

Appeal Summaries for Cases Determined 01/01/2015 to 30/06/2015

Application No: 14/00447/FUL
Appeal by: Mr Michael Meek
Proposal: Two storey front, first floor side, single storey front extensions and balcony to side
Address: Holmedene Intake Lane Acaster Malbis York YO23 2PY

Decision Level: CMV
Outcome: DISMIS

Householder application to increase the ridge height of a previous first floor side extension to a full two storey extension running flush with the ridge of the host dwelling. In addition a two storey front extension and large balcony to the side were proposed. The property is located within the open greenbelt, outside of any settlement limits. Members refused the application on design and green belt grounds. The Inspector agreed with the council in that the extensions amounted to inappropriate development which would harm the openness of the Green Belt and detract from the character and appearance of the host dwelling. The applicant argued that the extension was to be used as additional accommodation for elderly relatives. The Inspector stated that the extensions and alterations proposed are 'likely to remain long after this ceases to be a material consideration' and as such attached only limited weight to this factor in determining the appeal.

Application No: 14/00476/FUL
Appeal by: Mrs Sheila Cronin
Proposal: Erection of two storey dwelling on adjacent land with associated detached garage and front driveway
Address: 4 Cornborough Avenue York YO31 1SH

Decision Level: DEL
Outcome: DISMIS

Planning permission was refused for the erection of a detached house in the rear garden of a suburban semi-detached house due to impact on the adjacent occupiers. Access would be via an existing drive down the side of the host house (No.4). The Inspector concluded that although the amount of traffic generated would be low, the comings and goings of vehicles and pedestrians, who would pass within 3.5m of the living/dining room window of No.4, would compromise the privacy of the occupiers. Noise from coming and going would compound this harm especially when windows were open. Lights would also be intrusive. A fence or planting would not address these concerns in any meaningful way. No other neighbouring occupiers would be significantly affected. There were no other planning issues.

Application No: 14/00515/FUL
Appeal by: Mr John Brassington
Proposal: Change of use from residential (use class C3) flexible use house in multiple occupation and residential (use class C3/C4)
Address: Apartment 4 Neptune House Olympian Court York YO10 3UD
Decision Level: DEL
Outcome: ALLOW

The appeal site is a two-bedroom flat on the first floor of a four-storey block within a modern residential development. Permission was refused for the change of use to a HMO because both the neighbourhood (20.59%) and street level (25.53%) thresholds had been breached. The Inspector gave considerable weight to Council's SPD "Controlling the Concentration of Houses in MultipleOccupation" and accepted that high concentrations of HMOs can lead to imbalanced communities and affect the character of an area. However in this case she considered that the apartment block appeared to be well-managed with no evidence of harm to the appearance of the area arising from litter, proliferation of letting boards or other issues commonly associated with HMOs. It is different in character from the larger and older properties in the area where the housing mix has changed as a result of their use as HMOs. In respect of noise and disturbance, she noted that there were no other flats within the internal communal areas that would have to be passed to get to the property. Outside the block, the noise and disturbance from the limited additional number of occupants going to and from the property would not be perceptible above existing levels.

Application No: 14/00525/FUL
Appeal by: Mr Andrew Gibson
Proposal: Erection of detached dwelling
Address: 9 Fawkes Drive York YO26 5QE

Decision Level: DEL

Outcome: DISMIS

The application was for a dwelling within a large side/rear garden. Pre-application advice had been given stating the application would not be supported. The application was refused on 2 no. grounds. By virtue of its backland location, it was considered to result in an incongruous form of development that would appear cramped and overdeveloped and would be out of keeping with the character and appearance of the street scene and surrounding area. Secondly, the proposed access would be to the front and side of 9 Fawkes Drive, which has primary rooms fronting onto the access and the parking area (of the proposed dwelling). The proposed comings and goings so close to the host dwelling were considered to result in a loss of amenity to the occupants. The appeal was dismissed. The Inspector agreed with the first reason for refusal but not the second. The Inspector did not consider that the number of comings and goings from the proposed dwelling would be sufficient to cause a disturbance.

