

**North Yorkshire Council**

**Community Development Services**

**Skipton and Ripon Area Planning Committee**

**30<sup>TH</sup> SEPTEMBER 2024**

**ZC24/02495/DVCON - VARIATION OF CONDITION 2 (APPROVED PLANS) OF PLANNING PERMISSION 20/01087/RG3 – (PROPOSED CONVERSION OF EXISTING GARAGE BLOCK TO 3 BED DETACHED BUNGALOW) TO ALLOW FOR ALTERATIONS TO APPROVED PLANS AT THE GARAGE BLOCK NORTH OF 37 TO 41 NORTH ROAD RIPON ON BEHALF OF MR BEN GARFITT (BRIERLEY HOMES)**

**Report of the Assistant Director – Planning**

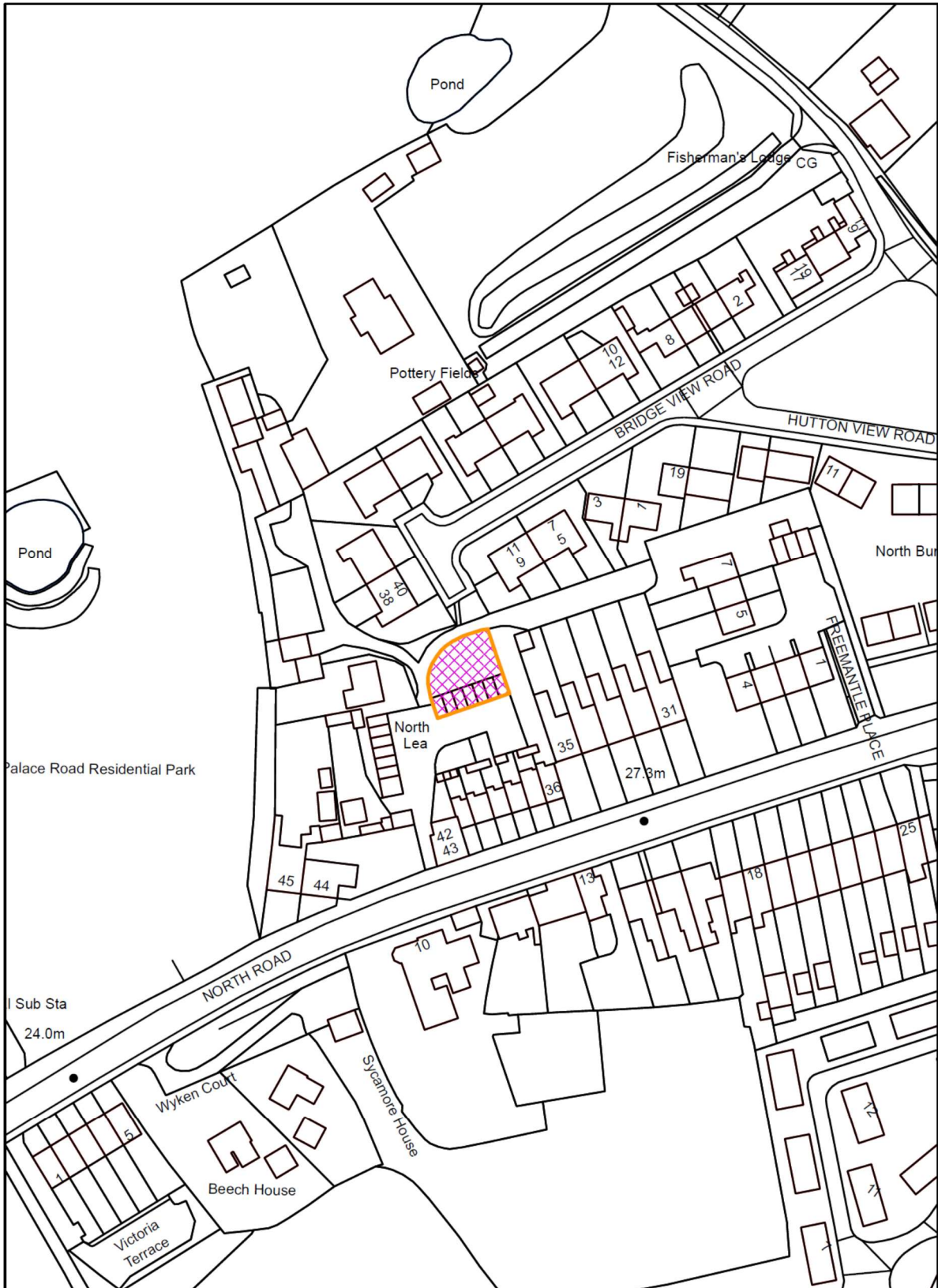
**1.0 Purpose of the Report**

- 1.1 To determine a planning application to vary the approved plans in relation to the conversion of the existing garage block to form a 3-bed detached bungalow at the garage block north of 37 to 41 North Road, Ripon.
- 1.2 This application is brought to the Area Planning Committee because it is submitted by a company owned by the Local Authority.

**2.0 EXECUTIVE SUMMARY**

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

- 2.1. Planning permission was granted by Harrogate Borough Council's Planning Committee in June 2021 under planning application reference 20/01087/RG3 to convert an existing garage block to form a 3-bedroom dwelling.
- 2.2. This application seeks to vary condition 2 of the planning permission to amend the approved plans in relation to the development. The application has been amended during its consideration and the application no longer seeks to vary condition 3 in relation to materials or condition 4 in relation to permitted development rights.
- 2.3. The proposed amendments include alterations to the proposed extension to the building including alterations to the fenestration.
- 2.4. The site is located within the defined development limits of Ripon and is considered to be sustainably located. The use of the site for housing complies with the Council's Growth Strategy as set out in the Local Plan Policies GS1 and GS2. The proposal will provide 1 no. social housing unit, which would contribute to the Council's housing land supply.
- 2.5. It is the Officer's opinion that the proposed amendments would not create planning harm and would comply with Policies HP3, HP4 and NE9 of the Local Plan.



# Location Plan

Scale 1:1,250



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19/09/2024

### **3.0 Preliminary Matters**

- 3.1. Access to the case file on Public Access can be found [here](#).
- 3.2. The application has been changed during the determination process. The proposed plans have been changed and the conditions to be varied under the application have been reduced from conditions 2 (approved plans); 3 (materials) and 4 (permitted development rights) to only consider condition 2 (approved plans).
