

- Meeting:** Skipton and Ripon Area Constituency Planning Committee
- Members:** Councillors Barbara Brodigan, Andy Brown (Vice-Chair), Robert Heseltine, Nathan Hull (Chair), David Ireton, David Noland and Andrew Williams.
- Date:** Tuesday, 5th September, 2023
- Time:** 2.00 pm
- Venue:** Ripon Town Hall, Market Place South, Ripon, HG4 1DD

Members of the public are entitled to attend this meeting as observers for all those items taken in open session. Please contact the named democratic services officer supporting this committee, details at the foot of the first page of the Agenda, if you have any queries.

This meeting is being held as an in-person meeting that is being recorded and will be available via the following link <https://www.northyorks.gov.uk/your-council/councillors-committees-and-meetings/live-meetings>.

Recording is allowed at Council, committee and sub-committee meetings which are open to the public. Please give due regard to the Council's protocol on audio/visual recording and photography at public meetings. Anyone wishing to record is asked to contact, prior to the start of the meeting, the named democratic services officer supporting this committee. We ask that any recording is clearly visible to anyone at the meeting and that it is non-disruptive.

### Agenda

- 1. Apologies for Absence**
- 2. Minutes for the Meeting held on 1st August 2023** (Pages 3 - 6)
- 3. Declarations of Interests**  
All Members are invited to declare at this point any interests, including the nature of those interests, or lobbying in respect of any items appearing on this agenda.
- 4. ZC23/01972/FUL - Change of use to first, second and third floors to a HMO providing staff accommodation in association with existing ground and basement floor restaurant use, with a communal kitchen and sanitary facilities (use Class C4). At Dragon Inn Chinese Restaurant 41 Market Place Ripon North Yorkshire HG4 1BZ on behalf of Mr Wang** (Pages 7 - 24)

5. **ZC23/01973/LB - Listed building application for works associated with change of use to first, second and third floors to a HMO providing staff accommodation in association with existing ground and basement floor restaurant use, with a communal kitchen and sanitary facilities (use Class C4). At Dragon Inn Chinese Restaurant 41 Market Place Ripon North Yorkshire HG4 1BZ on behalf of Mr Wang** (Pages 25 - 36)

Report of Assistant Director – Planning.

6. **ZC23/02678/FUL - Full planning permission for part conversion/part new build of agricultural building to form a new dwelling at Hew Green Farm, High Lane, High Birstwith, HG3 2JL on behalf of Mr P Saddington** (Pages 37 - 54)

Report of the Corporate Director – Community Development Services.

7. **Any other items**

Any other items which the Chair agrees should be considered as a matter of urgency because of special circumstances.

8. **Date of Next Meeting**

Tuesday, 3<sup>rd</sup> October 2023 at 2.00pm.

Members are reminded that in order to expedite business at the meeting and enable Officers to adapt their presentations to address areas causing difficulty, they are encouraged to contact Officers prior to the meeting with questions on technical issues in reports.

**Agenda Contact Officer:**

Alice Fox, Democratic Services and Scrutiny Manager

Email: [alice.fox@northyorks.gov.uk](mailto:alice.fox@northyorks.gov.uk)

Thursday, 24 August 2023

## North Yorkshire Council

### Skipton and Ripon Area Constituency Planning Committee

Minutes of the meeting held on Tuesday, 1st August, 2023 commencing at 2.00 pm.

Councillors Nathan Hull in the Chair plus Andy Brown, Robert Heseltine and David Noland.

Officers present: Nick Turpin, Planning Manager (Harrogate), Kelly Dawson, Senior Solicitor, Kate Broadbank, Principal Development Management Officer, Keith Jameson, Principal Engineer Transport and Development, Vicky Davies, Senior Democratic Services Officer and David Smith, Democratic Services and Scrutiny Officer.

Apologies for absence were received from Councillors Barbara Brodigan, David Ireton and Andrew Williams.

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#### Copies of all documents considered are in the Minute Book

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#### 15 Apologies for Absence

Apologies for absence were received from Councillors Barbara Brodigan, David Ireton and Andrew Williams.

#### 16 Minutes of the Meeting held on 4 July 2023

The minutes of the meeting held on Tuesday 4 July 2023 were, subject to a minor amendment, confirmed and signed as an accurate record.

#### 17 Declarations of Interests

Councillor Nick Brown declared an interest in item 4 on the agenda as he was Division Member for the site location of application 21/01833/FULMAJ. He stated he would keep an open mind and intended to speak and vote.

#### 18 21/01833/FULMAJ - Erection of 23 No. residential dwellings including associated access, landscaping and drainage works at land comprising field at 432860, 465899, Knaresborough Road, Bishop Monkton

Considered:

The committee considered a report of the Assistant Director Planning - Community Development Services relating to planning application 21/01833/FULMAJ which had been deferred from 6<sup>th</sup> June 2023. An updated report was presented to the Committee.

Jonathan Beer from Bishop Monkton Action Group spoke objecting to the application.

Parish Councillor Dean Culshaw spoke on behalf Bishop Monkton Parish Council objecting to the application.

The applicant's agent, Steven Longstaff, spoke in support of the application.

During consideration of the above application, the Committee discussed the following issues:

- At the start of the meeting, Members had been provided with photographs from Bishop Monkton Action Group. In addition, two letters from Mr Stanley Mackintosh on behalf of the City of Ripon Trust circulated to Members. Those letters stated that, the Trust did not believe that the ground stability report and ground stability declaration form submitted by the applicant met the statutory requirement for authorship by a competent person. In response, the planning officers stated they were satisfied that the information provided by the applicant was acceptable and compliant with policy requirements.
- Members were disappointed that Yorkshire Water did not send a representative to the meeting to answer their concerns, instead choosing to provide additional written comments. Yorkshire Water stated two reasons for not objecting to the application, the more pertinent one being that most, if not all, of the sewage escapes were not due to capacity issues but were caused by blockages created by individuals who were misusing the sewer network.
- Members noted that Highways officers had been re-consulted and that their position had not changed, in that the chicane was positioned in the optimum location as vehicles would slow down as they approached it and the crossing point.
- Members were informed that as a planning application had been submitted, it was not necessary for a separate application under the 1997 Hedgerow Regulations to be submitted and assessed. Members were reminded that hedgerow removal, as part of an approved planning application was exempt from the Regulations under Section 6(e). This states that the removal of any hedgerow to which the Regulations apply is permitted if it is required for carrying out development for which planning permission has been granted or is deemed to have been granted. This permitted development right applies in this case and there was no requirement for the applicant to submit a separate Hedgerow Removal Notice for consideration. The importance of the hedgerow had been considered in relation to ecology and the character and appearance of the conservation area as part of the determination of the application.
- Members debated the potential benefits of the application such as affordable housing and balanced those benefits against the potential for making the sewerage issues in the village worse as well as the impact the part removal of the hedge would have on the Grade II Listed church and Conservation Area.

The decision:

That planning permission be REFUSED for the following reasons:

- (i) The application, by reason of the loss of part of the hedge along Knaresborough Road, is considered to cause harm to the Bishop Monkton Conservation Area contrary to paragraph 202 of the NPPF and Local Plan Policy HP2. The loss of part of the hedge will also cause harm to the setting of the Grade II Listed Church. This harm is not considered to be outweighed by the public benefits of the proposal.
- (ii) There has been a material change in circumstance since the adoption of the Local Plan in relation to the capacity of the sewerage system in Bishop Monkton which makes permitting the development on this site inappropriate and contrary to Local Plan Policy NE2.

#### Voting Record

For refusal 4; Abstention 1.

Note: Councillor Nick Brown, having declared a personal interest as Division Member, remained in the meeting and took part in the discussion and voting on the above application.

**19 Any other items**

There were no urgent items of business

**20 Date of Next Meeting**

Tuesday, 5 September 2023 – venue to be confirmed.

The meeting concluded at 3.55 pm.

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## North Yorkshire Council

### Community Development Services

#### Ripon and Skipton Constituency Committee

**ZC23/01972/FUL - CHANGE OF USE TO FIRST, SECOND AND THIRD FLOORS TO A HMO PROVIDING STAFF ACCOMMODATION IN ASSOCIATION WITH EXISTING GROUND AND BASEMENT FLOOR RESTAURANT USE, WITH A COMMUNAL KITCHEN AND SANITARY FACILITIES (USE CLASS C4). AT DRAGON INN CHINESE RESTAURANT 41 MARKET PLACE RIPON NORTH YORKSHIRE HG4 1BZ ON BEHALF OF MR WANG**

#### Report of the Assistant Director – Planning

##### **1.0 Purpose of the Report**

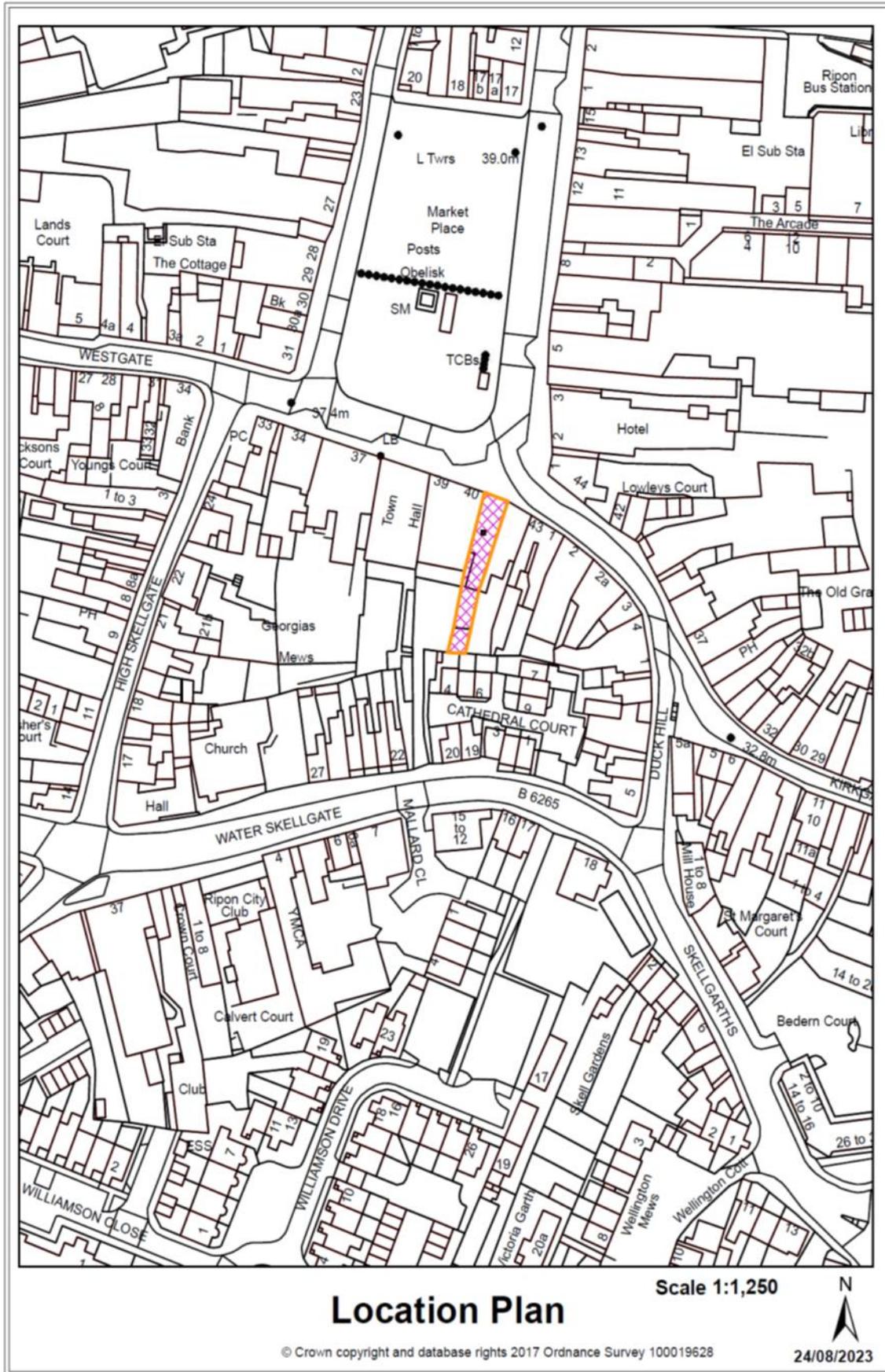
- 1.1 To determine a planning application for Change of use to first, second and third floors to a HMO providing staff accommodation in association with existing ground and basement floor restaurant use, with a communal kitchen and sanitary facilities (Use Class C4).
- 1.2 This application accompanies a Listed Building application for the works associated with change of use of the building under application, ZC23/01973/LB, which is presented to the planning committee under a separate committee item.
- 1.3 This application is referred to the Planning Committee by request of the Division Member.

