

North Yorkshire Council

Community Development Services

Skipton and Ripon Area Constituency Planning Committee

6 FEBRUARY 2024

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). RECONSULTATION. AMENDED PLANS. 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

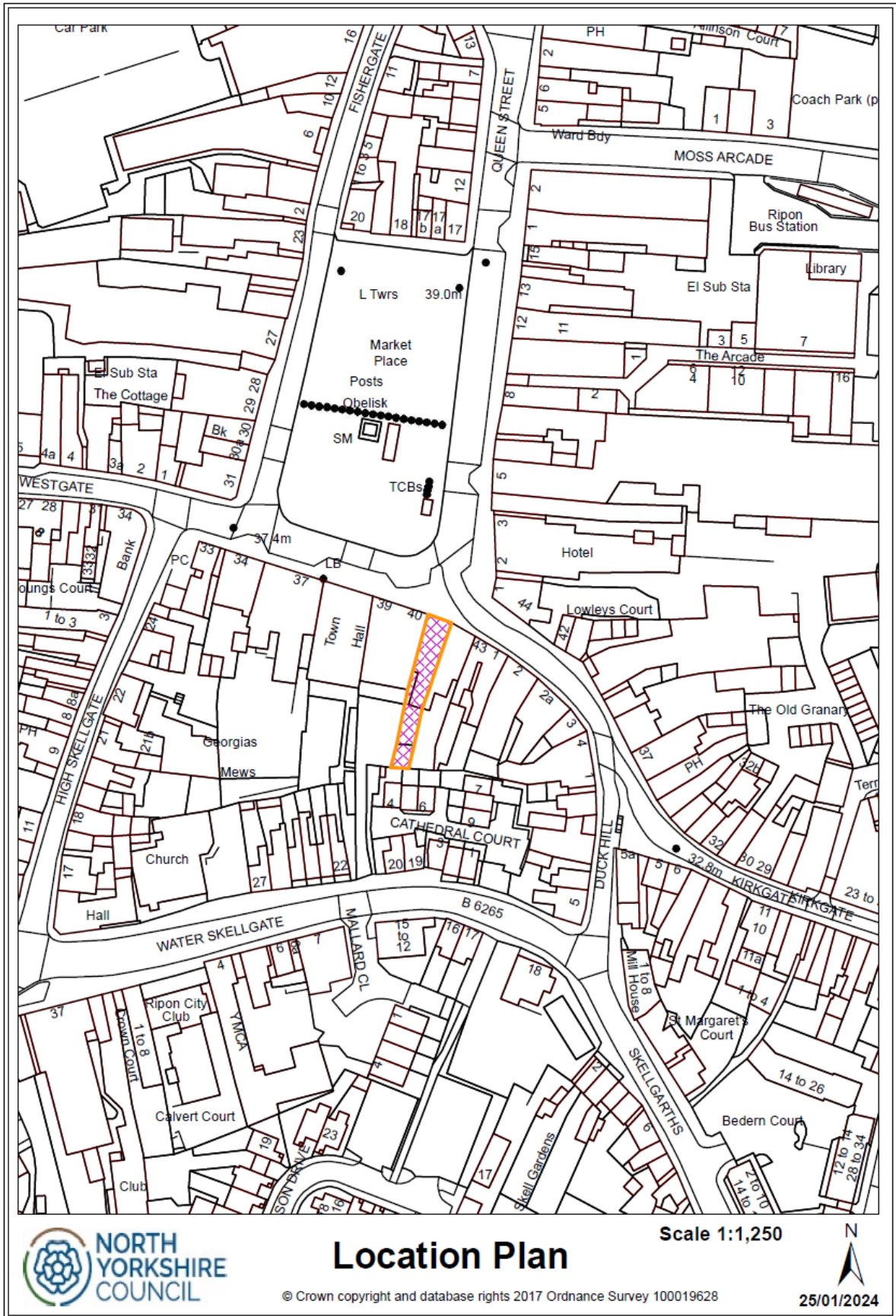
- 1.1 To determine a Listed Building application for works associated with change of use to first, second and third floors to a HMO providing staff accommodation in association with existing ground and basement floor restaurant use, with a communal kitchen and sanitary facilities (Use Class C4).
- 1.2 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.
- 1.4 This application was deferred by the Ripon and Skipton Planning Committee in September 2023 upon Member request for additional information relating to fire escape, refuse storage and collection, due to third party land ownership to the rear of the building.