Application No: 14/00579/OUT
Appeal by: G Blades & Sons Ltd
Proposal: Outline application for 9no. dwellings with associated garages and parking
Address: Blue Coat Farm Murton Lane Murton York YO19 5UF

Decision Level: DEL

Outcome: DISMIS

The appeal related to the erection of 9 dwellings on an area of paddock accessed from Blue Coat, Murton. The site is beyond the settlement limits for Murton and adjacent to Murton Conservation Area. The reasons for refusal were inappropriate development in the Green Belt (paragraph 87 to 89 of NPPF) and adverse impact on the setting of the Murton Conservation Area. The Inspector in dismissing the appeal concluded that the openness of the site and its appreciation would be severely compromised by the appeal scheme. Development of the site would extend the built envelope of the village into the open countryside, utilising agricultural land. This would be significantly harmful to the character and appearance of the area. The adverse effects on the setting of the Conservation Area attracted considerable weight against the appeal scheme. The other considerations put forward by the applicant including the lack of a five year housing land supply; the site not being rejected on Green Belt or Conservation grounds at preferred options stage of the local plan (rejected for lack of local services) and development would be infill, did not amount to 'very special circumstances' to outweigh the harm identified to the Green Belt.

Application No: 14/00928/ADV
Appeal by: Mr Mark Davison
Proposal: Display of halo- illuminated fascia sign, internally illuminated hanging sign, menu box and canopy sign
Address: Gourmet Burger Kitchen Limited 7 Lendal York YO1 8AQ

Decision Level: DEL

Outcome: PAD

Consent was refused for a fascia sign, brickwork painting and a hanging sign at The Gourmet Burger King, 7 Lendal, which forms part of a modern terrace within the Conservation Area. The proposed fascia sign comprised backlit, halo effect lettering in black perspex material with tracks below and above the lettering. It was proposed to add paint to the brickwork to extend across most of the property to give a backdrop to the lettering. Officers considered that the tracks above and below the fascia lettering would create a strong horizontal element to the fascia text, which would detract from the simple and uncluttered appearance of the principal elevation of the building and that the painting of the brickwork would not be characteristic of the area and would detract from the appearance of the building and wider streetscene. The Inspector commented that the fascia sign would have a more horizontal emphasis than is characteristic of the building and area and the painting of the brickwork would further emphasise the harmful visual effect of the sign and would introduce an element of clutter. This part of the appeal was dismissed. The hanging sign was refused for the reason that the proposal involved internal and external illumination with both trough lights and directional LED lighting, which would be considered to detract from the character and appearance of the building and that of the Central Historic Core Conservation Area. The Inspector considered that the removal of the directional LED signage could be secured by condition and that the proposed trough lighting would be acceptable for the reason that it would be positioned on and would be in proportion with the hanging sign. This part of the appeal was allowed.

Application No: 14/00939/FUL
Appeal by: Mr Robert Rhodes
Proposal: Erection of a detached dwelling
Address: Land To The South Of 20 Garden Flats Lane Dunnington
York
Decision Level: DEL
Outcome: DISMIS

Consent was sought for the erection of a detached house on an overgrown vacant plot in a suburban street. The plot was characterised by a range of mature trees, some of which contributed to the character of the area. Of lesser value was a row of mature conifers near and parallel to the boundary with the adjacent house. These conifers would be felled. The new house would have extended well beyond the rear elevation of the adjacent house. Planning permission was refused mainly due to the proposed house having an overbearing and intrusive impact on the occupiers of the adjacent house. This was the main issue for the inspector. He found that the scale and proximity of the two storey elevation facing the adjacent house would appear over-dominant and oppressive when viewed from the adjacent conservatory and garden. He accepted that the current outlook was dominated to a certain extent by the row of conifers but found that this could not reasonably be considered equivalent to the harsh and uncompromising lines of a new dwelling.