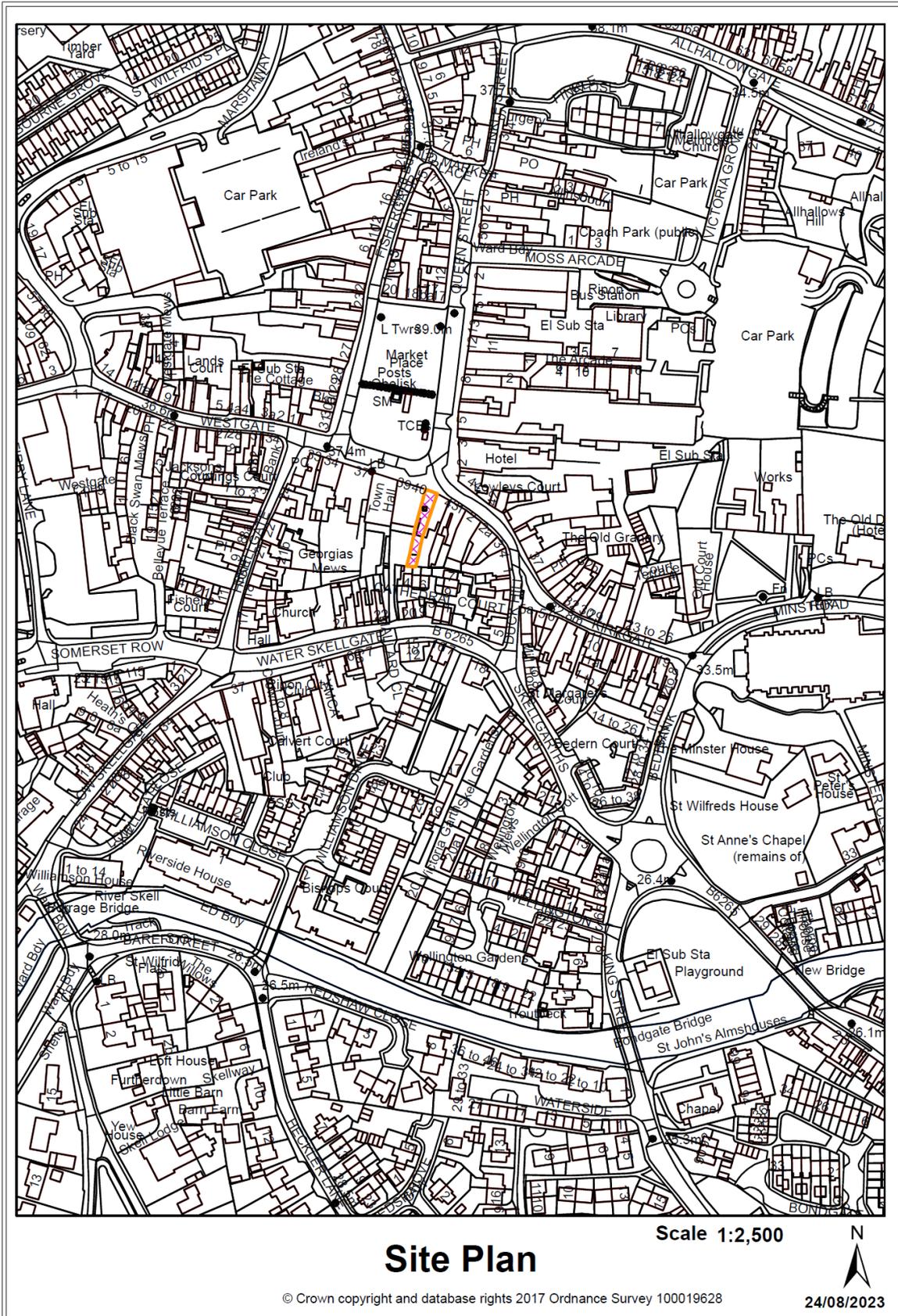
##### **2.0 EXECUTIVE SUMMARY**

**RECOMMENDATION:** That planning permission be **GRANTED** subject to conditions listed below.

- 2.1. The proposal seeks planning consent for the change of use to first, second and third floors to a House of Multiple Occupancy (HMO), providing staff accommodation in association with existing ground and basement floor restaurant use, with a communal kitchen and sanitary facilities. The use of the upper floors is not clarified within the planning history for the site, however, is believed to be of domestic use in association with the lower floors.
- 2.2. The proposal is set within the development limits of Ripon and would contribute towards the 5 year housing land supply in accordance with the growth strategy, compliant with Local Plan policies GS2 and GS3.

- 2.3. The proposal is considered to adequately safeguard the special character of the host building, street scene and Conservation Area and would not introduce unacceptable impacts on amenity, highways, or environmental health, subject to conditions.
  
- 2.4. The proposal conforms to guidance in the NPPF, Ripon Neighbourhood Plan and Local Plan policies GS3, HP2, HP3, HP4, TI3, NE9, of the Local Plan and supplementary planning documents.





### **3.0 Preliminary Matters**

- 3.1. Access to the case file on Public Access can be found [here](#)
- 3.2. There are 3 relevant planning applications for this application which are detailed below.

ZC23/01973/LB– Listed Building application for works associated with change of use to first, second and third floors to a HMO providing staff accommodation in association with existing ground and basement floor restaurant use, with a communal kitchen and sanitary facilities (Use Class C4). Pending consideration.

22/00705/FUL - Change of use and conversion of first, second and third floors into 4no self-contained bedsit flats and 1no 2 bedroom flat, including internal alterations and insertion of new second floor window to rear. Withdrawn 11.11.2022.

22/00706/LB - Change of use and conversion of first, second and third floors into 4no self-contained bedsit flats and 1no 2 bedroom flat, including internal alterations and insertion of new second floor window to rear. Withdrawn 11.11.2022.

### **4.0 Site and Surroundings**

- 4.1. 41, Market Place is a grade II listed building with the Dragon Inn Restaurant occupying the ground and lower ground floor. The upper floors are associated with and accessed through the restaurant, however the planning history does not indicate a confirmed use class.
- 4.2. The proposal is set within the Ripon Conservation Area and within its city centre.

### **5.0 Description of Proposal**

- 5.1 This is an application for the change of use of the building to provide HMO accommodation in addition to the existing restaurant. The external works entail; repair works to slates, chimney stack, render, gutter and windows and door. The internal works require; redecoration, repair works to fenestration, replacement fitting of kitchen, replacement of sanitary wear and splash backs to two shower rooms, installation of floor covering to stairs, landing, 2<sup>nd</sup> and 3<sup>rd</sup> floor bedroom areas over existing retained floor and removal of a partition wall to the 3<sup>rd</sup> floor. The majority of the works mentioned above are internal works and repair work do not items do not require planning permission but are highlighted for information purposes. Further details is provided within the officer report for the Listed Building application.

- 5.2 This work has been partially completed and therefore is part-retrospective.
- 5.3 The application site includes an area of land within the red edge line of development, to provide access to the public highway Water Skellgate to the rear of the proposal site. This is not under the ownership of the applicant and notice has been served on The Council as the owner of the access road.
- 5.4 This application accompanies full planning application ZC23/01973/LB.

## **6.0 Planning Policy and Guidance**

- 6.1. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that all planning authorities must determine each application under the Planning Acts in accordance with Development Plan so far as material to the application unless material considerations indicate otherwise.

### Adopted Development Plan

- 6.2. The Adopted Development Plan for this site is:
- Harrogate District Local Plan 2014 – 2035, adopted March 2020.

### Guidance - Material Considerations

- 6.3. Relevant guidance for this application is:
- National Planning Policy Framework 2021
  - National Planning Practice Guidance
  - Supplementary Planning Document: Heritage Management
  - Ripon Conservation Area Appraisal
  - Ripon Neighbourhood Plan

## **7.0 Consultation Responses**

- 7.1. The following consultation responses have been received and have been summarised below.
- 7.2. **Building Control:** Advises that a Building Regulations application will be required for this proposal. The officer recommends that Planning permission is only granted once the LPA are satisfied that a suitable, satisfactory appraisal of the existing foundations and the design of any new foundations has been prepared by a structural engineer (who is familiar with the specific ground related issues in the Ripon area) following a suitable ground investigation by an individual/company with the relevant level of experience.

- 7.3. **Design and Conservation:** No objection to works, subject to condition relating to the submission of a condition report and detailed drawings for the replacement of windows if required.
- 7.4. **Environmental Health:** No Objections subject to a condition restricting the occupation of the proposal to be in direct association with the ground and lower ground floors.
- 7.5. **Estates Department:** Land at the rear of the property fronting onto Water Skellgate is in the ownership of North Yorkshire Council. The applicants do not have any rights to access the rear of the application site over North Yorkshire Council's land.
- 7.6. **Highways Department** – No objections due to provision of cycle storage and sustainable location.
- 7.7. **Historic England** – No comments.
- 7.8. **Housing Department** – Set out comments in relation to fire safety, a licence for the provision of a HMO for 5 or more occupants, clarity on the occupation of the third floor, siting of wash hand basins away from toilet and shower facilities and w/c off a bathroom is not ideal with regards to hygiene, advises of a Prohibition Order and Improvement Notice of the building requiring improvement works, advises access should only be through the rear door, advises improvements to the rear path, advises compliance with Building Regulations, advises the provision of adequate light and ventilation, advises the repair of windows, advises that'.

