

## Appeal Summaries for Cases Determined 01/04/2011 to 30/06/2011

**Application No:** 10/00586/FUL  
**Appeal by:** Mr And Mrs J Peel  
**Proposal:** Change of use of buildings/land for travelling showpeople's site for one family  
**Address:** The Stables Elvington Lane Elvington York

**Decision Level:** DEL

**Outcome:** DISMIS

Summary of Decision: Against the proposal: The use would be inappropriate development in the green belt, would erode openness and would conflict with the purposes of the green belt. Also it would have a modest harmful effect on the character and appearance of the locality. In favour of the proposal: There is a clear need for showmens plots in the York area. No sites have been identified to date and it is likely to be at least two years before suitable alternative sites will be identified as part of the LDF. The appellants have special health and educational needs and are currently living in unsatisfactory circumstances in the car park of a social club. The proposal would not be unacceptably harmful to the living conditions of neighbours. On balance the substantial harm to the objectives of the green belt is not outweighed by the other considerations, which do not amount to very special circumstances. Nevertheless, given the current lack of sites and the potential for sites to be allocated as part of the LDF, a temporary (5-year) permission, personal to the appellants, is acceptable. The case is so finely balanced so that only the second application, which has slightly less harm to the green belt than the first application, is allowed. Kevin O'Connell 29/6/11

---

**Application No:** 10/01521/FUL  
**Appeal by:** Mr Robert MacMahon  
**Proposal:** Change of use from dwelling (use class C3) to offices (use class A2), alterations to access  
**Address:** 24 Hull Road York YO10 3JG

**Decision Level:** CMV  
**Outcome:** ALLOW

The application was for the change of use of a three bedroomed semi-detached dwelling to a Letting Office. The site is between a petrol filling station and car wash and the dairy site which has recently gained planning permission for student accommodation. To the rear of the site is Devon Place which is a street of semi-detached dwellings. Opposite the site on Hull Road is a parade of shops and takeaway units. The application was recommended for approval by Officers; however the application was overturned at Committee. The grounds for refusal were the loss of a family sized dwelling on the existing and future housing stock and as such was contrary to Policy H9 and the Strategic Housing Market Assessment (SHMA) 2007. The appeal was allowed. The Inspector noted that in the 2010 Annual Monitoring Report that the majority of completions were for 1 - 2 bedroomed properties, and as such clearly falls short of the targets of the SHMA. However the Inspector stated that the SHMA was a strategic document and does not deal specifically with the loss of a single dwelling. Given the small scale nature of the development the Inspector considered that the loss of a dwelling did not materially harm the objective of Policy H9, as the Policy takes into account individual site circumstances and the character of uses in the surrounding area. The Inspector considered that the dwelling would have limited appeal as a family residence, and noted that the dwelling has been marketed for 6 months with little interest. The Inspector did not consider there would be any traffic or parking issues caused by the proposed letting office. At the committee meeting the appellant had tried to alter the application by removing the hours of use/operation they requested in their application, this had also been requested during the appeal. The Inspector restricted the hours of use of the site as to those requested by the Council to safeguard the amenity of the surrounding residents.

---

**Application No:** 10/01688/ADV  
**Appeal by:** Mr Gordon Gildener  
**Proposal:** Display of 1no. lettering sign  
**Address:** Bailey And Gildeners Solicitors 1 Peckitt Street York YO1 9SF  
**Decision Level:** CMV  
**Outcome:** DISMIS

The application sought to display an individual lettering sign measuring 1200mm high and 2500mm wide with a depth of 25mm which would project 50mm from the face of the building. The sign would have read "Richardson Gildener Solicitors", constructed in MDF with 24ct gold leaf applied to the faces and returns of the lettering. It would have been in the centre of the two buildings on a prominent corner at first floor level. The application was refused as it was felt that the proposed high-level signage would be intrusive in views, particularly of the Clifford's Tower and the associated monument. The scale and location of the signage would detract from the domestic, residential character of the listed buildings which would change the character of the area and detract from the historic quality of the setting of designated assets of the highest significance. The Inspector stated The proposed advertisement is restrained and modest, but it would be located on the corner of the building and would be in a prominent position. It would, most importantly, be above the projecting sill band where only two small security alarm boxes intrude upon the otherwise original frontages of the building. This virtually original appearance of the building, irrespective of its use, was he concluded worthy of preservation.