Application No: 14/01088/FUL
Appeal by: Mr G Singh
Proposal: Change of use from residential (use Class C3) to large house in multiple occupation (Sui Generis) (retrospective)
Address: 15 Green Dykes Lane York YO10 3HB
Decision Level: DEL
Outcome: ALLOW

The application was retrospective. The application was refused as the percentage of HMOs in the 100m catchment was 49% and 28% for the neighbourhood (the threshold maximums in the SPD were 10% and 20% respectively). In the officers conclusions it was stated that, the SPD sets out some of the issues of concern related to high concentrations of HMO's. It was mentioned that some can be visible such as poor property maintenance, however, others that impact on community well being are not readily apparent. These can include a decline in community integration and decreased demand for some local services, particularly outside term time. The Inspector stated that the Council had provided no evidence of how harm from the use had manifested itself such as in falling school rolls or closing shops. She also stated that having less HMOs close to the University would increase travel costs for students. The appeal was allowed.

Application No: 14/01197/FUL
Appeal by: Raglan HA
Proposal: Replace existing windows and doors to various different properties at Margaret Philipson Court and Aldwark, York
Address: 13 Margaret Philipson Court York YO1 7BT

Decision Level: DEL

Outcome: DISMIS

The appeal related to the replacement of the existing timber windows and doors with UPVC double glazed units to 32 flats within four three storey blocks built in the 1980s that comprise Margaret Philipson Court, Aldwark. The appeal site is located in York Central Historic Core Conservation Area, Character Area 8 Aldwark, and within the setting of the Merchant Taylors Hall, a grade I listed building and the City Walls, a grade I listed building and scheduled ancient monument. The Inspector stated that the proposed windows would be of a more bulky appearance than the existing windows and the texture and grain of their finish would not encapsulate the traditional qualities of wood to any significant extent. The Inspector considered that within the context of Aldwark the proposed replacement windows and doors would appear obtrusive and visually prominent. The substantial bulky form and non traditional materials of the proposed replacement windows would stand out as unsympathetic additions that would detract from the appearance of Margaret Philipson Court and the established residential character of the area, which are of significance to the areas heritage. In dismissing the appeal, the Inspector concluded that the proposal would fail to preserve or enhance the character or appearance of York Central Historic Core Conservation Area. The Inspector considered that the proposed replacement windows, due to their unsympathetic design and inappropriate materials would appear at odds with the traditional historic appearance of the adjacent Merchant Taylors Hall and City Walls. In dismissing the appeal, the Inspector concluded that the proposal would be harmful to the settings of the listed buildings and scheduled ancient monument and would adversely affect the significance of these designated heritage assets.

Application No: 14/01333/ADV
Appeal by: Sainsbury's Supermarkets Limited
Proposal: Display of 1no. externally illuminated timber fascia sign
Address: Swan Court Piccadilly York

Decision Level: DEL

Outcome: DISMIS

The appeal was against refusal for a non-illuminated fascia sign positioned on a brick panel, above the shop front fascia. The inspector referred to the rhythm and architectural design of the building; its shop fronts, with horizontal emphasis and the upper floor facade. Signs on the building were consistently located immediately above the shop front. The inspector considered the advertisement was poorly located. It visually interfered with the design of the upper floor facade and subsequently had an adverse effect on the appearance of the host building and the conservation area.

Application No: 14/01345/FUL
Appeal by: Mr Richard Haxby
Proposal: Change of use from retail (use class A1) to residential dwelling (use class C3) with associated works including removing shop front and replacement with new entrance door and windows
Address: Fantasy World 25 Main Street Fulford York YO10 4PJ

Decision Level: DEL
Outcome: DISMIS

Planning permission was granted for the change of use of a retail unit occupying the whole building to a single dwelling house. The building is within the Fulford Air Quality Management Area. The approval required a scheme of ventilation and extraction to include non opening windows to habitable rooms on the front elevation and the installation of a continuous supply and extract ventilation system. The appellant appealed on the basis that the condition was not necessary and reasonable. He supported his case with his own evidence showing that there had been an improvement in air quality in recent years. The Council defended its position that the condition met the tests set out in Planning Policy Guidance and evidence was provided by the Environmental Health Air Quality Officer demonstrating that, whilst the overall trend for Nitrogen Dioxide levels had been declining in the vicinity, the levels at the two closest stations fell only very marginally and remained above acceptable levels. The Inspector considered that the underlying principle of the condition was sound given the AQMA and the aims of the NPPF. She concluded that, on the basis of the current evidence and in the absence of site specific data, the levels at the appeal site did not presently fall within acceptable levels. As such, the condition was reasonable and necessary in the interests of the health of future occupants. She expressed considerable sympathy with appellant's contention that many homes in the AQMA were not subject to such conditions, but noted that they cannot be applied retrospectively and are confined to new development proposals.