#### Local Representations

- 7.9. 0 letters of representation have been received from members of the public.

### **8.0 Main Issues**

- 8.1 The key considerations in the assessment of this application are:

- Principle of development
- Impact on the character and appearance of the Grade II Listed Building, street scene and Conservation Area.
- Residential Amenity
- Highways
- Environmental Health
- Other matters

## 9.0 **ASSESSMENT**

### Principle of Development

- 9.1 The Harrogate District Local Plan 2014-2035 was adopted by Harrogate Borough Council in December 2020. The Inspectors' Report concluded that, with the recommended main modifications which are set out in his report, that the Harrogate District Local Plan satisfies the requirements of Section 20(5) of the Planning and Compulsory Purchase Act 2004 (as amended) and meets the criteria for soundness in the NPPF. All the policies in the Local Plan can therefore be given full weight.
- 9.2 Material to the consideration of this application is the Local Plan and the 5 year land supply position. The Council's Local Plan makes allocations of land and sets development limits to meet the housing needs of the district to 2035. Sites have been identified as allocations in the Local Plan as those that best deliver the Plan's growth strategy. Development should therefore be directed toward these sites and other sites within development limits that accord with policies in the Local Plan. Proposals coming forward on other sites outside the development limits are unlikely to be viewed favourably.
- 9.3 In regard to 5 year land supply the Council has a healthy land supply position, currently 7.3 years when compared against the housing requirement, with an appropriate buffer. Accordingly, the policies which are most important for determining the application are not considered to be out-of-date. Full weight can be afforded to the housing policies in the Local Plan.
- 9.4 Local Plan policies GS1 and GS2 set out a growth strategy for new homes and jobs to 2035. Local Plan Policies GS2 and GS3 set out the growth strategy for the District and the development that may be considered outside defined development limits.
- 9.5 The site lies within the development limit for Ripon, as defined by Policy GS3. The principle of permitting housing on this site would therefore not undermine the growth strategy contained in Policies GS1 and GS2 nor would it be contrary in principle to Policy GS3.
- 9.6 The proposal related solely to the upper floors of the development and would retain the restaurant use to the ground and lower ground floor. As such, the proposal would not require the loss of a ground floor retail, or business use.
- 9.7 Criteria G of Local Plan Policy EC5, relating to Town Centre Development reads as follows; Proposals involving residential or office development above ground floor premises within town or city centres will be permitted provided that they will not cause adverse impacts on the amenities of neighbouring occupiers. In addition, development at ground floor should not compromise the current use, or future reuse of upper floors.
- 9.8 A C4 House of Multiple Occupancy is a form of residential use. As assessed within the Residential Amenity section of this report, the proposal would not introduce unacceptable amenity concerns.

9.9 The principal of the proposal aligns with policy GS2, GS3 and EC5.

Impact on the character and appearance of the Grade II Listed Building, street scene and Conservation Area

- 9.10 Section 16 and 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires special regard is paid to the special architectural or historic interest of the Listed Building.
- 9.11 The National Planning Policy Framework (NPPF) sets out the Government's planning policies for England and how these are expected to be applied. Planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The National Planning Policy Framework is a material consideration in planning decisions.
- 9.12 The NPPF re-iterates that there a presumption in favour of sustainable development and advises that there are three dimensions to sustainable development: economic, social, and environmental. The guidance advises that to achieve sustainable development, economic, social, and environmental gains should be sought jointly and simultaneously through the planning system.
- 9.13 Of particular reference to this application are sections 12 relating to Achieving Well Designed Places and 16 relating to Conserving and Enhancing the Historic Environment. Section 12 attaches great importance to the design of the built environment, stating good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.
- 9.14 Paragraph 134 advises that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions, taking into account any local design standards or style guides in plans or supplementary planning documents.
- 9.15 In determining planning applications concerning the historic environment, paragraph 197 indicates that local planning authorities should take account of the desirability of sustaining and enhancing the significance of heritage assets, and putting them to viable uses consistent with their conservation; the wider social, cultural, economic and environmental benefits that conservation of the historic environment can bring; the desirability of new development making a positive contribution to local character and distinctiveness; and opportunities to draw on the contribution made by the historic environment to the character of a place.
- 9.16 Paragraph 199 advises when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation, the more important the asset, the greater the weight should be.

- 9.17 Paragraph 201 advises where a proposed development will lead to substantial harm to (or total loss of significance of) a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or total loss is necessary to achieve substantial public benefits that outweigh that harm or certain criteria apply.
- 9.18 Paragraph 202 states where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.
- 9.19 These national considerations are delivered at a local level through policies of the Harrogate District Local Plan.
- 9.20 Local plan policy HP3 “Local Distinctiveness” requires development to incorporate high quality building, urban and landscape design that protects, enhances, or reinforces those characteristics, qualities and features that contribute to the local distinctiveness of the district’s rural and urban environments.
- 9.21 Local Plan Policy HP2 requires that development in conservation areas or to listed buildings do not have an adverse effect on the character and appearance of the area or the building. This policy is in accordance with the advice contained within the National Planning Policy Framework. The Council's Conservation Area Appraisal and conservation development SPD are also relevant to this case.
- 9.22 The Harrogate District Heritage Management Guidance Supplementary Planning Document is also relevant to this application. This provides detailed guidance on how the Council will apply heritage and design policies, and is afforded considerable weight in the determination of applications and appeals.
- 9.23 The proposal seeks to convert the upper floors of the existing building to provide accommodation for the staff in connection with the existing restaurant business to the ground and lower ground floor. A condition would reasonable be recommended to ensure the residential use is occupied by those employed in relation to the ground and lower ground floor commercial use, this is currently The Dragon Inn Chinese restaurant.
- 9.24 The planning history does not indicate an existing permitted use of the site. The agent has indicated that there is a historic domestic use in association with the upper floors.
- 9.25 41, Market Place is a grade II listed building constructed in the early 19<sup>th</sup> century in brown brick and arranged over three floors plus a converted attic and basement. The Listing entry describes the features of the proposal as; Two bays with a full width pediment: sashed Diocletian window in tympanum, both to front and rear facades, Sashes with glazing bars and channelled stucco voussoirs. Ground floor has contemporary shopfront with window altered: Tower of the Winds pilasters, paterae above, dentilled cornice, and dentilled pediment over door.

- 9.26 Therein, the key details within the Listing description related to the external features of the building. The internal decoration and finishes to the building are considered to be modern, although there is architectural merit in the fabric of the building and retained internal details.
- 9.27 The proposal site is set to the south of Ripon Market Place, within its Conservation Area and its commercial centre. It is a visually prominent building within the Conservation Area and contributes positively towards the historic character of the Market Place.
- 9.28 The submitted Design and Access Statement indicates the ground and basement floors relates to the existing restaurant use within the site.
- 9.29 The Design and Access Statement additionally confirms that the upper floors have historically been of domestic use and had evolved over a period of time and modernised to become staff accommodation in relation to the existing business, however formal planning consent and Listed Building consent was not sought. The works within this application have been completed in part and the application is considered to be part - retrospective.
- 9.30 The physical works within this application predominantly relates to internal alterations where external works relate to repairs.
- 9.31 The Conservation Officer provided comment confirming that the internal works removed a modern internal partition with other internal alterations retaining the historic fabric of the building. The proposed works to the listed building are minimal and are considered mostly decorative. Some partitions were removed from the top floor, some new bathroom fittings have been installed, none of which result in harm to the significance of the designated heritage asset.
- 9.32 The Conservation Officer indicated that the windows are not shown within the submitted details as intended to be replaced however are in need of repair. A full method statement for the repair of the windows will be required and requests the inclusion of a condition relating to the replacement of window if required.
- 9.33 The proposal does not result in harm to the significance of the listed building. Moreover, there are clear public benefits, which can be viewed from this development relating to economic objectives. Economic benefits of development are identified within the NPPF as a key dimension to achieving sustainable development. The proposed development would provide economic benefits through occupation of the development.
- 9.34 The application has been supported by a Heritage Statement, which justifies the proposed works. The application and proposals meet the requirement of the NPPF, Section 16, and will not result in harm to the character of the designated heritage asset. The proposal complies with the advice found in the Heritage Management Guidance 2014 as well as the Planning (Listed Buildings and Conservation Areas) Act 1990.

- 9.35 The development will not cause harm to the significance of the designated heritage asset or a detrimental harm to the Conservation area and meets the requirements of the NPPF, Ripon's Neighbourhood Plan and the Council's Local Plan, subject to the inclusion of conditions.

#### Residential Amenity

- 9.36 Policy HP4 states development proposals should be designed to ensure that they will not result in significant adverse impacts on the amenity of occupiers and neighbours. Amenity considerations will include the impacts of development on: overlooking and loss of privacy, overbearing and loss of light, vibration, fumes, odour, noise and other disturbance.
- 9.37 The proposal would not increase the dimensions of the building and would be not considered to create unacceptable overlooking, overshadowing or overbearing impacts on amenity in this regard.
- 9.38 The habitable rooms of the proposal are each served by windows and would be considered to provide adequate light and ventilation to occupants subject to the necessary repairs to fenestration.
- 9.39 As the proposal is a conversion of an existing building and not a new build development, the accommodation is not required to accord with the NDSS (Nationally Described Spaces Standards) in line with Local Policy HS5. However, the proposal is considered to create accommodation with adequate size rooms to provide an acceptable level of amenity to future occupants.
- 9.40 The proposed development adjoins 42 Market Place to the east, which hosts 'A.M. Row & Sons' jewellers to the ground floor. The first and second floor accommodation has not been confirmed due to a lack of planning history on the site. However, planning consent 95/01376/COU permitted the change of use of the rear of the first floor into a bed sit. It would be reasonable to consider that the remainder of the accommodation is ancillary to the ground floor use on this basis. The ground floor retail use is considered compatible to be set adjacent to residential accommodation in this regard.
- 9.41 The proposed development adjoins 40 Market Place which hosts 'The Claro Lounge' restaurant to the ground floor and 4 residential apartments to the upper floors. As such, the uses to the upper floors of the two adjacent buildings are considered to be compatible with the proposed use with regards to noise impact.
- 9.42 The Environmental Health officer was consulted and advised the acceptability of the proposal subject to a condition restricting the occupation of the proposal to be directly associated with the ground and lower ground floors. On consideration of the proposal's description referencing the link to the restaurant use and as agreed with the agent, this would be a reasonable condition.
- 9.43 The Environmental Health Officer additionally provided further conditions relating to refuse collection, and further conditions on noise mitigation which relate to the proposal as open market accommodation which is not applicable in this case, as the accommodation is ancillary to the restaurant

use. Should any owner of the property in the future, wish to alter the occupancy and enable it to be used for any one on the open market, then this would require a further planning application. It is likely that the Environmental Health Officer would require further conditions to be attached and works carried out to the building, to ensure that the amenity of future occupants is protected. This would also have to be assessed in relation to any potential impact on the listed building.

