

- Meeting:** Scarborough and Whitby Area Constituency Planning Committee
- Members:** Councillors Eric Broadbent, Janet Jefferson, Rich Maw, Clive Pearson, Heather Phillips, Subash Sharma (Vice-Chair) and Phil Trumper (Chair).
- Date:** Thursday, 13th July, 2023
- Time:** 2.00 pm
- Venue:** Scarborough Town Hall, St Nicholas Street, Scarborough, North Yorkshire YO11 2HG

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.

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Agenda

- 1. Apologies for Absence**
- 2. Minutes for the Meeting held on 8 June 2023** (Pages 3 - 4)
- 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. Public Questions and Statements**

Members of the public may ask questions or make statements at this meeting if they have given notice (including the text of the question/statement) to St John Harris of Democratic Services (contact details at the foot of page 1) by midday on 10 July 2023. Each speaker should limit themselves to 3 minutes on any item. Members of the public who have given notice will be invited to speak:-

- At this point in the meeting if their questions/statements relate to matter which are not otherwise on the Agenda (subject to an overall time limit of 30 minutes).
- When the relevant Agenda item is being considered if they wish to speak on a matter which is on the Agenda for this meeting.

If you are exercising your right to speak at this meeting, but do not wish to be recorded, please inform the Chairman who will instruct anyone who may be taking a recording to cease while you speak.

5. **ZF23/00615/RG3 - change of use of Old Town Hall building (Pages 5 - 18)**
to a sui generis use comprising the following classes of uses defined by the use class order: 1) class E(a) display or retail sale of goods, other than hot food; 2) class F1(b) display of works of arts; 3) F1(c) museums; and, 4) F2(b) halls or meeting places for the principal use of the local community, operational development including new access and improvements to public realm and market facilities at Old Town Hall, Church Street, Whitby YO22 4AE
 Report of the Assistant Director Planning – Community Development Services
6. **ZF23/00616/LB - refurbishment works including a new levelled stepped access platform, power and lighting, external and internal repairs, and alterations to the first floor including upgrading the building fabric, services and WC/ kitchenette facilities at Old Town Hall, Church Street, Whitby YO22 4AE (Pages 19 - 28)**
 Report of the Assistant Director Planning – 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**
 Thursday, 10 August 2023 at 2pm.

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:

St John Harris, Democratic Services Manager
 Tel: 01723 383556
 Email: stjohn.harris@northyorks.gov.uk

Wednesday, 5 July 2023

North Yorkshire Council

Scarborough and Whitby Area Constituency Planning Committee

Minutes of the meeting held on Thursday, 8th June, 2023 commencing at 2.00 pm.

Councillor Phil Trumper in the Chair. plus Councillors Eric Broadbent, Janet Jefferson, Rich Maw, Clive Pearson, Heather Phillips and Subash Sharma.

Officers present: Samuel Frank, ICT Technician, Daniel Metcalfe, Area Planning Manager, James Edward Mowbray, Democratic Services Officer, Glenn Sharpe, Solicitor, David Walker, Head of Planning, Steve Wilson, Forward Planning Manager

Copies of all documents considered are in the Minute Book

11 Apologies for Absence

There were no apologies of absence.

12 Minutes for the Meeting held on Thursday 11/05/2023

The minutes of the meeting held on Thursday, 11 May 2023 were confirmed and signed as an accurate record.

13 Declarations of Interests

There were no declarations of interest.

14 Public Questions and Statements

The representative of the Corporate Director – Community Development Services stated that, other than those that had indicated that they wished to speak in relation to the applications below, there were no questions or statements from members of the public.

15 Planning Application - (23/00311/RG3) Beach Chalets 236 - 246 & 258 - 287, The Spa, Scarborough

Considered –

The Assistant Director – Planning sought the determination of a planning application for the erection of replacement chalets at Beach Chalets 236 to 246 and 258 to 287, the Spa, Scarborough. Updating the report the Planning Officer explained that the press notice did not expire until the date of the committee so sought delegated approval to grant consent subject to the conditions set out in the report. The Committee were broadly welcoming of the report. A question was raised about drainage on site, however the Planning Officer confirmed that for developments of this scale drainage is a matter for the building regulations, not the statutory consultation that would be consulted for larger developments.

Members raised queries regarding the sale of similar chalets elsewhere in Scarborough but the Chair remaindered the committee that however concerning that prospect might be it was not a factor that should impact the Committee's consideration of this item.

Resolved –

That the application be approved for the reasons stated in the report.

Voting Record

Unanimous.

16 Any other items

There were no urgent items of business.

17 Date of Next Meeting

Thursday 13 July 2023 – Scarborough Town Hall.

The meeting concluded at 14.37.

**North Yorkshire Council
Community Development Services
Scarborough and Whitby Constituency Committee**

13 JULY 2023

ZF23/00615/RG3 - CHANGE OF USE OF OLD TOWN HALL BUILDING TO A SUI GENERIS USE COMPRISING THE FOLLOWING CLASSES OF USES DEFINED BY THE USE CLASS ORDER: 1) CLASS E(a) DISPLAY OR RETAIL SALE OF GOODS, OTHER THAN HOT FOOD; 2) CLASS F1 (b) DISPLAY OF WORKS OF ARTS; 3) F1(c) MUSEUMS; AND, 4) F2(b) HALLS OR MEETING PLACES FOR THE PRINCIPAL USE OF THE LOCAL COMMUNITY. OPERATIONAL DEVELOPMENT INCLUDING NEW ACCESS AND IMPROVEMENTS TO PUBLIC REALM AND MARKET FACILITIES AT OLD TOWN HALL CHURCH STREET WHITBY NORTH YORKSHIRE YO22 4AE ON BEHALF OF (NORTH YORKSHIRE COUNCIL) KERRY LEVITT

Report of the Assistant Director Planning – Community Development Services

1.0 Purpose of the report

1.1 To determine an application for full planning permission (ref: ZF23/00615/FL) for development at the Old Town Hall and Market Place, Whitby.

1.2 In accordance with the North Yorkshire Scheme of Delegation, the application has been brought to the meeting of the Committee as the Council is the applicant.