- 3.3. There are 2 relevant planning applications for this application which are detailed below.

20/01087/RG3 Conversion and extension of existing garage block to form 3 bed detached bungalow GRANTED 24.06.2021.

ZC24/01948/DISCON Application for the approval of details in relation to condition 8 (contamination) of planning approval 20/01087/RG3 - Conversion and extension of existing garage block to form 3 bed detached bungalow. GRANTED 18.07.2024.

### **4.0 Site and Surroundings**

- 4.1. The application site comprises of an existing garage building which is presently being converted to form a 3-bedroom dwelling. The property is surrounded by residential properties and the existing access serves a number of dwellings and the remaining garage block.
- 4.2. The site is located within the development limits of Ripon identified in the Local Plan and within walking distance of services and public transport.

### **5.0 Description of Proposal**

- 5.1. This application seeks a Section 73 approval to vary condition 2 (approved plans) to amend the details of the proposal including the internal layout of the property; fenestration and alterations to land levels.

### **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**

The Adopted Development Plan for this site is:

- Harrogate District Local Plan (adopted 2020).
- Joint Minerals and Waste Plan (adopted 2022).
- Ripon Neighbourhood Plan (adopted 10 April 2019).

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

Guidance - Material Considerations

- 6.3. Relevant guidance for this application is:
- National Planning Policy Framework 2023
  - National Planning Practice Guidance
  - National Design Guide 2021
  - House Extensions and Garages Design Guide

**7.0 Consultation Responses**

- 7.1. The following consultation responses have been received and have been summarised below.
- 7.2. **Ripon Town Council:** supports the application.
- 7.3. **Arboricultural Officer:** No objections.
- 7.4. **Private Sector Housing:** No objections.
- 7.5. **Yorkshire Water:** No objections.
- 7.6. **MoD:** No objections.
- 7.7. **Environmental Health:** No objections. No comments to make over and above those supplied on the previous application.
- 7.8. **Highway Authority:** No objections. Previous conditions should still apply.
- 7.9. **Estates:** No objections.
- 7.10. **Building Regulations:** A building regulations application is required and should be satisfied that no issues with regards to ground instability.