- 9.44 The Council's Housing officer provided comments which advises; in relation to fire safety, a licence for the provision of a HMO for 5 or more occupants, clarity on the occupation of the third floor, siting of wash hand basins away from toilet and shower facilities and w/c off a bathroom is not ideal with regards to hygiene, advises of a Prohibition Order and Improvement Notice of the building requiring improvement works, advises access should only be through the rear door, advises improvements to the rear path, advises compliance with Building Regulations, advises the provision of adequate light and ventilation, advises the repair of windows, advises that ' If the issues identified above are not rectified, or the apartments are found to be overcrowded in the future then the private sector housing team may be required to take appropriate enforcement action under the Housing Act 2004 or any other relevant legislation.'
- 9.45 An informative can be included in relation to the obtaining of a licence for a HMO for 5 or more people, and referring to the advice of the Housing Officer as a whole. Building Regulations are required to be complied with however this is separate to the Planning process and this fall under different Legislation. It is reasonable to include a condition for details of the improvement to the rear access path within the amenity space to the rear garden. For clarity, this does not relate to the access from the highway which is in 3<sup>rd</sup> party ownership
- 9.46 Therein and subject to conditions, the proposal is considered to accord with Local Plan Policy HP4 and the NPPF.

#### Highways, Access and Parking

- 9.47 Policy TI3 relates to parking and access. Paragraph 111 of the NPPF states; Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
- 9.48 The proposal building comprises access to the front of the building from Market Place to the ground floor and lower ground floor, with an additional rear access from the amenity space to the upper floor accommodation and as an exit from the restaurant kitchen.
- 9.49 The proposal does not seek to alter the access to the rear of the building, with the red edge line of development for the access being taken from Water Skellgate to the south over third party land. The Council's Estate department state that there is no right of way to the rear access, which is Council owned land, however the matter of landownership is not a material consideration in

the determination of the application. There is an additional pedestrian access through the restaurant to Market Place.

- 9.50 The highways department were consulted on the application and provided the following comments; “There is no parking associated with this planning application however with the excellent sustainable travel links within close proximity to this development and the three units of cycle storage provided which can be seen in the plans, the LHA deems this acceptable.”
- 9.51 The proposal is well-connected to public transport links and is considered to be a sustainable location and seeks to provide cycle storage within the amenity space to the rear of the building. Cycle storage has been included on the proposed site plan.
- 9.52 As such there are no highway safety concerns arising from the development and the proposal meets paragraph 111 of the NPPF and policy TI3 of the Local Plan.

#### Other matters

- 9.53 The Council’s Estates team provided comments stating that “Land at the rear of the property fronting onto Water Skellgate is in the ownership of North Yorkshire Council. The applicants do not have any rights to access the rear of the application site over North Yorkshire Council’s land.”
- 9.54 The matter of landownership is not a material consideration in the determination of a planning application, however as this would be required to be resolved, an informative would be included to this effect.
- 9.55 The Building Control Officer advised that a Building Regulations application will be required for this proposal and recommends that planning permission is only granted once you are satisfied that a suitable, satisfactory appraisal of the existing foundations and the design of any new foundations has been prepared by a structural engineer (who is familiar with the specific ground related issues in the Ripon area) following a suitable ground investigation by an individual/company with the relevant level of experience.
- 9.56 The proposal does not alter the physical form of the building or substantially alter its occupancy on consideration of the restaurant use to the lower floors. As such the proposal accords with policy NE9 and a further appraisal of the foundations would not be proportional to the works requested.
- 9.57 The Council’s Housing Officer comments that the second floor accommodation is annotated as storage space within the submitted plans. However, the proposal description and titles to the Floor Plans of each floor indicate that the 2<sup>nd</sup> floor would be included within the HMO and has been reviewed as additional accommodation, with the potential to provide 2 additional bedrooms. An informative has been included to direct the applicant to the Housing Officer’s advice on Houses of Multiple Occupancy.

## **10.0 PLANNING BALANCE AND CONCLUSION**

- 10.1 Overall the principle of development can be supported in accordance with Local Plan Policies GS2, GS3 relating to development limits and growth strategy, and as upper floor town centre development which accords with the criteria of Local Plan Policy EC5 relating to town centre development.
- 10.2 External works relate to repair works with the siting of cycle storage set to the rear amenity space and as such there would not be a demonstrably negative impact on the character of the street scene or Conservation Area. The works does not result in harm to the significance of the listed building considered to comply with Local Plan policies HP3, HP2, Chapter 16 of the National Planning Policy Framework and Supplementary Planning Guidance on Heritage Management.
- 10.3 Subject to conditions, the proposal will not result in significant adverse impacts on the amenities of future occupants to the site or to neighbouring residents. It is not considered that the proposal would result in an unacceptable impact on highways and would not create increased land stability concerns to the site or locality.
- 10.4 The proposal conforms to guidance in the NPPF, Section 72 of the LBCA and policies GS2, GS3, EC5, TI3, HP2, HP3, HP4 and NE9 of the Local Plan, Policies of the Ripon Neighbourhood Plan and supplementary planning documents.

## 11.0 **RECOMMENDATION**

- 11.1 That planning permission be GRANTED subject to conditions listed below.

### **Recommended conditions:**

#### **Condition 1 Approved Plans**

The development hereby permitted shall be carried out in strict accordance with the following details and plans;

Location Plan; drwg no W28 – 1, received 24.05.2023

Proposed Elevation; W28 - 7A, Rev A, received 24.05.2023.

Proposed Basement, Ground Floor and First Floor Plans; drwg no. W28 – 2B, Rev B, received 24.05.2023.

Existing and Proposed Second Floor, Attic and Site Plans; drwg no. W28-3C, Rev C, received 12.07.2023.

Reason: For the avoidance of doubt and in the interests of proper planning.

#### **Condition 2 Window Details (discharge required)**

All necessary repairs to existing windows shall match the existing window. If windows are deemed to be beyond reasonable repair, details of replacement windows shall be submitted to and approved in writing prior to the removal of the existing windows. Thereafter the replacement windows shall be constructed and inserted into the window opening in accordance with the approved details. The following information will be required in such circumstances:

- A means of identifying the location of the windows to be replaced (an elevation drawing or photo of the elevation, for example);
- Scale drawings of the replacement windows – to include an elevation drawing, horizontal and vertical sections (at a scale of 1:10 or 1:5, as appropriate) and a glazing bar cross section (at a scale of 1:1). The drawings shall make clear the relationship of the window to the window opening (to show the proposed reveal).
- Confirmation of materials and finishes;
- If a change in window style is proposed, the proposed change should be clearly identified and justified;
- A report on the condition of the existing windows by an adequately qualified professional experienced with the repair of traditional windows, pertaining to why it is not possible to repair them.

Reason: In the interest of safeguarding the special character of the Grade II Listed Building in line with policy HP2 and the NPPF.

### **Condition 3 Occupation Restriction**

The development to the first, second and third floor accommodation of 41 Market Place, Ripon as hereby permitted, shall not be occupied other than by the owner, member of staff or dependents thereof of the commercial/business use located on the ground floor and basement level.

Reason: In the interest of safeguarding the amenity of future occupants in line with policy HP4.

### **Condition 4 Refuse**

Prior to the occupation of the development hereby permitted, suitable and sufficient provision shall be made for:

- i. the storage and containment of refuse prior to collection.
- ii. access for the collection of refuse.
- iii. adequate frequency of collections to avoid dis-amenity from smell, flies and vermin.
- iv. no waste and associated containers used for the storage and containment of waste should be stored off the premises.

The above shall be maintained for the lifetime of the development.

Reason: In the interest of residential amenity, in line with policy HP4.

### **Condition 5 Rear Path (discharge required)**

Prior to the occupation of the development hereby permitted, details of the improvements and alterations to the path within the amenity space of the development shall be submitted to and for the written approval of the Local Planning Authority.

Reason: In the interest of upgrading the accommodation to the satisfaction of the Housing Department while safeguarding the special character of the Grade II Listed Building in line Local Plan Policy HP2 and the NPPF.

### **INFORMATIVES**

1. The Council's Estates team provided comments stating that "Land at the rear of the property fronting onto Water Skellgate is in the ownership of North Yorkshire Council. The applicants do not have any rights to access the rear of the application site over North Yorkshire Council's land." Agreement from third party landowners may be required separate to any planning or Listed Building consent.
2. The business operator has a duty of care with respect to their waste. They must ensure their waste is stored safely and securely on site so that it does not escape their control. It should be given to an authorised person for disposal and with each transfer a waste transfer document must be produced and retained for 2 years. If the business operator wishes to transport their own waste to an authorised or permitted waste disposal site, they must hold a waste carriers licence issued by the Environment Agency.
3. The Housing Officer advises the following with regards to Houses of Multiple Occupancy;  
 "The property would be classed as a House in Multiple Occupation under the Housing Act 2004. The HMO guidance can be found on the North Yorkshire Council website - <https://www.northyorks.gov.uk/housing-and-homelessness/private-renting/houses-multiple-occupation/houses-multiple-occupation-harrogate-area> - This information sets out what facilities and furniture should be provided to the occupants. The HMO would need to comply with The Management of Houses in Multiple Occupation (England) Regulations 2006.

HMO's require a higher level of fire safety than a normal privately rented property. We would expect a fire safety risk assessment to be undertaken.

This must include all commercial and residential parts of the property. We would also expect the property to meet the standard set out in the LACORS housing fire safety guidance - <https://www.cieh.org/media/1244/guidance-on-fire-safety-provisions-for-certain-types-of-existing-housing.pdf> - Further information on fire safety is enclosed in the enforcement notices (information below)

In a House in Multiple Occupation bedrooms may be occupied by two people if they are over 15m<sup>2</sup>. I have not been provided with room sizes, but from my approximate measurements bedrooms 1 and 3 are suitable for two people. Bedroom 2 is only suitable for occupation by one person.

If the property is to be occupied by 5 persons or more then it would be classed as a licensable House in Multiple Occupation under the Housing Act 2004. The owner would need to make an application to private sector housing, provide relevant information and documentation, have a full inspection of the property carried out, and comply with all relevant legislation prior to a licence being issued. The property will also be required to meet certain amenity and space standards. The HMO licensing documents and guidance can be found on the North Yorkshire Council website - <https://www.northyorks.gov.uk/housing-and-homelessness/private-renting/houses-multiple-occupation/houses-multiple-occupation-harrogate-area>".