2.0 EXECUTIVE SUMMARY

RECOMMENDATION: That Planning Permission be GRANTED subject to the conditions listed below

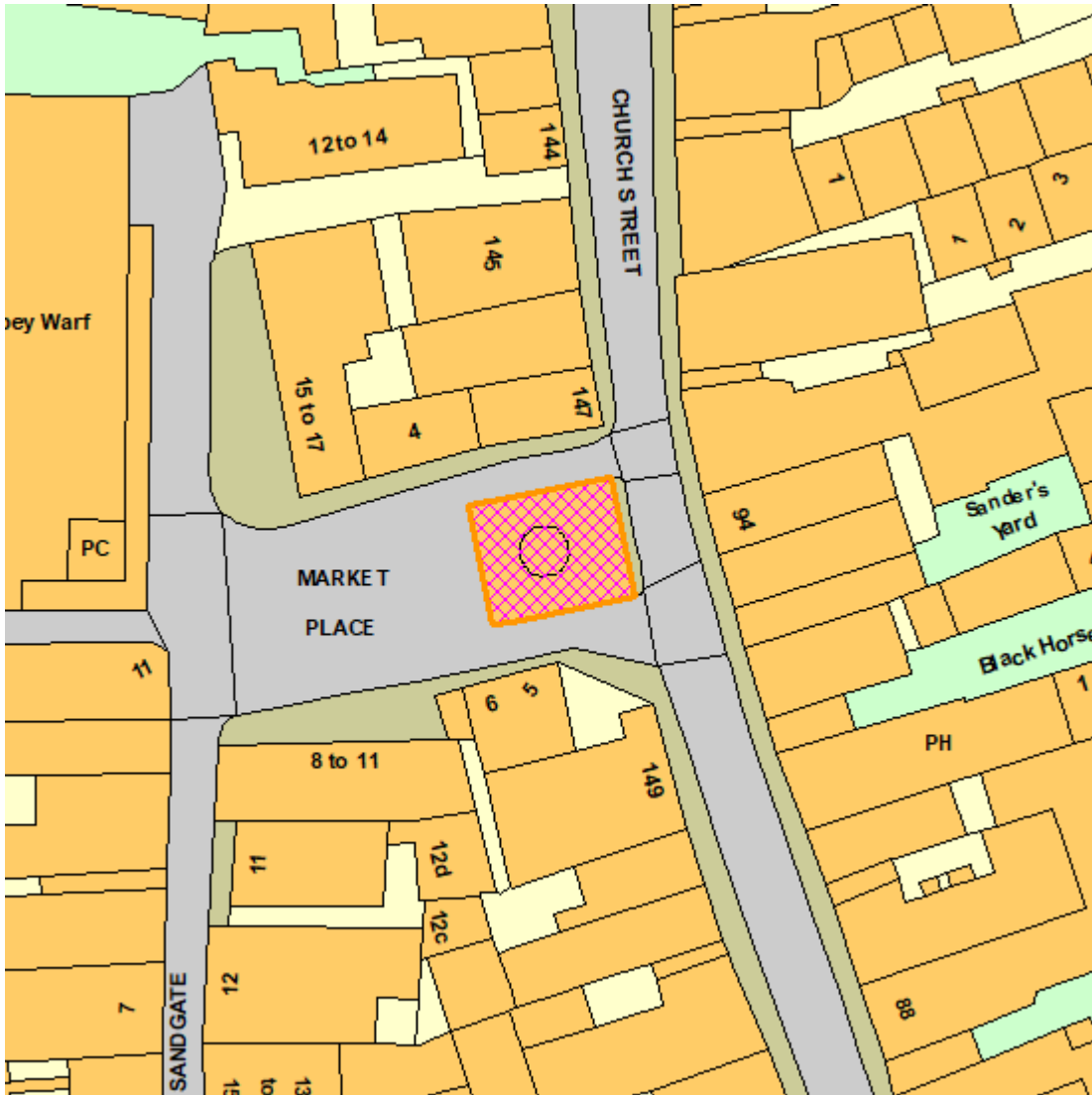
2.1 This application relates to the Grade II* Listed Old Town Hall Building and its associated Market Place. There are two elements to the proposal: 1) a change of use of the Old Town Hall building; and 2) operational (physical) development centring on the levelling of the Market Place.

2.2 The proposals are considered to be acceptable in principle and there are considered to be significant design and conservation planning benefits. Further, the scheme is considered to be acceptable from amenity and highways perspectives.

2.3 As such, the planning balance is considered to be in favour of the proposal.



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3.0 Preliminary Matters

3.1 Access to the case file on Public Access can be found here:

<https://planning.scarborough.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=RSJNPRNSJ8C00>

3.2 This case involves a change of use to a 'sui generis' use. A 'sui generis' use means a planning use which falls outside of the defined limits of other use classes. Planning permission is typically (although not always) required for a change to or from a sui generis use. Some sui generis uses (including cinemas and casinos) are defined as such in the Use Class Order. Those uses which are not defined are simply those which do not fall within any use class.

3.3 It is open to an applicant for planning permission to seek consent for their own sui generis use comprised of elements of several different uses, as defined by the use class order. There would be no permitted change of use to or from (any element of) this use if it is granted a planning permission.

4.0 Site and surroundings

4.1 This application relates to the Grade II* Listed Old Town Hall and its associated Market Place, which are located within the East Cliff area of Whitby on Church Street. The Old Town Hall is a late C18 classical building of two storeys stood (as a stand-alone building) in the Market Place, and the Market Place itself is stone-cobbled area immediately to its west sloping downwards towards the river. Notably, the Old Town Hall building features an open arcade at ground floor level which functions as part of the public realm, although it is put to various uses. The building and its history is more fully described at paragraphs 4.1 and 4.2 of the report for the allied Listed Building consent application case ZF23/00618/LB.

4.2 With respect to planning designations and constraints, the building lies within the Whitby Conservation Area, is set amongst other Listed Buildings and falls within the Whitby Town Centre Area, as defined by the Local Plan Policies Map. The building is within the Environment Agency's Flood Zone 1, which is defined as land at the least risk of flooding.

5.0 Description of Proposal

5.1 Planning permission is sought for both a change of use of the Old Town Hall (at both ground and first floor levels) and operational development to the Old Town Hall together with the Market Place.