Application No: 14/01535/FUL
Appeal by: Palladian (York) Ltd
Proposal: Erection of 5no. dwellings with associated parking and access (resubmission)
Address: Land To The North Of Twinam Court Intake Lane
Dunnington York
Decision Level: DEL
Outcome: DISMIS

The appeal related to the erection of 5 no. detached, Passivhaus energy efficient homes on a pasture field located north of Intake Lane. The site lies within the general extent of Green Belt and outside, though adjacent to, the defined settlement limit of Dunnington village. The Inspector agreed that the proposal was inappropriate development that would result in a considerable loss of openness - confirmed as being, an absence of built development. Furthermore, it would introduce a significant row of residential development that would encroach into the countryside, causing significant harm to the character and appearance of the surrounding countryside. In assessing the other considerations stated by the appellant, the Inspector concurred with the LPA that the Passivhaus features were not uncommon, ground breaking in design or innovative in nature nor would act as an exemplar due to their remote location. She gave some weight to minimising energy consumption, but saw no reason why Passivhaus requirements gave rise to a Green Belt location. Whilst attributing a limited amount of weight to the construction of dwellings in an area where a 5 year housing supply cannot be demonstrated, she noted that the NPPF advises that unmet housing need is unlikely to outweigh harm to the Green Belt. She concluded that the other considerations did not amount to the very special circumstances necessary to clearly outweigh the identified harm to Green Belt. The appeal was, therefore, dismissed.

Application No: 14/01642/FUL
Appeal by: Mr John Slemore
Proposal: Installation of dormer windows to front and rear of granny annexe (resubmission)
Address: Holme Lea 57 Temple Lane Copmanthorpe York YO23 3TD

Decision Level: DEL
Outcome: DISMIS

The host site is located in an area 'washed over' by green belt. The submission proposed front and rear dormers to an existing detached 'granny annexe' building, to the rear of a dormer bungalow, which benefited from planning permission for this use (though for which permitted development rights were removed); the accommodation is used for an elderly relative. It was considered that the further extension of this building would result in it appearing as a separate dwelling as opposed to it appearing as an annexe and being subservient to the original dwelling, thus the application was refused on the grounds that it caused harm to the character and appearance of the surrounding area. The Inspector agreed, and further to the supporting statement by the applicant, added that no compelling explanation as to why carers for the elderly relative could not stay overnight in the main house had been provided, and in any event this positive aspect of the scheme did not outweigh the visual harm which would be caused by the proposed dormers. The appeal was dismissed.

Application No: 14/01694/FUL
Appeal by: Mr Paul Hodgson
Proposal: Dormer window to rear
Address: 9 Church Street Copmanthorpe York YO23 3SA

Decision Level: DEL
Outcome: DISMIS

The host site is a traditional cottage within Copmanthorpe Conservation Area, opposite the Church. This application proposed a large wrap around box style dormer to the rear of the dwelling, which included having to raise the ridge height of an existing two-storey rear extension. Only very limited views to towards the dormer would be gained from Church Street to the front. Amended plans were sought but not received to reduce the scale of the dormer, thus it was refused on the grounds of harm to the character of the Conservation Area. The Inspector agreed and considered that views from the small rear residential development of Stakers Yard, would cause sufficient harm to the character of the Conservation to dismiss the appeal.