4. Please review the full comments from the Council's Housing Officer dated 15.06.2023, available of Public Access.

**Target Determination Date:** 8 September 2023

**Case Officer:** Emma Walsh  
emma.walsh@northyorks.gov.uk

## North Yorkshire Council

### Community Development Services

#### Ripon and Skipton Constituency Committee

5<sup>th</sup> September 2023

**ZC23/01973/LB - LISTED BUILDING APPLICATION FOR WORKS ASSOCIATED WITH CHANGE OF USE TO FIRST, SECOND AND THIRD FLOORS TO A HMO PROVIDING STAFF ACCOMMODATION IN ASSOCIATION WITH EXISTING GROUND AND BASEMENT FLOOR RESTAURANT USE, WITH A COMMUNAL KITCHEN AND SANITARY FACILITIES (USE CLASS C4). AT DRAGON INN CHINESE RESTAURANT 41 MARKET PLACE RIPON NORTH YORKSHIRE HG4 1BZ ON BEHALF OF MR WANG**

#### Report of the Assistant Director – Planning

##### 1.0 Purpose of the Report

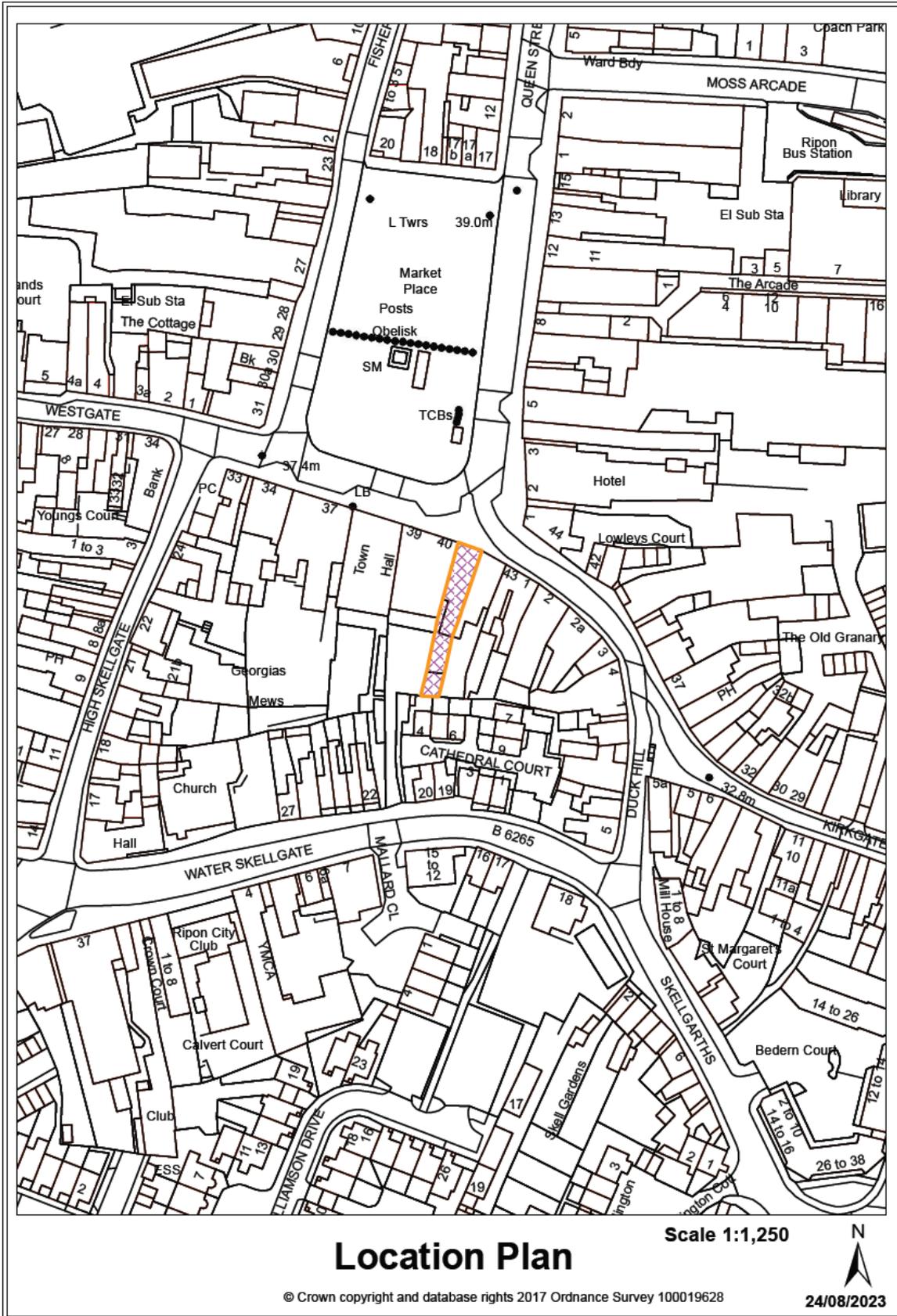
- 1.1 To determine a Listed Building application for works associated with change of use to first, second and third floors to a HMO providing staff accommodation in association with existing ground and basement floor restaurant use, with a communal kitchen and sanitary facilities (Use Class C4).
- 1.2 This application accompanies a full planning application for the change of use of the building under application, ZC23/01972/FUL, which is presented to the planning committee under a separate committee item.
- 1.3 This application is brought to the Planning Committee at a request by the Division member.

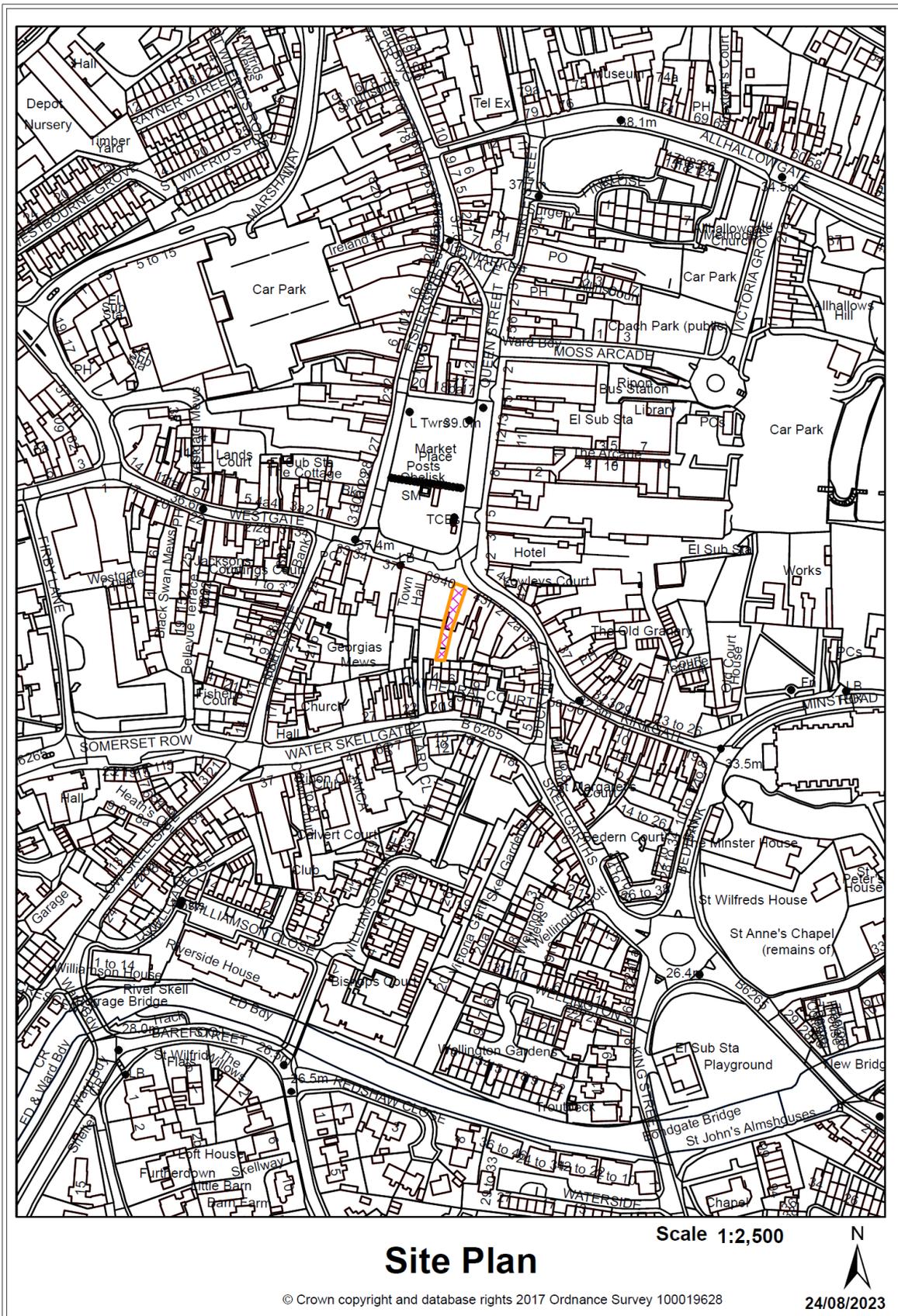
##### 2.0 EXECUTIVE SUMMARY

**RECOMMENDATION:** That planning permission be **GRANTED** subject to conditions listed below.

- 2.1. The proposal seeks listed building consent for the works required in association with the change of use to first, second and third floors to a House of Multiple Occupancy (HMO), providing staff accommodation in association with existing ground and basement floor restaurant use, with a communal kitchen and sanitary facilities. The use of the upper floors is not clarified within the planning history for the site, however, is believed to be of domestic use in association with the lower floors.
- 2.2. The proposed works relate to repairs and alteration of modern elements and would adequately safeguard the historic fabric of the building.

- 2.3. The works will not cause harm to the significance of the designated heritage asset. The proposal is considered to comply with Local Plan policy HP2, Chapter 16 of the National Planning Policy Framework and Supplementary Planning Guidance on Heritage Management.





### **3.0 Preliminary Matters**

- 3.1. Access to the case file on Public Access can be found [here](#)
- 3.2. There are 3 relevant planning applications for this application which are detailed below.

ZC23/01972/FUL – Change of use to first, second and third floors to a HMO providing staff accommodation in association with existing ground and basement floor restaurant use, with a communal kitchen and sanitary facilities (Use Class C4). Pending consideration.

22/00705/FUL - Change of use and conversion of first, second and third floors into 4no self-contained bedsit flats and 1no 2 bedroom flat, including internal alterations and insertion of new second floor window to rear. Withdrawn 11.11.2022.

22/00706/LB - Change of use and conversion of first, second and third floors into 4no self-contained bedsit flats and 1no 2 bedroom flat, including internal alterations and insertion of new second floor window to rear. Withdrawn 11.11.2022.

### **4.0 Site and Surroundings**

- 4.1. 41, Market Place is a grade II listed building with the Dragon Inn Restaurant occupying the ground and lower ground floor. The upper floors are associated with and accessed through the restaurant, however the planning history does not indicate a confirmed use class.
- 4.2. The proposal is set within the Ripon Conservation Area and within its city centre.