5.2 A sui generis use of the Old Town Hall is proposed (for both the ground and first floor levels) whereby it could be flexibly used for the following classes of uses defined by the Use Class Order:

- a) Class E(a) Display or retail sale of goods, other than hot food;
- b) Class F1 (b) Display of works of arts;
- c) F1(c) Museums; and,
- d) F2(b) Halls or meeting places for the principal use of the local community.

5.3 Should the Committee choose to grant a planning permission in this case (and should that permission be implemented) then no part of the Old Town Hall could be put to any use outside of this description.

5.4 With respect to operational development, the following is proposed with respect to the Old Town Hall Building:

- a) Existing roof slates and felt removed, slates set aside for re-use. Badly decayed timber replaced with sections to match existing in size, profile and jointing (scarfed) technique. Existing lantern dismantled and condition checked, any decaying structure replaced using like-for-like materials, design and original construction techniques. New louvred vents installed to mitigate rainwater ingress to match existing like-for-like. Slates re-laid onto new battens/ counter battens with new felt / breather membrane.
- b) Existing undercroft paving stones lifted and re-laid level with new stones to match existing used where necessary.
- c) The installation of new services cupboards/ boxing in each corner of the together with soil and vent pipe and water services to new WC and kitchenette space at the first floor (see application ZF23/00616/LB).
- d) The stripping out of the undercroft ceiling and the installation of new internal suspended ceiling with recessed lighting.
- e) The installation of a cleaner's sink within central rotunda.

5.5 The undercroft area does not function as being internal to the building; in practice the undercroft is part of the public realm, albeit put to various uses. It appears to be for this reason that the application has sought a planning permission for b) to e).

5.6 The following operational development is proposed to the Market Place:

- a) The creation of a single levelled platform with Disability Discrimination Act compliant stepped access. The platform would have a stone finish to match the undercroft interior of the Old Town Hall and would be accessible directly from the ground floor of the undercroft, linking the interior and exterior;
- b) The fitting of metal balustrades to the platform in the Market Place to meet current safety regulations;
- c) The installation of floor boxes and recessed anchor points (with stone lids) in the Market Place for electric provision within the space;
- d) Associated landscaping work to meet the current Building Regulations including tactile paving and inset anti-slip stair treads.

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 planning application in accordance with the planning policies that comprise the Development Plan unless material considerations indicate otherwise.

Adopted Development Plan

6.2 The Adopted Plan for this site is:

- Scarborough Borough Local Plan 2011 to 2032 adopted 2017

Emerging Development Plan - Material Consideration

6.3 There is no emerging development plan which covers the application site.

Guidance - Material Consideration

- National Planning Policy Framework 2021
- National Planning Practice Guidance
- National Design Guide
- The Whitby Conservation Area Appraisal and Management Plan

7.0 Consultation Responses

7.1 The following consultation responses have been received and have been summarised below.

7.2 Whitby Town Council: No objection.

7.3 Local Highway Authority (LHA): The main concern the LHA has regarding this application is that the proposed works should not hinder the drivers and vehicles that already use this area for access. The area is the only vehicular access for the RNLI, a rowing club and some other businesses. A trial has been carried out utilising refuse vehicles to demonstrate the access will still be available. The LHA is satisfied that vehicles should be able to manoeuvre through this area, however the LHA would not contradict any comments or concerns made by the RNLI or rowing club who will have unusual lengths of vehicles and trailers.

Any development outside the application site area is highway and would require the agreement of the LHA.

The LHA is concerned about disruption during construction. This is the only suitable and legal access available for many vehicles. The works should be programmed to minimise disruption to others.

Conditions should be applied requiring access to be constructed in accordance with the approved drawings and provided prior to first use, surface finishing materials to be approved and a construction phase management plan requiring details of plant storage, working hours and third party access.

7.4 Historic England:

The Old Town Hall in Whitby is a relatively small but very iconic landmark building. It dates from the 18th century and was built as the jewel in the crown of the marketplace, overlooking the market which still takes place today.

We support the proposal to sensitively increase the use of this distinctive building. Opening up the first floor for a range of uses such a venue the local community and events is a positive way of engaging with the story of the building and allowing people to experience its distinctive architectural character.

We consider that the proposal strikes the correct balance between expanding the facilities on offer to cater for the increased use, whilst thoughtfully responding to the special architectural and historic interest of the building. Therefore, in our view, the proposal addresses 16, 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and Chapters 12 and 16 of the National Planning Policy Framework (NPPF). We therefore fully support this proposal.

7.5 NYC Environmental Health: No comment received to date.

7.6 NYC Waste Management: No comment received to date.

7.7 Four letters of objection to the proposals have been received. These are from local residents and make the following points:

- The levelled area will harm the Market Square for which there is no overwhelming need;
- The building should be repaired and otherwise left alone;
- The new space will be too small of any meaningful use;
- The development will give the impression of a narrow passageway either side of the raised area;

7.8 One letter in support of the application has been received. This is from a local resident and makes the following points:

- An outside café area seems like a good idea;
- Some additional seating for visitors is a good idea;
- Keeping the building for community use is essential.

8.0 Environmental Impact Assessment

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:

- The principle of the development
- Design and impact on the character and appearance of the Conservation Area together with the settings of Listed Buildings
- The impact on amenity
- Highways

9.2 Importantly, the impact of the changes to fabric of the Listed Building itself (including both the Old Town Hall and the Market Place) are considered under the allied report for Listed Building consent application ZF23/00616/LB.

10.0 Assessment

The principle of the development

10.1 As set out in section 5, there are two aspects to the proposal: 1) the change of use to a flexible sui generis use; and, 2) physical development centring on the levelling of the Market Place.

10.2 In terms of the change of use, the component uses are:

- a) Class E(a) Display or retail sale of goods, other than hot food;
- b) Class F1 (b) Display of works of arts;
- c) F1(c) Museums; and,
- d) F2(b) Halls or meeting places for the principal use of the local community.

10.3 These are all 'town centre uses' as defined by the Government's National Planning Policy Framework (the 'framework') and Officers consider the proposed use has a tourism offer.

10.4 The site is located within Whitby's designated Town Centre Area where the development of town centre uses is encouraged by Local Plan policies SD1, TC1 and TC2. Policy TOU1 of the Local Plan encourages appropriate tourism development. Further, the proposal seeks to enhance and strengthen the market offering which aligns with the principal objective of policy HC8 of the Local Plan which seeks to protect community facilities.

