

Appeal Summaries for Cases Determined 01/10/2013 to 31/12/2013

Application No: 12/03142/FUL
Appeal by: Mr Christian Poole
Proposal: Dormer bungalow to rear
Address: 40 Fordlands Road York YO19 4QG

Decision Level: DEL
Outcome: DISMIS

Planning permission was refused for the erection of a dwelling in a back land location at Fordlands Road Fulford. Fordlands Road is a settlement (part of Fulford parish) washed over by green belt with a defined boundary wherein infill development can be acceptable. There has been a previous refusal and appeal dismissal on the site for the erection of a house. Fordlands Road is proposed to be taken out of the green belt in the New Local Plan. The Inspector considered the site still to be in green belt, considered the development to be backland development not infill, which he considered to be inappropriate development. No very special circumstances existed to outweigh inappropriateness. Taking in to account the comments of the previous Inspector he considered that the relationship of the proposed house to the existing semi detached property to be acceptable.

Application No: 12/03197/FUL
Appeal by: Mrs Patricia Marshall
Proposal: Change of use from residential dwelling (use class C3) to House in Multiple Occupation (sui generis) (retrospective)
Address: 12 School Lane Heslington York YO10 5EE

Decision Level: DEL

Outcome: DISMIS

The appeal related to the refusal of a retrospective application to change the property from a dwelling to a large house in multiple occupation HMO. It is understood that the property has been occupied by 8 individuals for around 5 years. Consent has subsequently been granted for a change of use to small HMO 6 people. The retrospective application for a large HMO was refused for the following reason: It is considered that the use of what was originally a three bedroom semi-detached dwelling house as a large House in Multiple Occupation for 8 tenants would create a level of noise and activity within and around the property that would be out of character with the surrounding quiet residential area. It is considered that the negative impact on the living conditions of neighbours from the intense nature of the use particular 13 School Lane, would go beyond what would reasonably be expected in a quiet edge of village location. The Inspector dismissed the appeal on the grounds that in the context of a quiet residential area two additional occupants would have the potential to harm neighbours living conditions. He made the interesting observation that, though a house could occasionally contain 8 family members, the noise from comings and goings of a family unit would typically be less than that from 8 unrelated peoples uncoordinated movements.

Application No: 12/03604/FUL
Appeal by: Mr Adam Manley
Proposal: Two storey side and rear and single storey side extension in connection with change of use from house in multiple occupation (six bedrooms - Use Class C4) to large house in multiple occupation (eight bedrooms - sui generis) (resubmission)
Address: 1 Burniston Grove York YO10 3RP
Decision Level: DEL
Outcome: DISMIS

The appeal related to the refusal of planning permission for the erection of a two-storey side extension and single storey mono - pitched rear extension to create an integral garage, extended kitchen and dining area with bedrooms at the first floor for to create additional bedrooms for an existing small HMO. The application was refused on the basis that the extension, including alterations to the garden areas by reason of the restricted size of the plot at the rear, would constitute an overdevelopment of the site resulting in an unacceptable reduction in private amenity space for future occupiers of the dwelling. In addition the application was also refused on the grounds that the size, scale and proximity to the boundary, would appear unduly oppressive and overbearing when viewed from the rear of 186 Tang Hall Lane, and would result in unacceptable overlooking and loss of privacy. The Inspector dismissed the appeal concluding that the extension would appear ungainly addition with a number of visually jarring roof forms. In addition the Inspector agreed that the extensions would materially harm the living conditions of the occupiers of 186 Tang Hall Lane in terms of outlook, in conflict with Policies GP1(i) and H7(d) of the DDCLP. The Inspector did not fully agree with the Councils decision relating the outside amenity space and concluded that the combined areas to the front and rear of the dwelling would be accessible, reasonably private and of an adequate size to serve the needs of the occupiers.