### **5.0 Description of Proposal**

- 5.1. This is an application for Listed Building consent for the works required in association with the change of use of the building to provide HMO accommodation in relation to the existing restaurant. The external works entail; repair works to slates, chimney stack, render, gutter and windows and door. The internal works require; redecoration, repair works to fenestration, replacement fitting of kitchen, replacement of sanitary wear and splash backs to two shower rooms, installation of floor covering to stairs, landing, 2<sup>nd</sup> and 3<sup>rd</sup> floor bedroom areas over existing retained floor and removal of a partition wall to the 3<sup>rd</sup> floor.
- 5.2. This work has been partially completed and therefore is part-retrospective.
- 5.3. This application accompanies full planning application ZC23/01972/FUL.

### **6.0 Planning Policy and Guidance**

- 6.1. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that all planning authorities must determine each application under the Planning Acts in accordance with Development Plan so far as material to the application unless material considerations indicate otherwise.

#### Adopted Development Plan

- 6.2. The Adopted Development Plan for this site is:  
- Harrogate District Local Plan 2014 – 2035, adopted March 2020.

#### Guidance - Material Considerations

- 6.3. Relevant guidance for this application is:
- National Planning Policy Framework 2021
  - National Planning Practice Guidance
  - Supplementary Planning Document: Heritage Management
  -

### **7.0 Consultation Responses**

- 7.1. The following consultation responses have been received and have been summarised below.
- 7.2. **Design and Conservation:** No objection to works, subject to condition relating to the submission of a condition report and detailed drawings for the replacement of windows.

#### Local Representations

- 7.3. 0 letters of representation have been received from members of the public.

### **8.0 Main Issues**

- 8.1 The key considerations in the assessment of this application are:
- Impact on the character and appearance of the Grade II Listed Building
  - Other matters

### **9.0 ASSESSMENT**

#### Impact on the character and appearance of the Grade II Listed Building

- 9.1 Section 16 and 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires special regard is paid to the special architectural or historic interest of the Listed Building.
- 9.2 The revised National Planning Policy Framework (NPPF) sets out the Government's planning policies for England and how these are expected to be applied. Planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The

National Planning Policy Framework is a material consideration in planning decisions.

- 9.3 The NPPF re-iterates that there a presumption in favour of sustainable development and advises that there are three dimensions to sustainable development: economic, social, and environmental. The guidance advises that to achieve sustainable development, economic, social, and environmental gains should be sought jointly and simultaneously through the planning system.
- 9.4 Of particular reference to this application are sections 12 relating to Achieving Well Designed Places and 16 relating to Conserving and Enhancing the Historic Environment. Section 12 attaches great importance to the design of the built environment, stating good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.
- 9.5 Paragraph 134 advises that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions, taking into account any local design standards or style guides in plans or supplementary planning documents.
- 9.6 In determining planning applications concerning the historic environment, paragraph 197 indicates that local planning authorities should take account of the desirability of sustaining and enhancing the significance of heritage assets, and putting them to viable uses consistent with their conservation; the wider social, cultural, economic and environmental benefits that conservation of the historic environment can bring; the desirability of new development making a positive contribution to local character and distinctiveness; and opportunities to draw on the contribution made by the historic environment to the character of a place.
- 9.7 Paragraph 199 advises when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation, the more important the asset, the greater the weight should be.
- 9.8 Paragraph 201 advises where a proposed development will lead to substantial harm to (or total loss of significance of) a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or total loss is necessary to achieve substantial public benefits that outweigh that harm or certain criteria apply.
- 9.9 Paragraph 202 states where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.
- 9.10 These national considerations are delivered at a local level through policies of the Harrogate District Local Plan.

- 9.11 Local Plan Policy HP2 requires that development in conservation areas or to listed buildings do not have an adverse effect on the character and appearance of the area or the building. This policy is in accordance with the advice contained within the National Planning Policy Framework. The Council's conservation area appraisal and conservation development SPD are also relevant to this case.
- 9.12 The Harrogate District Heritage Management Guidance Supplementary Planning Document. This provides detailed guidance on how the Council will apply heritage and design policies, and is afforded considerable weight in the determination of applications and appeals.
- 9.13 The proposal seeks to convert the upper floors of the existing building to provide accommodation for the staff in connection with the existing restaurant business to the ground and lower ground floor.
- 9.14 The planning history does not indicate an existing permitted use of the site. The agent has indicated that there is a historic domestic use in association with the upper floors.
- 9.15 41, Market Place is a grade II listed building constructed in the early 19<sup>th</sup> century in brown brick and arranged over three floors plus a converted attic and basement. The Listing entry describes the features of the proposal as; Two bays with a full width pediment: sashed Diocletian window in tympanum, both to front and rear facades, Sashes with glazing bars and channelled stucco voussoirs. Ground floor has contemporary shopfront with window altered: Tower of the Winds pilasters, paterae above, dentilled cornice, and dentilled pediment over door.
- 9.16 Therein, the key details within the Listing description related to the external features of the building. The internal decoration and finishes to the building are considered to be modern, although there is architectural merit in the fabric of the building and retained internal details.
- 9.17 The proposal site is set to the south of Ripon Market Place, within its Conservation Area and its commercial centre. It is a visually prominent building within the Conservation Area and contributes positively towards the historic character of the Market Place.
- 9.18 The submitted Design and Access Statement indicates the ground and basement floors relates to the existing restaurant use within the site.
- 9.19 The Design and Access Statement additionally confirms that the upper floors have historically been of domestic use and had evolved over a period of time and modernised to become staff accommodation in relation to the existing business, however formal planning consent and Listed Building consent was not sought. The works within this application have been completed in part and the application is considered to be part - retrospective.
- 9.20 The works within this application predominantly relates to internal alterations where external works relate to repairs.

- 9.21 The Conservation Officer provided comment confirming that the internal works removed a modern internal partition with other internal alterations retaining the historic fabric of the building. The proposed works to the listed building are minimal and are considered mostly decorative. Some partitions were removed from the top floor, some new bathroom fittings have been installed, none of which result in harm to the significance of the designated heritage asset.
- 9.22 The Conservation Officer indicated that the windows are not shown within the submitted details as intended to be replaced however are in need of repair. A full method statement for the repair of the windows will be required and requests the inclusion of a condition relating to the replacement of window if required.
- 9.23 The proposal does not result in harm to the significance of the listed building. Moreover, there are clear public benefits which can be viewed from this development relating to economic objectives. Economic benefits of development are identified within the NPPF as a key dimension to achieving sustainable development. The proposed development would provide economic benefits through occupation of the development.
- 9.24 The application has been supported by a Heritage Statement which justifies the proposed works. The application and proposals meet the requirement of the NPPF, Section 16, and will not result in harm to the character of the designated heritage asset. The proposal complies with the advice found in the Heritage Management Guidance 2014 as well as the Planning (Listed Buildings and Conservation Areas) Act 1990.
- 9.25 On balance, they will not cause harm to the significance of the designated heritage asset or a detrimental harm to the conservation area and meets the requirements of the NPPF and the Council's Local Plan, subject to the inclusion of conditions.

## **10.0 PLANNING BALANCE AND CONCLUSION**

- 10.1 The proposal does not result in harm to the significance of the listed building.
- 10.2 The application has been supported by a Heritage Statement which justifies the proposed works. The application and proposals meet the requirement of the NPPF, Section 16, and will not result in harm to the character of the designated heritage asset. The proposal complies with the advice found in the Heritage Management Guidance 2014 as well as the Planning (Listed Buildings and Conservation Areas) Act 1990.
- 10.3 The development will not cause harm to the significance of the designated heritage asset or a detrimental harm to the conservation area. The proposal is considered to comply with Local Plan policy HP2, Chapter 16 of the

**12.0 RECOMMENDATION**

12.1 That planning permission be GRANTED subject to conditions listed below.

**Recommended conditions:****Condition 1 Approved Plans**

The development hereby permitted shall be carried out in strict accordance with the following details and plans;

Location Plan; drwg no W28 – 1, received 24.05.2023

Proposed Elevation; W28 - 7A, Rev A, received 24.05.2023.

Proposed Basement, Ground Floor and First Floor Plans; drwg no. W28 – 2B, Rev B, received 24.05.2023.

Existing and Proposed Second Floor, Attic and Site Plans; drwg no. W28-3C, Rev C, received 12.07.2023.

Reason: For the avoidance of doubt and in the interests of proper planning

**Condition 2 Windows**

All necessary repairs to existing windows shall match the existing window. If windows are deemed to be beyond reasonable repair, details of replacement windows shall be submitted to and approved in writing prior to the removal of the existing windows. Thereafter the replacement windows shall be constructed and inserted into the window opening in accordance with the approved details. The following information will be required in such circumstances:

- A means of identifying the location of the windows to be replaced (an elevation drawing or photo of the elevation, for example);
- Scale drawings of the replacement windows – to include an elevation drawing, horizontal and vertical sections (at a scale of 1:10 or 1:5, as appropriate) and a glazing bar cross section (at a scale of 1:1). The drawings shall make clear the relationship of the window to the window opening (to show the proposed reveal).
- Confirmation of materials and finishes;
- If a change in window style is proposed, the proposed change should be clearly identified and justified;
- A report on the condition of the existing windows by an adequately qualified professional experienced with the repair of traditional windows, pertaining to why it is not possible to repair them.

Reason: In the interest of safeguarding the special character of the Grade II Listed Building in line with policy HP2 and the NPPF.

**Condition 3 Materials**

The external roof and walling materials in the repair works within the development hereby approved shall match those of the existing building, unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interest safeguarding the special character of the Grade II Listed Building in line Local Plan Policy HP2 and the NPPF.

#### **Condition 4 Mortar**

The replacement of mortar required within the works to the development hereby approved shall be of Lime based mortar and shall not contain cement.

Reason: In the interest safeguarding the special character of the Grade II Listed Building in line Local Plan Policy HP2 and the NPPF.

#### **Condition 5 Rainwater goods**

The repair or replacement of rainwater goods within the development hereby approved shall match those of the existing building, unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interest safeguarding the special character of the Grade II Listed Building in line Local Plan Policy HP2 and the NPPF.