---

**Application No:** 10/01689/LBC  
**Appeal by:** Mr Gordon Gildener  
**Proposal:** Display of 1no. lettering sign  
**Address:** Bailey And Gildeners Solicitors 1 Peckitt Street York YO1 9SF  
**Decision Level:** CMV  
**Outcome:** DISMIS

he application sought to display an individual lettering sign measuring 1200mm high and 2500mm wide with a depth of 25mm which would project 50mm from the face of the building. The sign would have read "Richardson Gildener Solicitors" , constructed in MDF with 24ct gold leaf applied to the faces and returns of the lettering. It would have been in the centre of the two buildings on a prominent corner at first floor level. The application was refused as it was felt that the proposed high-level signage would be intrusive in views, particularly of the Clifford's Tower and the associated monument. The scale and location of the signage would detract from the domestic, residential character of the listed buildings which would change the character of the area and detract from the historic quality of the setting of designated assets of the highest significance. The Inspector stated The proposed advertisement is restrained and modest, but it would be located on the corner of the building and would be in a prominent position. It would, most importantly, be above the projecting sill band where only two small security alarm boxes intrude upon the otherwise original frontages of the building. This virtually original appearance of the building, irrespective of its use, was he concluded worthy of preservation.

---

**Application No:** 10/01871/FUL  
**Appeal by:** Mr I Harman  
**Proposal:** Change of use from retail (use class A1) to hot food takeaway (use class A5) and provision of external extract flue  
**Address:** 62 Brockfield Park Drive Huntington York YO31 9ER

**Decision Level:** CMV

**Outcome:** DISMIS

The appeal was against the refusal of a take away. The application had been supported by officers and overturned by committee. The reason for refusal related to the detrimental impact on the amenities of surrounding residents by virtue of an accumulation of noise, traffic, litter, odour, and anti-social behaviour which would detract from the quiet enjoyment and amenity of their homes. This was considered contrary to policy S6. The Inspector accepted that many of the movements associated with a take away would be similar to other shop uses the differences being the opening hours (to 22:00) and the cooking smells. In terms of noise and disturbance as a result of the opening hours the Inspector considered that as PPS24 refers to 23:00 as the time people will normally be asleep, noise should have died down by this time. In terms of odour the Inspector considered that for the residential amenity of adjacent occupiers it is vital that odours from food preparation and cooking would be adequately treated. The Inspector concluded that the ventilation report supporting the application included significant caveats about both suggested methods of control, based on the unknown nature of the proposed catering equipment, the type of building and the potentially prohibitive cost. The degree of uncertainty did not provide confidence that a satisfactory solution could be achieved which could also be properly maintained at reasonable cost. The Inspector considered that the final design of extraction equipment would have a significant bearing on the external appearance of the premises. Furthermore the Inspector said although not a reason for refusal of the application, the Council's statement raises concerns about the appearance of the proposed flue. I agree that the flue, which would be on prominent view, would be an unattractive addition to the street scene. The appeal was dismissed.