10.5 With these points in mind, subject to the favourable consideration of the other planning matters, your Officers consider the scheme to acceptable in principle.

Design and impact on the character and appearance of the Conservation Area together with the settings of Listed Buildings

10.6 Policy DEC1 of the Scarborough Borough Local Plan requires that new development is of a high standard of design. Policy DEC5 of the Local Plan states that development which affects the Conservation Area should preserve or enhance its character. It goes on to require that the settings of Listed Buildings are preserved. These requirements build on the statutory requirements laid out at sections 72(1)

and 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the 'Act'), where the decision maker's duty to have regard to the desirability of preserving the character and appearance of the Conservation Area and settings of Listed Buildings are laid out.

10.7 The extent of the proposed operational development to the Old Town Hall and Market place is set out at paragraphs 5.4 and 5.6, but in short the proposals amount to extension of the Old Town Hall undercroft onto a levelled plinth projecting westwards into the Market Square with allied work allowing for safe access. Development to repair the Old Town Hall is also proposed.

10.8 Historic England is the expert agency on England's historic buildings and places. The Council is reliant on its advice when considering development proposals impacting heritage assets of the highest importance.

10.9 In its appraisal of the scheme, Historic England notes that the relationship the building has to its historic Conservation Area context, the layout of the surrounding streets and historic buildings (including Listed Buildings), is very important. It goes on to point out that a key aspect of its significance within the Conservation Area is how people have been able to experience the building as its design intended. The open arcades not only define the form of the ground floor space and support the upper floor, they are a key, distinctive feature of the Conservation Area that can be experienced 'in the round', similar to the distinctive central spiral staircase.

10.10 Setting out its support for the application, Historic England states that the levelled and stepped access platform, power and lighting will all help to increase the accessibility of the building, which mated with the proposed uses will allow people to further engage with the building. This in turn will have a positive impact on the significance of the building, the character and appearance of the Conservation Area and the settings of nearby Listed Buildings.

10.11 Taking into account the Historic England advice, your Officers consider the proposals to accord with Policies DEC1 and DEC5 of the Local Plan and the requirements of Sections 72(1) and 66(1) of the Act are considered to have been met.

The impact on amenity

10.12 Policy DEC4 of the Local Plan requires that new development affords a good level of amenity to the occupiers of existing development, and it precludes development that would harm the amenity of neighbouring property.

10.13 In this regard, the proposed uses of the building are consistent with its town centre location and Officers do not consider that the amenity of other town centre users, including that of businesses and residences, will be unacceptably harmed as a result of the proposal; a standard of amenity will remain which is consistent with what can reasonably be expected from a core town centre location which includes retail and night-time uses, amongst others.

Highways

10.14 Fundamentally, the Local Highway Authority has not objected to the proposal. With that in mind, Officers consider that the development will not harm the safety or convenience of users of the public highway.

10.15 However, Members will note that the Highway Authority has supplied an unusual consultation response in which it is 'raising concerns' about access by third parties to their property via private land (i.e. the Market Place) which is not public highway.

10.16 Importantly, whilst planning decisions can seek to protect public access via the highway they cannot interfere with personal property rights; the Council as Local Planning Authority cannot seek to secure private access by any third party via private land (including the Market Place) through the planning system.

10.17 This means that although securing access for the RNLI and others via its land on the Market Place may be an issue Members and the Council more broadly would want to address, your Officers advise that it is not an issue to which weight should be attributed in the planning decision/ balance by the Planning Committee. In any case, neither the RNLI nor the rowing club have objected to the application.

Additional considerations

10.18 Members will note that in their representation the Highway Authority has requests that conditions be applied to reduce the impact of construction related activities, particularly from an accessibility perspective.

10.19 Officers frequently advise Members that the Government's latest guidance on the use of planning conditions is absolutely clear that Local Planning Authorities should not apply conditions which duplicate existing legislation, or where there are alternative means of managing certain matters.

10.20 However, this is a particularly sensitive site in that it is at the heart of the town's dense tourist centre. Further, the highway adjacent to the site is a critical access point for uses within the vicinity. Without proper management, the construction process could potentially harm the amenity of a significant number of neighbouring uses.

10.21 With this in mind, in this instance your Officers are recommending that a condition requiring a construction management plan be applied to any permission Members may grant, both for reasons of highway safety and also to protect the amenity of the locality.

11.0 Planning Balance and Conclusion

11.1 As a proposal to develop an existing community use, to enhance the town's tourism offer and as a plan for a 'town centre use' within the designated Town Centre Area, your Officers consider the proposal to be acceptable in principle.

11.2 The other key issues for consideration are design and impact on the character and appearance of the Conservation Area together with the settings of Listed Buildings, the impact on amenity and highways.

11.3 There are considered to be significant design and conservation planning benefits and the scheme is considered to be acceptable from amenity and highways perspectives.

11.4 As such, the planning balance is considered to be in favour of the proposal.

12.0 RECOMMENDATION

12.1 That planning permission be GRANTED subject to the conditions set out below:

- 1 Except for where may be modified by the conditions of this consent, the development shall be implemented in accordance with the following plans and details:

Site Location Plan Dwg No. 1594-BFF-ZZ-GF-M2-A-0095-P1 received 3rd April 2023;

Site Location and Block Plan Dwg No. 1594-BFF-ZZ-GF-M2-A-0096-P1 received 3rd April 2023;

Proposed Block Plan Dwg No. 1594-BFF-ZZ-GF-M2-A-0400-P1 received 3rd April 2023;

Proposed Ground Floor Plan Dwg No. 1594-BFF-ZZ-GF-M2-A-0402-P1 received 3rd April 2023;

Proposed Ground Floor Plan (Strip Out) Dwg No. 1594-BFF-ZZ-GF-M2-A-0200-P1 received 3rd April 2023;

Proposed Ground Floor Plan (Strip Out) Dwg No. 1594-BFF-ZZ-GF-M2-A-0201-P1 received 3rd April 2023;

Proposed Ground Floor Market Place Dwg No. 1594-BFF-ZZ-GF-M2-A-0401-P1 received 3rd April 2023;