**Target Determination Date:** 8 September 2023

**Case Officer:** Emma Walsh  
emma.walsh@northyorks.gov.uk

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## North Yorkshire Council

### Community Development Services

#### Skipton and Ripon Area Constituency Committee

05 SEPTEMBER 2023

**ZC23/02678/FUL – FULL PLANNING PERMISSION FOR PART CONVERSION/PART NEW BUILD OF AGRICULTURAL BUILDING TO FORM A NEW DWELLING AT HEW GREEN FARM, HIGH LANE, HIGH BIRSTWITH, HG3 2JL ON BEHALF OF MR P SADDINGTON**

**Report of the Corporate Director – Community Development Services**

**1.0 Purpose of the Report**

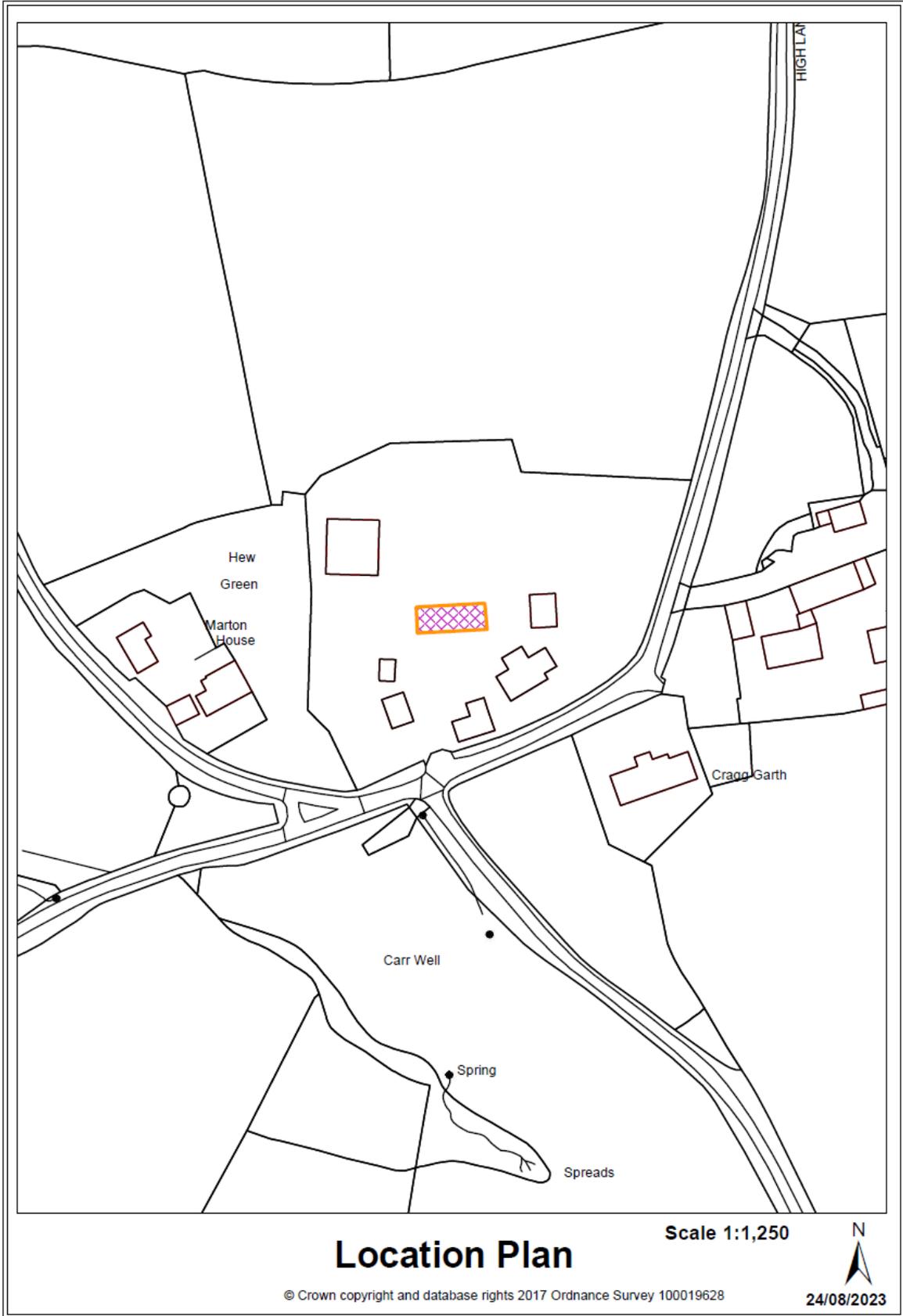
- 1.1 To determine a planning application for the part conversion / part new building of agricultural building to form a new dwelling on land at Hew Green Farm, High Lane, High Birstwith, HG3 2JL.
- 1.2 This application is brought to the Area Planning Committee because the Chair of the Skipton and Ripon Area Constituency Planning Committee has made representations in writing to the Corporate Director of Community Development within the publicity period raising significant material planning issues.

**2.0 EXECUTIVE SUMMARY**

**RECOMMENDATION: That planning permission be REFUSED**

- 2.1. This application seeks Full Planning Permission for the part conversion/part new build of an agricultural building to form 1 no. 1 bedroomed dwelling. A previous application for the same proposal has already been refused under delegated powers in May 2023. This application differs from the previously refused application only in respect of the addition of additional photos relating to landscape impacts and the provision of information relating to energy efficiency.

- 2.2. Permission was previously granted at appeal for the conversion of a building to a dwelling, however, the building has now been substantially demolished and all that remains is one full wall and two gable returns.
- 2.3. The site is located within the Nidderdale AONB. The site is located outside defined development limits in 'open countryside', where the principle of new build housing is contrary to the policies in the Local Plan. It is considered that due to the extent of build works required that this can no longer be considered to be a conversion but would equate to a 'new-build' dwelling, which would be contrary to national planning policy and Local Plan Policies GS2, GS3 and HS6 and would undermine the growth strategy for the area. There are no material planning considerations that clearly outweigh this harm.





### **3.0 Preliminary Matters**

- 3.1. Access to the case file on Public Access can be found [here](#)
- 3.2. There are 4 relevant planning applications for this application which are detailed below.

20/05115/FUL – Conversion of cow shed to form a single dwelling. Refused 14.4.21. Allowed on appeal on 18.1.2022.

20/05120/FUL – Conversion of redundant barn to form a single dwelling. Withdrawn 29.4.2021.

22/04427/DVCON – Application to vary condition 2 (drawings) of Planning Approval 20/05115/FUL due to change in design and extent of rebuild. Refused 29.12.2022.

ZC23/01498/FUL – Part conversion/part new build of agricultural building to form a new dwelling. Refused 24.5.2023.

### **4.0 Site and Surroundings**

- 4.1 The application site comprises of the remains of an agricultural building situated in the centre of a collection of converted agricultural buildings and a replacement dwelling and one remaining large modern agricultural shed still in agricultural use on the site of Hew Green Farm.
- 4.2.1 The structure that is the subject of this application was granted permission for conversion at planning appeal in January 2022, however, during the process of implementing this approval, the majority of the barn has been demolished leaving only one full wall and the gable returns of the barn remaining. New walls have been commenced to replace those that have been demolished but at the time of writing this report this amounted to a small concrete block wall approximately 3 blocks in height.
- 4.3 The site is located within the Nidderdale AONB. The application site is outside defined development limits and is therefore located in 'open countryside' for planning purposes.

## 5.0 **Description of Proposal**

- 5.1. This application seeks Full Planning Permission for the part conversion/part new build of an agricultural building to form 1 no. 1 bedroomed dwelling.
- 5.2. The proposal seeks permission to retain the remaining sections of the walls and 'enveloping this with new stonework and timber under a stepped pitched roof; to create a one bedroom dwelling'. The proposal would be of the same floorspace and footprint as that approved on appeal for conversion.
- 5.3. This application is the same scheme as that refused under delegated powers under planning reference ZC23/01498/FUL in May 2023. The reason for the refusal of the application is as follows:

*The building is no longer considered to be of permanent and substantial construction, and thus is not considered to represent a conversion and thus is contrary to Local Plan Policy HS6 and there are no other local or national planning policies which would support the provision of market housing in this location. The proposed development would create an isolated dwelling in the countryside in an unsustainable location which is contrary to paragraph 80 of the NPPF and would undermine the growth strategy for the District set out in Policies GS2 and GS3 of the Local Plan.*

- 5.4. The current application includes additional supporting information in the form of additional photographs to demonstrate the landscape impact and SAP calculations to demonstrate the energy performance levels and carbon emissions of the proposed property but is essentially the same scheme as that previously refused.

## 6.0 **Planning Policy and Guidance**

- 6.1. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that all planning authorities must determine each application under the Planning Acts in accordance with Development Plan so far as material to the application unless material considerations indicate otherwise.

### Adopted Development Plan

- 6.2. The Adopted Development Plan for this site is:

- Harrogate District Local Plan 2014-2035, adopted 4th March 2020
- Minerals and Waste Joint Plan, adopted 2022

#### Emerging Development Plan – Material Consideration

- 6.3. The North Yorkshire Local Plan is the emerging development plan for this site though no weight can be applied in respect of this document at the current time as it is at an early stage of preparation.

#### Guidance - Material Considerations

- 6.4. Relevant guidance for this application is:
- National Planning Policy Framework 2021
  - National Planning Practice Guidance
  - National Design Guide
  - Farm Buildings Design Guide
  - Nidderdale AONB Management Plan
  - Landscape Character Assessment

### **7.0 Consultation Responses**

- 7.1. The following consultation responses have been received and have been summarised below.
- 7.2. **Parish Council:** no comments received.
- 7.3. **Environmental Protection:** Recommend conditions in relation to contamination and hours of construction.
- 7.4. **Highways:** Recommend conditions.

#### Local Representations

- 7.5. 2 local representations have been received of which both are in support. A summary of the comments is provided below, however, please see website for full comments.

- 7.6. Support:
- Existing site is an eyesore
  - Good design

- Small dwelling in an area of large houses
- Positive impact on the AONB

## **8.0 Environment Impact Assessment (EIA)**

8.1. The development proposed does not fall within Schedule 1 or 2 of the Environmental Impact Assessment Regulations 2017 (as amended). No Environmental Statement is therefore required.

## **9.0 Main Issues**

9.1. The key considerations in the assessment of this application are:

- Principle of development
- Self Build and Housing Mix
- Impact on Character and Appearance of the AONB
- Residential Amenity
- Highway Safety
- Land Contamination
- Other Matters

## **10.0 ASSESSMENT**

### Principle of Development

10.1. The National Planning Policy Framework 2021 (NPPF) sets out the Government's planning policies for England and how these are expected to be applied. Planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The National Planning Policy Framework is a material consideration in planning decisions. There is a presumption in favour of sustainable development and the NPPF advises that there are three dimensions to sustainable development: economic; social and environmental.