---

**Application No:** 10/01961/FUL  
**Appeal by:** Mr S Thomas  
**Proposal:** Change of use of land for siting of 23 No. static caravans  
**Address:** Home Lea Elvington Lane Elvington York YO41 4AX

**Decision Level:** DEL

**Outcome:** DISMIS

The site consists of a long sinuous plot leading back from the B1228 Elvington Lane north of Elvington Airfield within the Green Belt. It has previously been used as a touring caravan site for up to 20 caravans. The appellant sought planning permission for change of use to a static caravan site holding 23 timber built chalets with associated facilities. The application was refused on the grounds of impact upon the open character of the Green Belt, failure to secure the Green Belt purpose of preventing urban coalescence and failure to supply sufficient information in respect of surface water drainage. The inspector took the view that the proposal as a matter of fact and degree was of a different order to the previous use and would have a significant urbanising impact upon Green Belt. In his opinion by virtue of its failure to address the Green Belt purpose of preventing urban coalescence and its severe impact upon the openness of the Green Belt it would by definition be inappropriate. The appeal was dismissed.

---

**Application No:** 10/02082/FUL  
**Appeal by:** Mr And Mrs J Peel  
**Proposal:** Change of use of buildings/land to travelling showperson's site for one family (resubmission)  
**Address:** The Stables Elvington Lane Elvington York

**Decision Level:** DEL

**Outcome:** ALLOW

Summary of Decision: Against the proposal: The use would be inappropriate development in the green belt, would erode openness and would conflict with the purposes of the green belt. Also it would have a modest harmful effect on the character and appearance of the locality. In favour of the proposal: There is a clear need for showmens plots in the York area. No sites have been identified to date and it is likely to be at least two years before suitable alternative sites will be identified as part of the LDF. The appellants have special health and educational needs and are currently living in unsatisfactory circumstances in the car park of a social club. The proposal would not be unacceptably harmful to the living conditions of neighbours. On balance the substantial harm to the objectives of the green belt is not outweighed by the other considerations, which do not amount to very special circumstances. Nevertheless, given the current lack of sites and the potential for sites to be allocated as part of the LDF, a temporary (5-year) permission, personal to the appellants, is acceptable. The case is so finely balanced so that only the second application, which has slightly less harm to the green belt than the first application, is allowed. Kevin O'Connell 29/6/11

---

**Application No:** 10/02096/FULM  
**Appeal by:** Yorkshire Housing Limited  
**Proposal:** Residential development consisting of 7no. two storey dwellings and 6no. apartments in a three storey building on site of former Co-operative Dairy (resubmission)  
**Address:** Axcent Ltd 156B Haxby Road York YO31 8JN

**Decision Level:** COMM

**Outcome:** ALLOW

The application was refused by sub-committee on 6 January 2011 on grounds of highway safety and overdevelopment detrimental to the visual amenity of the area. The application had been recommended for approval by officers. The Inspector took the view that the width of the access road would be sufficient to allow two cars to pass and would be significantly wider than the effective width of White Cross Road. While the footway would be less than 2m wide and the Inspector agreed that there may be some difficulty passing a wheelchair or a buggy, he opined that given the likely volume and speed of traffic, significant safety problems would be unlikely to arise. He accepted that the loss of parking bays would exacerbate parking problems to some degree and that the access to the site for larger vehicles would be somewhat difficult, however he considered that this situation would exist for most uses of the site and considered that if re-used for commercial purposes this would be likely to attract many more large vehicles to the site than the appeal scheme. He recognised that the scheme would add to vehicle numbers in White Cross Rd but concluded that the traffic generated would be barely noticeable. In terms of the character and appearance of the area the Inspector noted that whilst there would be built form close to the boundaries of the site, that is already the case with the existing building, moreover the appeal scheme would give a wide open aspect between the site and the cycle path, which would give the locale a much more open and attractive character. The Inspector agreed that a significant amount of space to the front of the dwellings would be taken up by hard surfacing and parking but balanced this against an overall improvement to the appearance of the area. The appeal was allowed and a partial award of costs was made against the LPA, the Inspector considering that the LPA acted unreasonably in refusing the scheme on visual amenity grounds.