Application No: 14/01777/FUL
Appeal by: Mr Nigel Travis
Proposal: Erection of two storey detached dwelling including alterations to existing dwelling
Address: 6 Westlands Grove York YO31 1DR

Decision Level: CMV
Outcome: DISMIS

Planning permission was refused by Committee against officer recommendation, for the erection of a detached two-storey house in the garden of an existing detached two-storey house. The existing house is situated on a large corner plot at the junction of Westlands Road and Elmlands Grove, with elevations facing towards both Westlands Grove and Elmlands Grove. The proposed house was to be built in line with the elevation fronting Elmlands Grove, but forward of the Westlands Grove elevation. The grounds for refusal were based on the loss of openness on a prominent corner site, which is an important gap within the surrounding development, and the detrimental harm this would have to the character and amenity of the local environment. In dismissing the appeal, the Inspector commented that the plot is markedly larger than other nearby corner plots and the openness of the front garden makes a positive contribution to the spacious character of the area. Whilst the proposed dwelling would have projected no farther forward than the host property and would echo the building line of 4 Westlands Grove, the introduction of a detached dwelling would erode the sense of openness on this prominent corner plot and would result in an uncharacteristic form of development in relation to the semi-detached properties on the corner plots on the opposite side of Elmlands Grove.

Application No: 14/01781/FUL
Appeal by: Mr N Thompson And Mrs D Davies
Proposal: Two storey and single storey rear extension
Address: 6 Northfield Lane Upper Poppleton York YO26 6QF

Decision Level: DEL
Outcome: DISMIS

The appeal site is an end of terrace property located within the Green Belt. The application sought permission for the erection of a large single storey rear extension and a first floor rear extension. In dismissing the appeal the inspector agreed with the Council in that the extension would constitute inappropriate development and that it could not be considered as being 'limited' or 'small scale', thus being contrary to policies GB1 and GB4. The Inspector noted that the neighbouring properties had existing large single storey rear extensions but that these were not visible at long range unlike the proposed first floor element of the scheme. The first floor element would therefore be harmful to both the openness and character of the Green Belt.

Application No: 14/01803/FUL
Appeal by: Mr Owen Legg
Proposal: Single storey front, side and rear extensions
Address: 2 Westholme Drive York YO30 5TH

Decision Level: DEL
Outcome: PAD

A planning application was submitted for single storey front, side and rear extensions to this bungalow. It was refused because the the front extension was considered to be harmful to the appearance of the dwelling and to the street scene as it would project forward of an established building line and would have been an overly prominent addition in relation to the existing dwelling and the streetscene. The Inspector agreed that there was a consistency of form and layout to the bungalows in the street and the small front extensions evident in the street did not alter the consistant relationship between the bungalows and gardens. This extension would introduce a bulky, conspicuous and incongruous addition to the host dwelling. The side extension would add further bulk to the property which when allayed to its front projection would cause further harm to the character and appearance of the dwelling and the streetscene. The Inspector dismissed the appeal on those areas on which the Council had refused planning permission and agreed with the Council that there was no harm form the rear extension and thus granted permission for that aspect of the scheme (something an Inspector can do but the Council can't).

Application No: 14/02249/FUL
Appeal by: Mr Ian Smales
Proposal: Loft conversion with 4no. dormers to front, side and rear and the increase in the height and front extension to, the roof to existing rear projection
Address: 8 Sherwood Grove York YO26 5RD

Decision Level: DEL
Outcome: DISMIS

The host site forms a detached bungalow which has previously been extended by a large rear/side extension, and it was proposed to now increase the living space by providing additional rooms within the roof, by way of front, side and rear dormers, and raising and extending forward the roof to the extension. The element of the existing extension sited along the common boundary with No. 6 Sherwood Grove already was considered to harm the outlook for these neighbouring residents, thus any further front dormers or increase/change in the height and further front projection of this roof was considered inappropriate and the application was refused on these grounds. The Inspector agreed and stated that the current proposal would increase the oppressive sense of enclosure along the side boundary.