2.0 EXECUTIVE SUMMARY

RECOMMENDATION: That planning permission be REFUSED.

- 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 believed to be of domestic use in association with the lower floors.
- 2.2. External works relate to repair works with the siting of cycle storage and refuse 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.
- 2.3. However, amended submitted plans indicate the installation of an additional internal staircase leading from the ground floor to the first floor accommodation. There is currently a stairs case between floors set to the rear of the building.
- 2.4. It has been confirmed by the Building Control officer that the installation of an additional staircase is not necessary to comply with Building Regulations with regards to egress for the purposes of fire escape, with alternate measures feasible such as; sprinkler, enclosing of the existing stair case, installation of fire doors and fire alarm systems.
- 2.5. It is considered that by virtue of the installation of an internal staircase and alteration to historic layout, the proposal would result in less than substantial harm to the significance of the designated heritage asset as Grade II Listed Building contrary to paragraph 208 of the NPPF. The optimum use and ongoing conservation of the building can be achieved without the proposed layout alterations and as such, the proposal is not considered to be outweighed by public benefit.

- 2.6. The application does not meet the requirement of the NPPF and would not comply with the advice found in the Heritage Management Guidance 2014 as well as the Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990.



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, 2nd and 3rd floor bedroom areas over existing retained floor and removal of a partition wall to the 3rd 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 2023
- 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:** Amended plans; Objection to amended plans due to installation of staircase creating less than substantial harm to designated heritage asset without sufficient public benefit to outweigh harm.

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

9.0 ASSESSMENT

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

- 9.1 Section 66 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 139 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 203 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 205 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 207 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 208 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. The details of the application have been amended since the deferral of the application at the September Ripon and Skipton Committee. This deferral was on the basis of requiring additional information relating to Fire Safety to ensure safe egress from the building and the inclusion of a rear access route to Water Skellgate, owned by a third party without right of access.
- 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 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.
- 9.16 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 layout and 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 comments on the original submitted plans relating to works to remove a modern internal partition with other internal alterations retaining the historic fabric of the building. These works were considered to be considered mostly decorative. Some partitions were removed from the top floor, some new bathroom fittings have been installed, none of which were considered to 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. In the event of approval, a full method statement for the repair of the windows will be required the inclusion of a condition would be recommended relating to the replacement of window(s) if required.
- 9.23 However, amended plans have been submitted and have been requested to be considered as the plans for determination within this application. The amended submitted plans include the installation of an internal staircase from the ground floor adjacent to the main entrance onto Market Place, leading to the first floor accommodation.

9.24 The Conservation Officer has been consulted and raises the following concerns;

“The application is for the installation of a new staircase from ground to first floor. Access to the new staircase will be from within a recessed porch area which also provides access to the ground floor restaurant/takeaway.

There is an existing staircase from ground to first floor located to the rear of the building. The main and more grand staircase begins at first floor and runs through the centre of the building spanning both sides of the building.

The application contains no heritage assessment for the installation of the new staircase. There are insufficient details provided in terms of the justification of the installation. No evidence to show that there was a staircase here previously (no lifting of floor coverings to see if there are different floor boards at first floor in the hall way or the front room) and no structural details which would advise what alterations are required (cutting out floor joists will require alternative lateral support for the first floor). This level of detail should not be conditioned, it is a listed building and the proposed works would affect the intrinsic character of this structure, result in loss of historic fabric and changing the historic plan form of the building. The Heritage Statement that was submitted, relates to the repair works to the rest of the property, there is no assessment of significance for the building or impact assessment.

There has been additional information provided from an archive that provides details as to the people who lived in the building, but there are no historic plans. Part of the description includes:

“In the basement were the kitchen and store cellars, with a W.C. in a railed-off area outside. On the ground floor there was the shop at the front and a showroom at the rear. A staircase between these led up to the first floor which contained the drawing room at the front and the nursery or study at the rear.”

This implies that there was a previous staircase (perhaps before the rear staircase was constructed) below the existing first floor staircase which likely spanned the width of the building. It may have been due to the changes in the ground floor use that it was removed and the rear staircase was installed.