---

**Application No:** 10/02129/FUL  
**Appeal by:** Mr A Connolly  
**Proposal:** New dwelling with garage to rear with access from Millfield Lane. (Ridge line amendment and rooflights added from approval 10/01072/FUL)  
**Address:** 16 Midway Avenue Nether Poppleton York YO26 6NT

**Decision Level:** DEL

**Outcome:** DISMIS

Appeal dismissed. A single storey house had been permitted in the garden. The appeal was against a revised application to add a hipped gable roof, with higher ridge height at one end, to allow stairs into the roofspace. Inspector agreed that this would lead to an awkward looking roof that would be more prominent. In comparison to the approved scheme this development would have a detrimental impact on the appearance of the area.

---

**Application No:** 10/02344/FUL  
**Appeal by:** Woodliffe  
**Proposal:** Two storey side extension  
**Address:** Woodstead 7 Hull Road Kexby York YO41 5LA

**Decision Level:** DEL

**Outcome:** DISMIS

This application sought permission for the erection of a two-storey side extension to provide additional living space, with an additional footprint of approx. 38%. Permission had been given for a smaller two-storey extension which has now lapsed, which had an additional footprint of approx 28%, revisions were sought to reduce the size to that previously approved, but were not received. The inspector agreed that insufficient justification was received to outweigh the harm to the openness of the green belt and that the addition was not considered to be small in scale.

---

**Application No:** 10/02529/FUL  
**Appeal by:** Mr Haydn Kelly  
**Proposal:** Hipped gable to both sides with dormers to front and rear  
**Address:** 124 Heslington Lane York YO10 4ND

**Decision Level:** CMV  
**Outcome:** DISMIS

The extensions to this bungalow were refused as it was considered that the design and massing of the resultant building would have a discordant appearance that would not be sympathetic or appropriate to that of neighbouring buildings. It was felt it would be incongruous in the street scene when viewed in conjunction with the surrounding properties that have a planned layout and appearance and would not therefore respect the local environment. As such, it would have had an adverse affect on the visual amenity of the area, The Inspector agreed, stating it would change the appearance " from that of a pleasant, unobtrusive bungalow to a rather assertive and bulky dwelling that would undermine the character of the nearby bungalows and sit incongruously between them and the larger properties to the south-west." hw went on to say the harmonious grouping ( of bungalows) would be significantly disrupted and the street scene would be unacceptably harmed.

---

**Application No:** 10/02611/FUL  
**Appeal by:** Mr Alan Burn  
**Proposal:** Two storey and single storey rear extension  
**Address:** 2 Rawcliffe Grove York YO30 6NR

**Decision Level:** DEL  
**Outcome:** APPWDN

The rear extension to the dwelling was refused on the grounds that it would be out of character with the property and detract form the character and appearance of the Clifton Conservation Area. The Inspectorate after having initially registered the appeal, declined to accept it since a design and access statement had not been submitted with the a planning application. Such statements are statutorily required for developments within conservation areas. A subsequent application for reduced scheme has been approved.

---

**Application No:** 10/02632/FUL  
**Appeal by:** Mrs Harriett Boyes  
**Proposal:** Enlargement of front lightwell, new steps and entrance door (resubmission)  
**Address:** 81 Union Terrace York YO31 7ES

**Decision Level:** DEL  
**Outcome:** DISMIS

The application sought permission for an enlarged lightwell within the front garden area of 81 Union Terrace which serves the basement area. French doors were also proposed to replace the existing window. The lightwell would project out into the garden area and would be angled to splay out from the front elevation exposing the walls to the basement level. In dismissing the appeal the Inspector stated that he found the shape of the proposed lightwell to be entirely at odds with the formal and regular detailing and character of the period properties. It would also be entirely out of keeping with the uniform appearance of the other lightwells in this group and it would detract from the design and appearance of this dwelling and its immediate neighbours. It would fail to preserve or enhance the character or appearance of the conservation area. It would therefore conflict with the objectives of PPS5.