Application No: 14/02301/FUL
Appeal by: Mr Peter Broadley
Proposal: Erection of replacement garage
Address: Sycamore Cottage Main Street Holtby York YO19 5UD

Decision Level: DEL

Outcome: ALLOW

The application was refused because the replacement garage was determined to have an inappropriate impact on the openness of the Green Belt as it was considered to be materially larger than the building it was replacing in terms of the combined mass, footprint and height and that it would be unduly prominent in this location. In allowing the Appeal, the Inspector however found that the replacement building was not materially larger than the existing garage in terms of overall volume because it had a slightly smaller footprint which offset against the increased height. As there would be no material increase in the volume of the building there would be no material loss in the openness of the Green Belt and therefore no conflict with the purposes of including land within it. Further, the building would be largely screened by the laurel hedge and high gates. The building would appear sympathetic with other buildings in the vicinity on the edge of the settlement. An application for an award of costs was refused.

Application No: 14/02381/FUL
Appeal by: Lisa Parker
Proposal: Two storey rear extension and erection of detached garage (resubmission)
Address: 32 Campleshon Road York YO23 1EY

Decision Level: DEL

Outcome: DISMIS

Permission was refused for part two storey and part single storey rear extensions to this semi-detached house on the grounds that the size, scale and massing was harmful to neighbouring amenity, in particular being oppressive and overbearing when viewed from the adjoining property. The rear of these properties are north facing and the Inspector considered that even a small loss of natural sunlight, as would be the case as a result of this proposal, would be harmful to the living conditions of this neighbour. The Inspector also agreed that a 3m deep 2 storey extension so close to the boundary would have an oppressive and overbearing impact on the nearest ground floor room (dining kitchen) of the adjoining house. The personal circumstances behind the extension i.e. to meet the needs of the applicant's disabled son were taken into consideration but did not outweigh the harm caused to the neighbour.

Application No: 14/02456/ADV
Appeal by: Mr JD Sports
Proposal: Display of 2no. externally illuminated fascia signs and 2no. non-illuminated hanging signs
Address: Stylo Barratt Shoes Ltd 1 - 2 St Sampsons Square York YO1 8RL
Decision Level: DEL
Outcome: DISMIS

Advertisement consent was refused for the retention of the signs currently displayed at 1 to 2 Feasegate. The signs comprise 3 externally illuminated fascia signs on light grey coloured, patterned panel backgrounds and 2 non-illuminated hanging signs. The 3 buildings which form the retail premises are listed in Grade 2 , have 20th Century shopfronts, and the existing advertisements are at a prominent corner seen from St Sampsons Square, Parliament Street, Davygate, Feasgate and Church Street. The Inspector supported the Council's view that the modern design and materials, the contrast between the black faced lettering and the shiny light coloured and patterned panels, results in bright gaudy and distinctly out- of- character signage in this part of the City. He noted that the streetscape in the area is generally appropriately restrained in relation to signage, colouring and signage illumination. The overtly modern signs result in visual harm to the buildings themselves and to the character and appearance of the conservation area. Although the hanging signs in terms of their size and the brackets used were acceptable the shiny light coloured background results in signage that detracts from, rather than enhancing the appearance of this part of the City. He also noted that the painted out first floor windows in green which are not part of the appeal, exacerbate the overall impact and the green, light grey and black colour scheme is garish and stark.

Application No: 14/02768/FUL
Appeal by: Mr David Harper
Proposal: Second floor rear extension (resubmission)
Address: 1 Longfield Terrace York YO30 7DJ

Decision Level: DEL

Outcome: DISMIS

1 Longfield Terrace is the first house in a row of three storey terraced dwellings, situated behind original brick walls to the principal elevations and incorporating small enclosed rear courtyards. The appeal related to the refusal of planning permission for an extension of approx 4.7 metres in length to an original second floor projection. The Council considered that the proposed extension would by virtue of its massing and total height create an oppressive, dominant and overbearing impact on the attached dwelling at 2 Longfield Terrace. Furthermore, it was considered that the extension would further decrease the light levels into this property and views of the sky when looking from the side of this property. The Inspector agreed with The Council and dismissed the appeal on the basis that the additional expanse of wall above the existing eaves level of the rear projection would further increase the height, bulk and massing would have an oppressive and overbearing effect which would worsen the outlook from the rear facing habitable room windows and outdoor space to 2 Longfield Terrace.

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