Application No: 12/03809/FUL
Appeal by: Mr Dritan Skenderaj
Proposal: Change of use of part of the car park as a members only hand car wash and valeting business and siting of office/storage unit within a timber screen
Address: Roko Health Club And Playfootball Stirling Road York YO30 4TU
Decision Level: DEL
Outcome: DISMIS

The application was to use part of a health club car park as a car wash and valeting business, including erection of a mobile office/storage building, timber screening and signage. Planning permission was refused due to impact on the green belt. The appeal was dismissed. The inspector considered that the main issues were: (1) Whether the proposal would be inappropriate development in the green belt. (2) The effect of the proposal on the openness of the green belt, and on the character and appearance of the area. (3) Whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development. He found that: (1) The proposal would be inappropriate, on the basis that it does not fall within the types of development listed in paragraphs 89 and 90 of the NPPF. (2) The use as a car wash, the office/storage building, screening and signage would reduce the openness of the area, and be harmful to the character and appearance of the site and the green belt due to their visual prominence and their siting in isolation from other buildings. (3) The location of the site (on a commercial car park), the industrial/retail character of the area, the use of natural materials, the proposed screening and approval of a similar business on a (non-green belt) car park nearby did not justify the proposal. Consequently, the proposal would conflict with national Green Belt Policy, as contained within the National Planning Policy Framework. The applicant had argued that the proposal would not be inappropriate because it would comply with paragraph 89 of the NPPF which allows the partial redevelopment of a previously developed site where the proposal does not have a greater impact on the openness of the green belt than the existing development. The inspector was not persuaded.

Application No: 13/00548/FUL
Appeal by: Mr & Mrs Mark Shillito
Proposal: Single storey side extension
Address: Rockstone Dauby Lane Kexby York YO41 5LH

Decision Level: DEL

Outcome: DISMIS

The attached appeal related to an extension with rooms in the roof space to a detached dormer bungalow located in the Green Belt near Kexby, outside the settlement limit. The application was refused for the following reason: The proposed extensions if approved will increase the footprint of the property by approximately 66% of its original floor area. In addition to the proposed extension to the property, a two-storey redevelopment of a car port and garage was approved in 2001. This has been constructed and is located approximately 1m from the proposed extension and is a significant development in its own right. It is considered that the application as submitted when taking account of the history of the site would harm the openness of the Green Belt and would result in a disproportionate increase to the size of the original building. As such the proposal conflicts with advice contained in Chapter 9 (Protecting Green Belt Land) of the NPPF and the content of Policy GB4 (and related supporting text) of the City of York Draft Local Plan (fourth set of changes) approved April 2005. The appellant argued that the real increase in footprint was nearer 46% and that because the extensions would not be prominent and permitted development rights were intact the proposal should have been approved. She argued that there should be little or no weight given to Yorks Local Plan and because there no definition of disproportionate in the new NPPF the proposal was acceptable. The Inspector dismissed the appeal. He said that even a 46% increase was inappropriate. He considered that the permitted development fall back position would not have such a significant impact on openness. He considered there were no special circumstances to justify approving the application.

Application No: 13/00976/FUL
Appeal by: Mr Andrew Dickinson
Proposal: Two storey side and single storey rear extension
Address: 4 Gormire Avenue York YO31 9JB

Decision Level: DEL

Outcome: DISMIS

The appeal related to the refusal of planning permission for the erection of a two-storey side extension and single storey mono - pitched rear extension to create an integral garage, extended kitchen and dining area with bedrooms at the first floor. The application was refused on the basis that the extension would appear would appear unduly oppressive and overbearing when viewed from the rear of the neighbouring property at 2 Gormire Avenue and would thus detract from the standard of amenity that the occupiers of this property could reasonably expect to enjoy. The Inspector dismissed the appeal concluding that the massing and proximity of the proposed extension to the neighbouring property, it would create an overbearing feature that would have a negative impact on the living conditions of both current and future occupants of No. 2 Goremire Avenue. Consequently, would conflict with Policies GP1(i) and H7(d) of the DDCLP.

Application No: 13/01308/FUL
Appeal by: Mr Thompson
Proposal: External cladding to front and rear
Address: 26 The Old Village Huntington York YO32 9RB

Decision Level: DEL

Outcome: PAD

The appeal related to the refusal of planning permission to externally clad the upper sections of the front and rear elevations for the purpose of installing Kingspan Insulation to improve the heat retention of the property. The application site is located within the Huntington Conservation Area. The application was refused on the basis that the external cladding to the front elevation of this dwelling would create prominent and incongruous feature which would fail to preserve the character or appearance of the Conservation area. This decision outweighed the public benefits in terms of energy efficiency improvements to the existing building. The Inspector part allowed / dismissed the appeal concluding that the cladding to the front would result in it appearing highly visible and incongruous, accentuated by the fact that the dwelling has a shallow front garden containing no tall landscaping to filter views of the front elevation. The cladding was allowed at the rear on the basis that it is much less visible from public vantage points and in particular from the conservation area

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