---

**Application No:** 10/02675/ADV  
**Appeal by:** Punch Taverns  
**Proposal:** Display of non-illuminated fascia sign and externally illuminated hanging sign (resubmission)  
**Address:** Royal Oak Inn 18 Goodramgate York YO1 7LG

**Decision Level:** DEL  
**Outcome:** ALLOW

This application was approved with a condition that required the proposed modern hanging sign to be replaced with a traditional, timber, moulded lipped hanging sign finished in a matt paint as agreed in writing with the agent. The condition required the applicant to replace or remove the existing modern sign within 2 months from the date of the decision - but the wrong year ( 2010) was inserted in the condition!! The applicant, Punch Taverns, appealed against the condition. The Inspector was satisfied from submitted documentation that the wording of the condition should have been January 2011 and not January 2010. He concurred with the Council's view that sign had an overly shiny appearance that betrayed its non-traditional materials which were not sympathetic to its listed status within the conservation area. It was considered that the condition in dispute was necessary to ensure a less strident sign. In effect, the Inspector upheld the requirements of the local planning authority by ALLOWING the appeal with the disputed condition amended to the correct date of the documentation setting out the details of the sign to be erected with a two month period of compliance. The sign has now been removed from site.

---

**Application No:** 10/02676/LBC  
**Appeal by:** Punch Taverns  
**Proposal:** Display of non-illuminated fascia and externally-illuminated hanging signs (resubmission)  
**Address:** Royal Oak Inn 18 Goodramgate York YO1 7LG

**Decision Level:** DEL

**Outcome:** ALLOW

This application was approved with a condition that required the proposed modern hanging sign to be replaced with a traditional, timber, moulded lipped hanging sign finished in a matt paint as agreed in writing with the agent. The condition required the applicant to replace or remove the existing modern sign within 2 months from the date of the decision - but the wrong year ( 2010) was inserted in the condition!! The applicant, Punch Taverns, appealed against the condition. The Inspector was satisfied from submitted documentation that the wording of the condition should have been January 2011 and not January 2010. He concurred with the Council's view that sign had an overly shiny appearance that betrayed its non-traditional materials which were not sympathetic to its listed status within the conservation area. It was considered that the condition in dispute was necessary to ensure a less strident sign. In effect, the Inspector upheld the requirements of the local planning authority by ALLOWING the appeal with the disputed condition amended to the correct date of the documentation setting out the details of the sign to be erected with a two month period of compliance. The sign has now been removed from site.

---

**Application No:** 10/02763/ADV  
**Appeal by:** Mr Stephen Walton  
**Proposal:** Retention of non illuminated fascia sign and illuminated projecting sign  
**Address:** 22 Gillygate York YO31 7EQ

**Decision Level:** DEL  
**Outcome:** DISMIS

The appeal relates to the erection of a non-illuminated fascia sign and an internally illuminated projecting green cross at Cohen's Chemist 22 Gillygate. Both signs were erected prior to Consent being sought. It was felt that the projecting sign fell within Class 5 to Schedule 3 of 2007 Town and Country Planning (Control of Advertisements) Regulations and that it could therefore be displayed with Deemed Consent. Express Advertisement Consent was refused in respect of the fascia sign on the grounds that as it was more than double the size of the existing fascia sign and its neighbours it was causing significant harm to the visual amenity of the local street scene by virtue of its scale, design and material. The appellant argued by contrast that it was subservient to its neighbours and that it closely reflected the wider rhythm of the street scene by virtue of its design and material. The Inspector took a directly contrary view suggesting that the sign was brash, intrusive and incongruous within the street scene and out-of-scale and over dominant when viewed against the building itself. Not surprisingly the appeal was dismissed.

---

<b>Decision Level:</b>	<b>Outcome:</b>
DEL = Delegated Decision	ALLOW = Appeal Allowed
COMM = Sub-Committee Decision	DISMIS = Appeal Dismissed
COMP = Main Committee Decision	PAD = Appeal part dismissed/part allowed