Proposed Ground Floor Market Place Dwg No. 1594-BFF-ZZ-GF-M2-A-0401-P1 received 3rd April 2023;

Proposed Ground Floor Market Place Materials Dwg No. 1594-BFF-ZZ-GF-M2-A-0401B-P1 received 3rd April 2023;

RCP Proposed Ground Floor Plan Dwg No. 1594-BFF-ZZ-GF-M2-A-0450-P1 received 3rd April 2023;

Proposed Roof Plan (Strip Out) Dwg No. 1594-BFF-ZZ-RF-M2-A-0203-P1 received 3rd April 2023;

Proposed Roof Void Plan Dwg No. 1594-BFF-ZZ-RF-M2-A-0404-P1 received 3rd April 2023;
Proposed Roof Plan Dwg No. 1594-BFF-ZZ-RF-M2-A-0405-P1 received 3rd April 2023;

Repairs West Elevation Dwg No. 1594-BFF-ZZ-ZZ-M2-A-0500-P1 received 3rd April 2023;
Repairs East Elevation Dwg No. 1594-BFF-ZZ-ZZ-M2-A-0501-P1 received 3rd April 2023;
Repairs North Elevation Dwg No. 1594-BFF-ZZ-ZZ-M2-A-0502-P1 received 3rd April 2023;
Repairs South Elevation Dwg No. 1594-BFF-ZZ-ZZ-M2-A-0500-P1 received 3rd April 2023;
Proposed West Elevation Dwg No. 1594-BFF-ZZ-ZZ-M2-A-0600-P1 received 3rd April 2023;
Proposed South Elevation Dwg No. 1594-BFF-ZZ-ZZ-M2-A-0601-P1 received 3rd April 2023;
Proposed North Elevation Dwg No. 1594-BFF-ZZ-ZZ-M2-A-0602-P2 received 26th May 2023;
Proposed East Elevation Dwg No. 1594-BFF-ZZ-ZZ-M2-A-0603-P1 received 21st May 2023;

Proposed Section AA Landscape Dwg No. 1594-BFF-ZZ-ZZ-M2-A-0700-P1 received 3rd April 2023;
Proposed Section AA Platform Dwg No. 1594-BFF-ZZ-ZZ-M2-A-0701-P1 received 3rd April 2023;
Proposed Section AA Building Dwg No. 1594-BFF-ZZ-ZZ-M2-A-0702-P1 received 3rd April 2023;
Proposed Section DD Kitchen, Joinery and WC Dwg No. 1594-BFF-ZZ-ZZ-M2-A-0703-P1 received 3rd April 2023;
Proposed Section EE Dwg No. 1594-BFF-ZZ-ZZ-M2-A-0704-P1 received 3rd April 2023.

Reason: To avoid doubt.

- 2 Permission is granted for a change of use of the Old Town Hall building and associated newly raised Market Place to a sui generis use comprising the following elements:

- a) Class E(a) Display or retail sale of goods, other than hot food;
- b) Class F1 (b) Display of works of arts;
- c) F1(c) Museums; and,
- d) F2(b) Halls or meeting places for the principal use of the local community.

Reason: To avoid doubt, as this is what planning permission has been sought for. As this range of uses accords with policies SD1, TC1, TC2 and TOU1 of the Scarborough Borough Local Plan.

- 3 Notwithstanding any indication contained on the approved drawings, samples of all top-layer hard surface materials for the raised Market Place shall be

made available for inspection on-site by the Local Planning Authority before any top-layer hard surfacing takes place. All surfaces shall be finished in accordance with the samples prior to the first use of the development.

Reason: To ensure the character and appearance of the Conservation Area and settings of the nearby Listed Buildings are preserved.

- 4 Development shall not continue beyond that which is approved and entirely confined to the undercroft of the Old Town Hall building until a Construction Management Plan (CMP) has been submitted to and approved in writing by the Local Planning Authority. Construction of the development must be undertaken in accordance with the approved CMP.

The Plan must include the following

1. wheel and chassis underside washing facilities on site to ensure that mud and debris is not spread onto the adjacent public highway;
2. the parking of contractors' site operatives and visitor's vehicles;
3. areas for storage of plant and materials used in constructing the development clear of the highway;
4. measures to manage the delivery of and removal of materials and plant to and from the site, including timing of deliveries, the timing of removals and the timing and location of loading and unloading activities;
5. details of the routes to be used by HGV construction traffic and highway condition surveys on these routes;
6. protection of contractors working adjacent to the highway;
7. details of site working hours;
8. erection and maintenance of hoardings including decorative displays, security fencing and scaffolding on/over the footway & carriageway and facilities for public viewing where appropriate;
9. means of minimising dust emissions arising from construction activities on the site, including details of all dust suppression measures and the methods to monitor emissions of dust arising from the development;
10. measures to control and monitor construction noise;
11. an undertaking that there must be no burning of materials on site at any time during construction;
12. details of external lighting equipment;
13. a detailed method statement and programme for the building works;
- 14.. contact details for the responsible person (site manager/office) who can be contacted by the Local Planning Authority on the matter of compliance with this CMP.

Reason: This site is a key node within the town and is a particular busy mixed-use environment. Without reasonable restriction, there is the potential for construction activities to cause significant harm to amenity, public safety and highway safety. Policies DEC1, DEC4 and ENV3 of the Scarborough Borough Local Plan.

Target Determination Date: 21 July 2023

Case Officer: Mr Daniel Metcalfe
daniel.metcalfe@northyorks.gov.uk

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**North Yorkshire Council
Community Development Services
Scarborough and Whitby Constituency Committee**

13 JULY 2023

ZF23/00616/LB - REFURBISHMENT WORKS INCLUDING A NEW LEVELLED STEPPED ACCESS PLATFORM, POWER AND LIGHTING, EXTERNAL AND INTERNAL REPAIRS, AND ALTERATIONS TO THE FIRST FLOOR INCLUDING UPGRADING THE BUILDING FABRIC, SERVICES AND WC/ KITCHENETTE FACILITIES. AT OLD TOWN HALL CHURCH STREET WHITBY NORTH YORKSHIRE YO22 4AE ON BEHALF OF NORTH YORKSHIRE COUNCIL (KERRY LEVITT)

Report of the Assistant Director Planning – Community Development Services

1.0 Purpose of the report

1.1 To determine Listed Building Consent application ZF23/00616/FL for works to the Old Town Hall and the associated Market Place, Whitby.