10.2. Paragraph 79 of the NPPF states that 'to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities'.

- 10.3. Local Plan Policy GS2 sets out the Growth Strategy for the District which aims to focus growth within main settlements. Policy GS3 sets out the criteria for allowing development outside development limits and states that ‘development will only be supported where expressly permitted by other policies of this plan or a neighbourhood plan or national planning policy’.
- 10.4. The conversion of rural buildings for housing is supported under Local Plan Policy HS6 which sets down the following requirements:

*Outside defined settlement development limits the conversion and/or re-use of existing buildings to residential use from other uses will be supported where proposals meet all of the following criteria:*

- A. The building is of permanent and substantial construction, structurally sound and capable of conversion without the need for substantial extension, alteration or reconstruction;*
- B. The scale, form and general design of the building and its proposed conversion are in keeping with its surroundings, local building styles and materials;*
- C. The proposed alterations are of a high quality design, retaining the features that contribute positively to the character of the building and its surroundings;*
- D. The building and its curtilage can be developed without an adverse effect on the historic environment, the character of the local landscape or its setting;*
- E. It can be demonstrated that there is no significant impact on local biodiversity, including protected habitats and species; and*
- F. The proposed use would not harm the countryside by way of traffic, parking, storage, pollution or the erection of associated structures.*

*Developments under this policy will be expected to comply with the affordable housing and open space provision policies of the plan.*

*Where a future alteration or extension could have a detrimental effect on the character of the converted building or the area, permitted development rights will be withdrawn for such development.*

- 10.5. The first requirement in relation to this policy is that the building is structurally sound and capable of conversion. It was on this basis that the building was approved on appeal for conversion under planning appeal reference APP/E2734/W/21/3283129. Paragraphs 12 and 13 of the Inspector’s report states:

- 10.6. ‘*The appellant’s statement of case notes that the existing building is of permanent and substantial construction and is structurally sound*’. The statement goes on to say

that the proposed alterations are described as '*cosmetic*' and then states that '*on the basis of the evidence before me I am satisfied that the new roof and timber cladding is not, for the purposes of LP Policy HS6, a substantial alteration...*'

- 10.7. During the works to implement the above approval the building has been substantially demolished and now all that remains is one existing full wall and two part gable returns. The remainder of the building is no longer in situ.
- 10.8. The building can no longer be considered to be of '*permanent and substantial construction structurally sound and capable of conversion without the need for substantial extension, alteration or reconstruction*' as set out in Local Plan Policy HS6 and therefore does not meet the requirements of the Policy.
- 10.9. Whilst clearly some works were expected to be undertaken as part of the above appeal approval, it is clear the level of works that have been undertaken go beyond that which the Appeal Inspector considered to be '*cosmetic*'.
- 10.10. The proposal is therefore considered to no longer meet the requirements of Local Plan Policy HS6, which seeks to convert or re-use an existing building and whilst it is appreciated that the existing wall would be used within the building this is not considered to constitute a conversion but rather the erection of a new build dwelling in the open countryside.
- 10.11. The erection of housing within an '*open countryside*' location i.e. outside defined development limits is generally not supported by both national or local plan policy except in specific circumstances.
- 10.12. NPPF paragraph 80 states that planning decisions should avoid the development of isolated homes in the countryside unless one or more of the following circumstances apply:
- essential need for a rural worker
  - optimal viable reuse of a heritage asset
  - re-use redundant or disused buildings and enhance its immediate setting
  - subdivision of an existing residential building
  - the design is of exceptional quality
- 10.13. Whilst the proposal may not be '*isolated*' from other dwellings as clearly it is in the centre of a range of converted buildings and other dwellings, the site is considered to

be 'isolated' from the nearest settlements of Darley and Hampsthwaite with limited access to services and public transport, being located in an unsustainable location which requires a heavy reliance on the motor vehicle for everyday living.

- 10.14. This is based on the judgement on the Bramshill case, which concluded that in determining whether a particular proposal is for "isolated homes in the countryside", the decision-maker must consider "whether [the development] would be physically isolated, in the sense of being isolated from a settlement" (rather than "buildings").
- 10.15. With this in mind the proposal does not meet any of the exceptions set out in paragraph 80 of the NPPF and thus there is not considered to be any national or local policy which would support the proposed development.
- 10.16. On the basis of the above it is considered that the proposal is unacceptable in principle and does not accord with Local Plan Policies GS2, GS3 or HS6 or paragraph 80 of the NPPF.

#### Self-Build and Housing Mix

- 10.17. The submitted statement which accompanies the application sets out the position that the proposal would be a self-build unit and would provide a small property in line with the Council's Housing Mix Policy,
- 10.18. Local Plan Policy HS3 sets out the Council's strategy for the provision of self-build properties on large housing sites, and whilst it is appreciated that further units will be provided as windfall sites or smaller housing sites, it is expected that these would be located within development limits and sustainably located.
- 10.19. Whilst the proposal states that 1 no. self-build unit would be provided, and the provision of self-build plots is considered to carry substantial weight this alone does not outweigh the fact that the property would be unsustainably located 'isolated' from the nearest settlement with limited access to local services and facilities.
- 10.20. In any case, no legal agreement accompanies the application in relation to self-build, so significant weight cannot be attached to this matter in this instance.

10.21. Local Plan Policy HS1 seeks a suitable housing mix in line with the HEDNA and whilst it is noted that the proposal will provide a 1 no. bedroom unit, again this does not outweigh the issues around the sustainability of the location.

Impact on Character and Appearance of the AONB

10.22. The application site is located in open countryside and within the Nidderdale AONB. Paragraph 176 of the NPPF states that 'great weight should be given to conserving and enhancing landscaping and scenic beauty' in these areas and that these should be given the 'highest status of protection'.

10.23. Local Plan Policy GS6 sets out the criteria against which development within the AONB will be considered.

10.24. Local Plan Policy NE4 also seeks to protect and enhance the landscape character of the District.

10.25. The original building was of no architectural or visual merit and it is noted in the Inspectors report that the original conversion proposal would have a positive impact on the AONB. This building sits in the centre of a range of converted barns and a replacement dwelling and thus there are limited views from Emmott Lane and High Lane, especially due to the garage buildings allowed as part of the wider conversion and replacement dwelling approvals. The remains of the building would be seen in long range views from the north but the building would be seen against the backdrop of the remaining agricultural shed and the converted barns and it is not unusual to find derelict barns in the AONB.

10.26. Whilst the building is not attractive in its present condition, and the proposed dwelling would be an improvement on the remaining structure, this is not sufficient justification for the replacement of the structure, as the site could be improved by simply removing what remains of the building.

10.27. The proposal is to retain the existing remaining parts of the structure and envelope this with a new build using stone and timber cladding. Overall, the design of the proposal is considered to be in keeping with the local area and would be an improvement on the design of the original conversion proposal.

- 10.28. The site layout would replicate that approved previously and would not encroach any further into the open countryside beyond that of the original farmstead.
- 10.29. Any planning approval should include conditions relating to materials and also seek to remove permitted development rights on the site due to the close relationships between the residential properties and to avoid any future extensions or further outbuildings which would detract from the overall appearance of the area.
- 10.30. On the basis of the above it is considered that the proposal would lead to a visual improvement of the area but that this could also be achieved by the removal of the remaining structure and so there are no considerations here that outweigh the conflict with planning policies on the erection of a new dwelling in this location outside development limits.

#### Residential Amenity

- 10.31. Local Plan Policy HP4 seeks to protect the amenity of both existing and future residents as does paragraph 130 of the NPPF.
- 10.32. The proposal seeks to replace an existing dilapidated structure with a new dwelling. The proposal is the same size and scale as that of an existing appeal approval for the conversion of the building which previously stood on the site.
- 10.33. The proposal does not create any greater level of issues in relation to the separation of the properties than that previously approved on the site nor any further issues in relation to overlooking or overshadowing.
- 10.34. The proposal would lead to a visual improvement of the outlook from the windows of the surrounding properties.
- 10.35. The site is surrounded by residential properties and thus a condition is recommended in relation to the hours of construction to reduce the impact of any build works on the amenity of the neighbouring properties.
- 10.36. The proposal is not considered to create issues in relation to residential amenity and thus accords with Local Plan Policy HP4.

#### Highway Safety

10.37. The proposal would use the existing access to the site and thus it is not considered that the proposal would impact adversely on highway safety. Conditions are, however, recommended by the Highways Authority in the event of a planning approval.

#### Land Contamination

10.38. The site was previously used in relation to agriculture and therefore there is potential for contamination to be found on the site during construction. A land contamination condition in relation to any unexpected contamination on the site is therefore considered to be expedient in the event of a planning approval.

#### Other Matters

10.39. Waste – No details as shown on the submitted plans in relation to refuse provision and therefore a condition requiring this to be provided is considered appropriate in the event of a planning approval.

10.40. Dangerous and unsightly – These matters can be dealt with under other legislation i.e. building regulations and thus are not a planning consideration.

10.41. Sustainability – The site is not considered to be situated in a sustainable location as set out earlier in the report. The application is, however, submitted with a set of SAP calculations setting out the sustainability of the built form. The submitted planning statement sets out that these sustainability benefits will be provided through an improvement of the enhanced thermal properties of the new build; the provision of an air source heat pump (which is not included in the details of the submitted scheme); underfloor heating and high UV value windows and doors. The statement also states that a local builder would be used, however, this is not a matter that can be controlled by the Local Planning Authority and therefore any builder could be used for the development.

#### Equality Act

10.42. Under Section 149 of The Equality Act 2010 Local Planning Authorities must have due regard to the following when making decisions: (i) eliminating discrimination, harassment and victimisation; (ii) advancing equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and

(iii) fostering good relations between persons who share a relevant protected characteristic and persons who do not share it. The protected characteristics are: age (normally young or older people), disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, sexual orientation.

10.43. It is not considered that The Equality Act 2010 is relevant to the consideration of this application.

## **11.0 PLANNING BALANCE AND CONCLUSION**

11.1. The planning approval for the conversion of the building to a dwelling is no longer considered to be extant due to the extent of works undertaken and the proposal is not considered to meet the requirements for a conversion of re-use of an existing building as set out in Local Plan Policy HS6.

11.2. The site is located outside defined development limits in 'open countryside' within the AONB. The site is considered to be unsustainably located with no access to local facilities or public transport.

11.3. The proposal is considered to consist of the erection of a market dwelling within an area where new build housing is not supported by either local or national policy, and thus is unacceptable in principle as it is contrary to Local Plan Policies GS2 and GS3 and paragraph 80 of the NPPF. It is not considered that the provision of self-build housing or a small housing unit would outweigh the issues associated with the unsustainable location.

11.4. Whilst the remaining structure is not visually attractive, the site is situated within an arrangement of converted properties and views of the site are limited from more long-range viewpoints around the AONB. The existing structure is also seen in relation to a large modern agricultural shed within the site.

11.5. The replacement of the structure as proposed would lead to an improvement in the appearance of the area, however, a similar improvement could be achieved from the demolition of the structure and thus this is not considered to be sufficient justification to outweigh the policy objection to the proposal.

## **12.0 RECOMMENDATION**

12.1 That planning permission be REFUSED for the following reasons:

- i. The building is no longer considered to be of permanent and substantial construction, and thus is not considered to represent a conversion and thus is contrary to Local Plan Policy HS6 and there are no other local or national planning policies which would support the provision of market housing in this location. The proposed development would create an isolated dwelling in the countryside in an unsustainable location which is contrary to paragraph 80 of the NPPF and would undermine the growth strategy for the District set out in Policies GS2 and GS3 of the Local Plan.

**Target Determination Date:** 25.09.2023

**Case Officer:** Emma Howson, [emma.howson@northyorks.gov.uk](mailto:emma.howson@northyorks.gov.uk)

**Appendix A – Site photo showing remains of building**

**Appendix B – Proposed Site Layout**

**APPENDIX ONE**  
**Photograph showing the remains of the building**



