

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

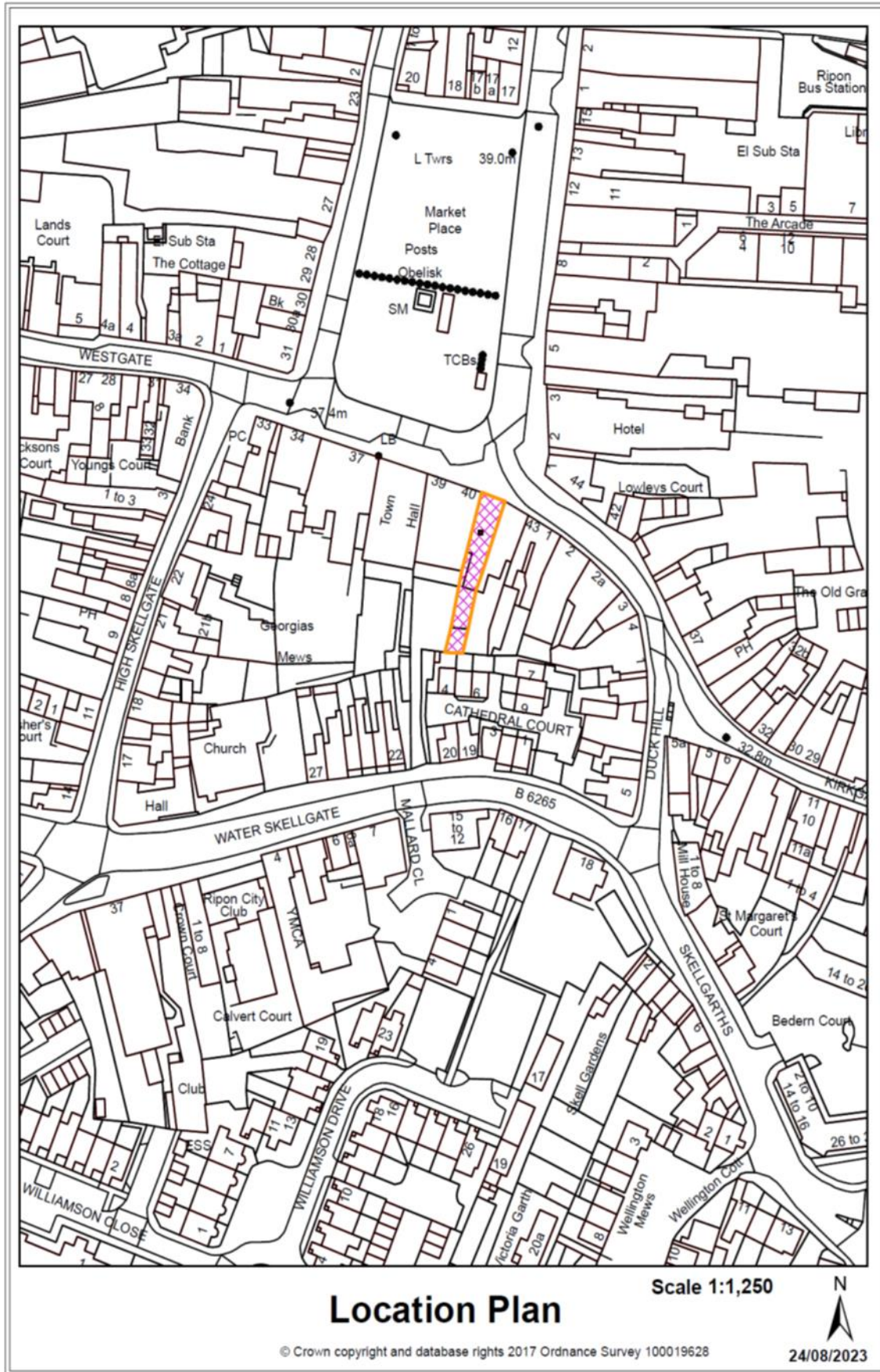
- 1.1 To determine a planning application for Change of use to first, second and third floors to a HMO providing staff accommodation in association with existing ground and basement floor restaurant use, with a communal kitchen and sanitary facilities (Use Class C4).
- 1.2 This application accompanies 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.