1.2 In accordance with the North Yorkshire Scheme of Delegation, the application has been brought to the meeting of the Committee as the Council is the applicant.

2.0 EXECUTIVE SUMMARY

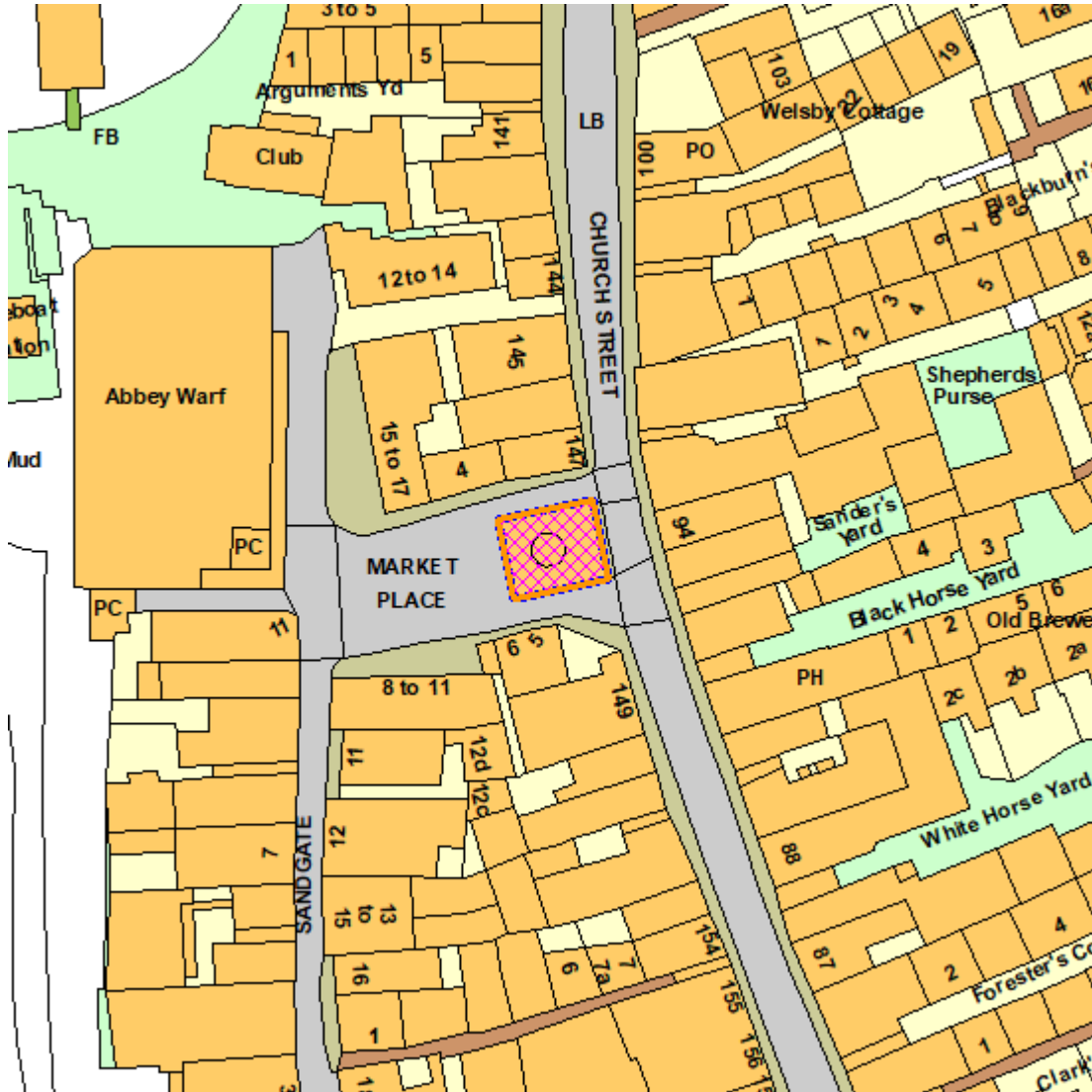
RECOMMENDATION: That Listed Building Consent be GRANTED subject to the conditions set out at the end of this report

2.1 This application relates to the Grade II* Listed Old Town Hall building and its associated Market Place and seeks Listed Building Consent for: 1) repair and restoration of the Old Town Hall building together with the installation of kitchenette and WC at first floor; and, 2) works centring on the levelling of the Market Place.

2.2 The core issue for consideration is whether or not the proposed works will preserve the special interest of the Listed Building comprising the Old Town Hall and the associated Market Place. The application has received a letter of support from Historic England, the expert agency on matters relating to England's historic buildings and places and a statutory consultee in this case. Its view is that the works will preserve and enhance the special interest of the Listed Building. It is recommended that overriding weight is assigned to the Historic England expert advice and as such the application is recommended for approval.



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3.0 Preliminary Matters

3.1 Access to the case file on Public Access can be found here:

<https://planning.scarborough.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=RSJNPWNSJ8D00>

4.0 Site

4.1 History:

By way of a brief history of the Grade II* Listed Old Town Hall, it is located within the East Cliff area of Whitby on Church Street. After the dissolution of the monasteries in 1538, the Cholmley family bought Whitby abbey and a number of other buildings in Whitby. Nathaniel Cholmley commissioned Jonathan Pickernell of Whitby to build the classical Town hall in 1788. This was a notable choice because Jonathan Pickernell was also responsible for building the Grade II listed West Pier in Whitby between 1734 and 1817; his buildings are some of Whitby's defining landmarks.

