To Crockey Hill □ York □ YO19 4RE □
Decision Level: DEL
Outcome: DISMIS

Appeal relating to the erection of a garage with berths for three cars and one caravan. Garage was proposed to be used for domestic purposes in relation to Forest Farm House, located off the A19 in Fulford. The site is within the Green Belt. The original application was refused as the garage was considered to be a disproportionate addition to the dwelling which was inappropriate in the Green Belt and also that the garage would harm the openness of the Green Belt given its size and height and prominent location. The Inspector was in agreement with the Council's decision and dismissed the appeal.

Application No: 10/00087/FUL
Appeal by: Moorside Developments Ltd
Proposal: Erection of 3no. dwellinghouses to rear of 5 and 6 Northfields (amended scheme) (resubmission)
Site: 5 Northfields □ Strensall □ York □ YO32 5XN □
Decision Level: COMM
Outcome: DISMIS

The application is for a terrace of three starter homes facing the public highway in a residential area. The planning committee overturned the officers recommendation, which was to approve. The essence of the reason for refusal was that the amount of street frontage occupied by hardstanding, relative to the amount retained for landscaping, resulted in a development that was out of keeping with the distinctive character and appearance of the area □ □ The inspector disagreed and found that the scheme struck a good balance between developing the site in an efficient manner while providing adequate off street parking and meaningful landscaping. Turning to the councils suggested conditions she found that there was a clear requirement under policy L1c for a financial contribution towards open space; she acknowledged that the local plan has not been adopted but found that L1c reflects the objectives of PPG17. However, paragraph 13 of Circular 11 of 1995 is clear that planning permission cannot be granted subject to a condition that the applicant enters into a s.106 agreement. In the absence of such an agreement the appeal was dismissed. □ □ Regarding costs, the inspector made clear that whilst Members are not bound to accept the recommendation of officers they must substantiate their decision and reasons for refusal. She found that Members had carried out little objective analysis of the scheme or adjacent buildings. This constituted unreasonable behaviour resulting in the applicant incurring unnecessary expense due to the councils reason for refusal. She found that the council had not acted unreasonably by failing to secure an open space contribution through a s.106 agreement. The award of costs was therefore only partial because the need for the appeal could not have been wholly avoided due to the failure of the appellant to provide a s.106 agreement. □ □ Kevin O'Connell □

Application No: 10/00495/FUL
Appeal by: Matthew Clements
Proposal: First floor pitched roof side extension (resubmission)
Site: Derwent Barn □ Langwith Stray □ Heslington □ York □ YO10 5EJ □
Decision Level: COMM
Outcome: DISMIS

The appeal relates to a converted barn - one of two which, along with the adjacent farmhouse, forms a small enclave of homes surrounded by open countryside in the York Green Belt. It was against refusal of an increase in the roof height by 1m of an existing s/s side extension, on the western side of the barn, between it and the original farm house. The proposal was to allow the creation of a fourth bedroom. The Council's refusal was on the basis of the harm to the character and appearance of the site and the openness and visual amenity of the Green Belt from the height and design of the proposal (which involved the breaking into the roof slope of the original barn). The proposal would reduce the sapce between the barn and former farm house and erode the setting and relationship between this collection of former farm buildings. □ The Inspector, in dismissing the appeal, referred to the distinctive attributes of this cluster of buildings, being: 1. the palpable sense of spaciousness from its setting in open countryside and generous plots; and 2. the resemblance to a farmstead with two stone barns reflecting their former function from the retention of the dominant two storey elements. He noted that the existing extension (allowed at the time of conversion to replace a lean to) was out of place due to its size and design. He felt that the increase and domestic design of the proposal would further reduce the 'visual penetration' and erode the feelin of space between and around the appeal property and buildings, resulting in a cramped and awkward appearance. This would diminish the positive visual characteristics of the appeal property and grouping of buildings, and as it would be visible form the countryside beyond, would harm the character and appearance of the existing house, surrounding area and the visual amenity of the Green Belt, contrary to national and local policy. □ No harm to neighbour. Personal circumstances did not outweigh harm.