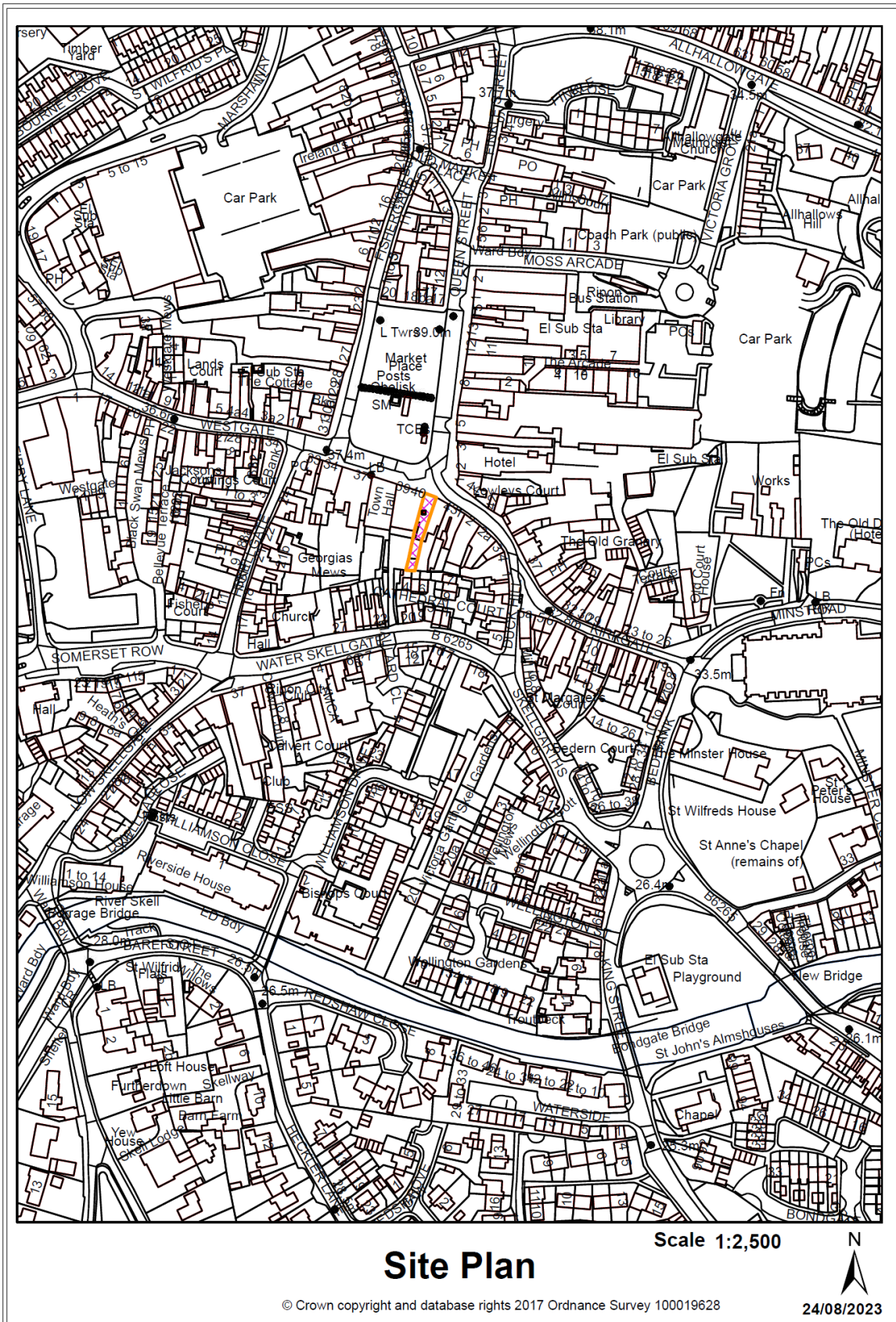
2.0 EXECUTIVE SUMMARY

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, 2nd and 3rd floor bedroom areas over existing retained floor and removal of a partition wall to the 3rd 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 19th 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 3rd 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 2nd 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 15m². 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