4.2 Physical appearance and characteristics of the Listed Building:

a) Ground Floor and Market Square

The Market Square slopes down towards the harbour, there is level access from Church Street to the East side of the building and stepped access from the Market Square. The Ground Floor is open. The building itself is supported at the ground floor either side by 4 sandstone Doric columns and a central pillar/staircase. The Central circular stone rotunda staircase is entered from the East side of the market square through a timber curved door.

b) First Floor

The central spiral stone rotunda staircase with a cast iron balustrade leads up to the middle of the first floor room. The West elevation is occupied by 3 Venetian sash windows, the central window has a tympanum fanlight. Above the central window is the Cholmley Coat of arms. The North and South Side elevations show a central Venetian sash window with two blind windows either side. The rear elevation shows blind windows to mirror the West elevation. Above the blind window is a glazed metal circular window.

c) Roof

The pitched Welsh slate roof is surmounted by a rectangular clock tower with gilded figures and hands on all sides. An octagonal arcaded louvred domed bell-cote with gold ball and fish vane sits atop.

d) Walls

The External walls of the building are built of hewn sandstone/ashlar. The stonework of the upper floor has open joints, particularly below the windows with varying levels of repair over the years. The internal walls are lath and plaster wall with two six

panelled doors either side of a fireplace, one leading to a narrow timber staircase to the clock turret, the other concealing a cupboard.

e) Windows/Doors

The timber Venetian sash windows that occupy the first floor are the original configuration. The east front has a round window in tympanum, but the Venetian window below is blind. The North and South sides have one double-hung sash window flanked by blind windows.

f) Floors

The Town Hall has original stone pavers in the undercroft surrounded by stone cobbles beyond.

5.0 Description of Proposal

The following works are proposed to the Old Town Hall building:

- a) Existing roof slates and felt removed, slates set aside for re-use. Badly decayed timber replaced with sections to match existing in size, profile and jointing (scarfed) technique. Existing lantern dismantled and condition checked, any decaying structure replaced using like-for-like materials, design and original construction techniques. New louvred vents installed to mitigate rainwater ingress to match existing like-for-like. Slates re-laid onto new battens/ counter battens with new felt / breather membrane.
- b) Existing undercroft paving stones lifted and re-laid level with new stones to match existing used where necessary.
- c) The installation of new services cupboards/ boxing in each corner of the together with soil and vent pipe and water services to new WC and kitchenette space at the first floor (see application ZF23/00616/LB).
- d) The stripping out of the undercroft ceiling and the installation of new internal suspended ceiling with recessed lighting.
- e) The installation of a cleaner's sink within central rotunda.
- f) The upgrading of all interior services, repair and decoration works within the Old Town Hall.
- g) The reconfiguration of all elements of the plan such as door locations, the removal and reinstatement of partitions and fireplace at first floor level.
- h) The stripping out of non-original timber elements of balustrading and benching to expose historic features. This includes upgrading the balustrading to meet current regulations.
- i) The fitting of missing dado rails, skirting and picture rails to match existing locations around the perimeter of the first floor.
- j) The installation of a WC and associated works.
- k) The installation of a kitchenette including sink, joinery and associated works.
- l) The installation of insulation within the first floor and roof void.

The following works are proposed to the Market Place:

- a) The creation of a single levelled platform with Disability Discrimination Act compliant stepped access, The platform would have a stone finish to match the

- undercroft interior of the Old Town Hall and would be accessible directly from the ground floor of the undercroft, linking the interior and exterior;
- b) The fitting of metal balustrades to the platform in the Market Place to meet current safety regulations;
 - c) The installation of floor boxes and recessed anchor points (with stone lids) in the Market Place for electric provision within the space;
 - d) Associated landscaping work to meet the current Building Regulations including tactile paving and inset anti-slip stair treads.

6.0 Planning Policy and Guidance

6.1 Section 16 (2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) requires that, in considering whether to grant listed building consent for any works the local authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. The following contains policy and guidance pertinent to the making of such an assessment.

Adopted Development Plan

- 6.2 The Adopted Plan for this site is:
- Scarborough Borough Local Plan 2011 to 2032 adopted 2017

Emerging Development Plan - Material Consideration

6.3 There is no emerging development plan which covers the application site.

Guidance

- National Planning Policy Framework 2021
- National Planning Practice Guidance
- National Design Guide
- The Whitby Conservation Area Character Appraisal and Management Plan

7.0 Consultation Responses

7.1 The following consultation responses have been received and have been summarised below.

7.2 Whitby Town Council: No objection

7.3 Historic England:

The Old Town Hall in Whitby is a relatively small but very iconic landmark building. It dates from the 18th century and was built as the jewel in the crown of the marketplace, overlooking the market which still takes place today.

We support the proposal to sensitively increase the use of this distinctive building. Opening up the first floor for a range of uses such a venue the local community and events is a positive way of engaging with the story of the building and allowing people to experience its distinctive architectural character.

We consider that the proposal strikes the correct balance between expanding the facilities on offer to cater for the increased use, whilst thoughtfully responding to the special architectural and historic interest of the building. Therefore, in our view, the proposal addresses 16, 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and Chapters 12 and 16 of the National Planning Policy Framework (NPPF). We therefore fully support this proposal.

7.4 Amenity Societies: No comment received to date.

7.5 There have been 14 letters received by the Local Planning Authority in objection to the application. These are from local residents and make the following points:

- Sympathetic restoration is required but these are destructive proposals;
- There is a presumption in favour of retaining the building as it is. The proposed platform and steps add nothing to the building and more space is taken from the Market Square. The slight (if any) economic uplift does not compensate for the loss of the building's historic form and fabric.
- Levelling of the Market Place amounts to destruction of the town's cultural heritage;
- The proposal will make the access situation in the locality even worse for all road users;
- The implementation of the works will impact on trade;
- The resulting trading spaces are insufficient.

8.0 Environmental Impact Assessment

8.1 Not relevant in this case; this application seeks consent for works to a Listed Building as opposed to development.

9.0 Main Issues

9.1. In line with the point of law set out at section 6, the sole consideration for the Committee is whether the proposed works preserve the building or its setting or any features of special architectural or historic interest which it possesses.

10.0 Assessment

10.1 Historic England is the expert agency on England's historic buildings and places and it is a statutory consultee in this case, being as the building in question is Grade II* Listed. The Council is reliant on its advice when considering development proposals impacting heritage assets of the highest importance.

Market Place levelling

10.2 On the points of the Market Place levelling and works to the Old Town Hall undercroft, Historic England notes that the relationship the building has to its historic context, the layout of the surrounding streets and historic buildings (including Listed Buildings), is very important. It goes on to point out that a key aspect of its significance is how people have been able to experience the building as its design intended. The open arcades not only define the form of the ground floor space and support the upper floor, they are a key, distinctive feature of the Listed Building that can be experienced 'in the round', similar to the distinctive central spiral staircase.