Application No: 10/00544/FUL
Appeal by: Mr Alan Press
Proposal: Erection of wall, pillars, gates and railings to east and north boundaries
Site: Victoria Farm House □ Victoria Farm Estate □ York □ YO30 6PQ □
Decision Level: DEL
Outcome: ALLOW

The appeal related to the erection of a 1.5m high dwarf wall and railings around the open plan front garden of the above property. As the area of Water Lane where the wall is proposed is semi-rural in appearance and partly characterised by narrow landscaped verges in front of buildings/hedgerows it was requested that the wall be set back around a metre from the pavement edge and a strip of greenery retained. The applicant refused to do this. □□The Inspector allowed the appeal. He felt that the proposal was not unacceptable and that a lower wall that might be less attractive could be built flush to the footpath without needing planning permission. □□Although not a planning issue, it seems to be the case that though within the applicant's ownership the front strip of his garden is classified as part of the highway and there may be highway objections to erecting a wall flush to the edge of the footpath. This was clarified in an informative on the refusal notice.

Application No: 10/00548/FUL
Appeal by: Mr Darren Callaghan
Proposal: First floor pitched roof side extension
Site: 12 Weavers Close □ Copmanthorpe □ York □ YO23 3XL □
Decision Level: DEL
Outcome: DISMIS

The appeal property is situated on a corner plot and set forward of the neighbouring dwellings on Weavers Close. The appeal dwelling has already been extended at the side adjacent to No 11, to provide a garage and dayroom. The appeal proposal is to extend above the garage to create an □ additional bedroom □□Because of the proximity of the proposed extension to the front elevation of No 11, its position forward of that neighbouring dwelling, and the orientation of these properties, it would be likely to increase overshadowing of the front garden area and reduce daylight within the nearest front facing rooms. □□The proposed extension would be set back from the front elevation and have a lower ridge height. Thus, it would have a subservient relationship to the original front elevation. However, the proposed ground floor roof treatment would result in an uncharacteristic, relatively bulky, hipped element to the front □ of the proposed first floor extension. The design of this part of the roof would also result in the front facing, first floor, window in the proposed extension appearing awkwardly placed.

Application No: 10/00664/FUL
Appeal by: Prof Stuart Murray
Proposal: Two storey pitched roof side extension and excavation of part of front garden to create a parking space
Site: 111 Holgate Road □ York □ YO24 4AZ □
Decision Level: DEL
Outcome: PAD

The application was for a two storey side extension and excavation of part of front garden to create a parking space. The house is adjacent to the boundary of the St Paul's Square/Holgate Road Conservation Area. It is part of a small estate of typical mid C20th semi-detached houses. The house is in an elevated position behind a landscaped front garden facing Holgate Road where it curves as it starts a descent towards the junction with Acomb Road. The road appears to be in a cutting at this point with brick walls on either side. □ □ The Council did not have an objection to the two storey side extension however the proposed parking space was considered to result in a damaging wide gap to the high brick retaining wall which provides an attractive means of enclosure to the road. As such the proposed parking space was considered to cause harm to the character and appearance of the conservation area and its setting and was refused on this basis. □ □ The two storey side extension was allowed but the appeal for the parking space was dismissed. The Inspector took note of the CYC Conservation Area Statement of the area. The Inspector agreed that the works would severely diminish the sense of containment, and in doing so would significantly compromise the character and appearance of the street scene and the Conservation Area. The inspectorate did not agree with the Council's statement that the parking space would materially harm the character and appearance of the existing dwelling. □

Application No: 10/01088/FUL
Appeal by: Mr David Littlewood
Proposal: Two storey side and rear extensions and single storey rear extension after demolition of existing extension
Site: 10 Ouse Acres □ York □ YO26 5SJ □
Decision Level: DEL
Outcome: DISMIS

The appeal property sits at right angles to the adjacent houses to the north, Nos. 2 and 4 Caxton Avenue. The two storey element of the proposal would be set back slightly from the front elevation of the house but would project some 2.7m beyond the main rear wall. No. 4 Caxton Avenue has a small rear garden which is already relatively enclosed because of the surrounding development. In this context, the proposed extension would appear extremely dominant and intrusive in views from the neighbouring property, owing to its height and its position on the boundary. I appreciate that the extension would not cast a great deal of shade during the summer months, as indicated by the submitted photograph. Nevertheless, given the relationship between the two properties, it would be likely to do so at other times of year when the sun is lower in the sky.

Decision Level:

DEL = Delegated Decision

COMM = Sub-Committee Decision

COMP = Main Committee Decision

Outcome:

ALLOW = Appeal Allowed

DISMIS = Appeal Dismissed

PAD = Appeal part dismissed/part allowed