There is no evidence to suggest that there was a staircase from ground to first

floor at the front of the building. Further investigation should have been carried out in order to support and justify the proposed alterations.

In terms of justification for the proposed staircase, it is not a requirement for a means of escape (under Building Regulations).

The installation of an additional staircase will result in harm to the significance of the designated heritage asset. This harm is through damage and loss of historic fabric as well as alteration to layout and loss of historic plan form.

There has been no justification put forward for the creation of the staircase in terms of heritage. I have seen no evidence to suggest historically there was a staircase at the front of the building from ground to first floor and as advised by Building Control, having two ground to first floor staircases would not assist in fire escape from the building.

The only benefits to the additional staircase are private and therefore the harm would not be outweighed by public benefit. Not installing a second ground floor staircase would not make the building unusable. There is existing ground to first floor access from the rear of the building. As the access element is not being considered as part of the application, we can only assess the scheme based on the current situation – there is access to the upper floors.

With regards to the other elements that were raised in the initial conservation comments. A full method statement for the repair of the windows is required. Including: 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.

On balance, the proposed installation of a new staircase is not supported from the heritage perspective. The works do not preserve the special architectural or historic interest of the listed building, as required by the Planning (Listed Buildings and Conservation Area) Act 1990. The works would result in loss of historic fabric and unknown interventions into the historic structure. The plan form of the listed building would change, affecting the significance of the designated heritage asset. The harm is less than substantial and as required by the NPPF paragraph 209, any harm must be outweighed by public benefits. The development does not meet the requirements of section 16 of the NPPF.”

- 9.25 As such, less than substantial harm has been identified though the works within the proposal. In line with paragraph 208 of the NPPF, where less than substantial harm is identified, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.
- 9.26 There is a public benefit to the proposal 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.
- 9.27 Additionally, the development would bring the upper floors of the building into re-use and arguably the optimum use for the building. However, the installation of the staircase is not required in order to provide access, as there is an existing stair case to the rear of the building leading to the rear amenity space and allowing access through the restaurant. It has been indicated by the Building Control Officer that the additional staircase is not required for Fire Safety reasons.
- 9.28 As such, the change of use could occur without the installation of the additional internal staircase and the harm to the designated heritage asset through its installation is not adequately justified in this regard. Therein, it is not considered that the harm introduced through the installation of an additional internal staircase would be outweighed by public benefits, which could be achieved without this internal alteration.

- 9.29 The application has been supported by a Heritage Statement which justifies the works as originally submitted within the application, however the additional supporting information submitted with the amended plans does not adequately justify the alterations to the historic layout of the building through the installation of an additional staircase.
- 9.30 While the proposal would not be considered to harm the special character of the Conservation Area, it would result in less than substantial harm to the significance of the designated heritage asset as Grade II Listed Building contrary to paragraph 208 of the NPPF and not considered to be outweighed by public benefit in this case as assessed above. The application does not meet the requirements of the NPPF, would not comply with the advice found in the Heritage Management Guidance 2014 as well as Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

10.0 PLANNING BALANCE AND CONCLUSION

- 10.1 By virtue of the installation of an additional, non-essential internal staircase and alteration to historic layout, the proposal would result in less than substantial harm to the significance of the designated heritage asset as Grade II Listed Building contrary to paragraph 208 of the NPPF. The optimum use and ongoing conservation of the building can be achieved without the proposed layout alterations and as such, the proposal is not considered to be outweighed by public benefit. The application does not meet the requirements of the NPPF, would not comply with the advice found in the Heritage Management Guidance 2014 as well as Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

11.0 RECOMMENDATION

- 11.1 That planning permission be REFUSED for the following reasons:

1. By virtue of the installation of an additional, non-essential internal staircase and alteration to historic layout, the proposal would result in less than

substantial harm to the significance of the designated heritage asset as Grade II Listed Building contrary to paragraph 208 of the NPPF. The optimum use and ongoing conservation of the building can be achieved without the proposed layout alterations and as such, the proposal is not considered to be outweighed by public benefit. The application does not meet the requirements of the NPPF, would not comply with the advice found in the Heritage Management Guidance 2014 as well as Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990..

Target Determination Date: 9 February 2024

Case Officer: Emma Walsh
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