10.3 Setting out its support for the application, Historic England states that the levelled and stepped access platform, power and lighting will all help to increase the accessibility of the building, which mated with the proposed uses will allow people to further engage with the building. This in turn will have a positive impact on the significance of the building.

Works to the Old Town Hall

10.4 Turning to the restoration works to the Old Town Hall building itself, in the view of your Officers these will secure the physical integrity of the Listed Building and are necessary for its conservation.

10.5 On the point of the installation of a kitchenette and WC, these works will be light-touch with minimal intervention into the historic fabric. The installation of these elements will allow for the increased use of the building which in turn will help to secure its long term conservation and allow more people to appreciate its significance.

10.6 Taking into account the Historic England advice, your Officers consider the proposals to accord with Policy DEC5 of the Local Plan and the requirements of Sections 16(2) of the Act are considered to have been met.

11.0 Planning Balance and Conclusion

11.1 The core issue for consideration is whether or not the proposed works will preserve the special interest of the Listed Building comprising the Old Town Hall and the associated Market Place. The application has received a letter of support from Historic England, the expert agency on matters relating to England's historic buildings and places and a statutory consultee in this case. Its view is that the works will preserve and enhance the special interest of the Listed Building. It is recommended that overriding weight is assigned to the Historic England expert advice and as such the application is recommended for approval.

12.0 RECOMMENDATION

12.1 That Listed Building Consent be GRANTED subject to the conditions set out below:

- 1 Except for where may be modified by the conditions of this consent, the works shall be implemented in accordance with the following plans and details:

Site Location Plan Dwg No. 1594-BFF-ZZ-GF-M2-A-0095-P1 received 3rd April 2023;

Site Location and Block Plan Dwg No. 1594-BFF-ZZ-GF-M2-A-0096-P1 received 3rd April 2023;

Proposed Block Plan Dwg No. 1594-BFF-ZZ-GF-M2-A-0400-P1 received 3rd April 2023;

Proposed Ground Floor Plan Dwg No. 1594-BFF-ZZ-GF-M2-A-0402-P1 received 3rd April 2023;

Proposed Ground Floor Plan (Strip Out) Dwg No. 1594-BFF-ZZ-GF-M2-A-0200-P1 received 3rd April 2023;

Proposed Ground Floor Plan (Strip Out) Dwg No. 1594-BFF-ZZ-GF-M2-A-0201-P1 received 3rd April 2023;

Proposed Ground Floor Market Place Dwg No. 1594-BFF-ZZ-GF-M2-A-0401-P1 received 3rd April 2023;

Proposed Ground Floor Market Place Dwg No. 1594-BFF-ZZ-GF-M2-A-0401-P1 received 3rd April 2023;

Proposed Ground Floor Market Place Materials Dwg No. 1594-BFF-ZZ-GF-M2-A-0401B-P1 received 3rd April 2023;

RCP Proposed Ground Floor Plan Dwg No. 1594-BFF-ZZ-GF-M2-A-0450-P1 received 3rd April 2023;

Proposed Roof Plan (Strip Out) Dwg No. 1594-BFF-ZZ-RF-M2-A-0203-P1 received 3rd April 2023;

Proposed Roof Void Plan Dwg No. 1594-BFF-ZZ-RF-M2-A-0404-P1 received 3rd April 2023;

Proposed Roof Plan Dwg No. 1594-BFF-ZZ-RF-M2-A-0405-P1 received 3rd April 2023;

Repairs West Elevation Dwg No. 1594-BFF-ZZ-ZZ-M2-A-0500-P1 received 3rd April 2023;

Repairs East Elevation Dwg No. 1594-BFF-ZZ-ZZ-M2-A-0501-P1 received 3rd April 2023;

Repairs North Elevation Dwg No. 1594-BFF-ZZ-ZZ-M2-A-0502-P1 received 3rd April 2023;

Repairs South Elevation Dwg No. 1594-BFF-ZZ-ZZ-M2-A-0500-P1 received 3rd April 2023;

Proposed West Elevation Dwg No. 1594-BFF-ZZ-ZZ-M2-A-0600-P1 received 3rd April 2023;

Proposed South Elevation Dwg No. 1594-BFF-ZZ-ZZ-M2-A-0601-P1 received 3rd April 2023;

Proposed North Elevation Dwg No. 1594-BFF-ZZ-ZZ-M2-A-0602-P2 received 26th May 2023;

Proposed East Elevation Dwg No. 1594-BFF-ZZ-ZZ-M2-A-0603-P1 received 21st May 2023;

Proposed Section AA Landscape Dwg No. 1594-BFF-ZZ-ZZ-M2-A-0700-P1 received 3rd April 2023;

Proposed Section AA Platform Dwg No. 1594-BFF-ZZ-ZZ-M2-A-0701-P1 received 3rd April 2023;

Proposed Section AA Building Dwg No. 1594-BFF-ZZ-ZZ-M2-A-0702-P1 received 3rd April 2023;

Proposed Section DD Kitchen, Joinery and WC Dwg No. 1594-BFF-ZZ-ZZ-M2-A-0703-P1 received 3rd April 2023;

Proposed Section EE Dwg No. 1594-BFF-ZZ-ZZ-M2-A-0704-P1 received 3rd April 2023.

Reason: To avoid doubt and to ensure the special interest of the Listed Building is preserved.

- 2 Notwithstanding any indication contained on the approved drawings, samples of all top-layer hard surface materials for the raised Market Place shall be made available for inspection on-site by the Local Planning Authority before any top-layer hard surfacing takes place. All surfaces shall be finished in accordance with the samples prior to the first use of the development.

Reason: To ensure the special interest of the Listed Building is preserved.

- 3 No demolitions, stripping out, removal of structural elements, replacement of original joinery or fittings and finishes shall be carried out except where shown and noted on the approved drawings.

Reason: To ensure the special interest of the Listed Building is preserved.

- 4 All new works and works of making good shall be carried out in materials, and detailed, to match the adjoining original fabric except where shown otherwise on the approved drawings.

Reason: To avoid doubt and to ensure the special interest of the Listed Building is preserved.

Target Determination Date: 21 July 2023

Case Officer: Mr Daniel Metcalfe
daniel.metcalfe@northyorks.gov.uk

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