Local Representations

- 7.11. 1 local representation has been received, which objects to the application. A summary of the comments is provided below, however, please see website for full comments.
- 7.12. Objections:
- Concerns over use of materials and impact on appearance
  - Concern over alterations to roof height
  - Concern over gypsum
  - Impact on residential amenity during construction works
  - The limited impact of one property on the provision of housing

**8.0 Environment Impact Assessment (EIA)**

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

## **9.0 Main Issues**

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

- Suitability of varying the condition

## **10.0 ASSESSMENT**

### Suitability of varying the condition

- 10.1. An application can be made under section 73 of the Town and Country Planning Act 1990 to vary or remove conditions associated with a planning permission. One of the uses of a section 73 application is to seek a minor material amendment, where there is a relevant condition that can be varied.
- 10.2. Where an application under section 73 is granted, the effect is the issue of a new planning permission, sitting alongside the original permission, which remains intact and unamended.
- 10.3. A decision notice describing the new permission should be issued, setting out all of the conditions related to it. To assist with clarity decision notices for the grant of planning permission under section 73 should also repeat the relevant conditions from the original planning permission, unless they have already been discharged.
- 10.4. The application seeks to vary the approved plans. Paragraph 140 of the NPPF states:
- 10.5. *Local planning authorities should also seek to ensure that the quality of approved development is not materially diminished between permission and completion, as a result of changes being made to the permitted scheme (for example through changes to approved details such as the materials used).*
- 10.6. The proposal seeks to amend the design of the approved dwelling to alter the proposed fenestration and the extension to the existing garage block, as well as the internal layout and the site levels.
- 10.7. The plans originally submitted as part of the application presently under consideration included the use of render and blockwork along with a large bifold glazed opening to the extension. Following concerns raised by the Planning Case Officer these elements have been amended and the building and proposed extension now remain in brick; and the large bifold opening has been replaced with a pair of double doors and two small windows.
- 10.8. The amended scheme now involves amendments to the design of the proposed fenestration including those to the proposed extension; a rearrangement of the internal

rooms within the property which moves the bedrooms into the original building and the living area into the proposed extension.

- 10.9. The proposed fenestration is an improvement on the original proposal with smaller window openings which improve the appearance of the building. The internal layout arrangement allows improved access to the garden from the kitchen/dining area and improved access to the proposed car parking area. The revised fenestration design requires a higher level of infill brick work than originally required on the initial approval and therefore it is considered expedient to add an additional materials condition to ensure that this brickwork matches the existing building.
- 10.10. The proposal does include alterations to the land levels in an area associated with Gypsum dissolution, however, the original application was submitted with a Gypsum report and signed ground stability declaration form that confirms that the site can be developed safely.
- 10.11. It is noted that the Building Control Officer has stated that confirmation should be provided regarding ground stability, however, this is a standard response from Building Control.
- 10.12. The submitted Combined Phase 1 Desk Study and Phase 2 Interpretative Ground Investigation Report (Abbeydale, April 2021) report and accompanying declaration form submitted with the initial approved application meets the requirements of Local Plan Policy NE9. The report confirms that borehole investigations have been undertaken across the site and confirms that no gypsum beds were encountered during these investigations. The report also sets out suitable mitigation measures including raft foundation designs which should be used to protect against any future gypsum dissolution cavities. The proposed limited alterations to ground levels would not require any further mitigation than that already proposed with regards to the proposed build work for the extension.
- 10.13. Officers consider that the proposed development would have no greater impact on residential amenity than that already approved. The proposal does not involve an increase in roof height but a small alteration to the existing land levels to allow level access to the property and to enable the garden area to be more manageable. The size of the existing building would not therefore alter, but may appear visually larger to the rear, due to the fact that more of the building would be visible due to the removal of material around the building. The build height of the extension would be slightly larger as the land levels would be lower but the overall height of the building in relation to the neighbouring properties would remain the same as previously approved.
- 10.14. The approved development included a statement setting out that air source heat pumps and solar panels would be provided, although details were not submitted at the time of the application. These details are required as a condition of the original approval and would again be required as part of any new approval. Electric Vehicle Charging is also required. This meets the requirements of both Local Plan Policy CC4 and also Ripon Neighbourhood Plan Policy A1.

- 10.15. Due to the constrained nature of the site the conditions for the removal of permitted development rights on the site are still considered appropriate.
- 10.16. The development has been lawfully implemented within the approved time limit and therefore a time condition would no longer be required.

## **11.0 PLANNING BALANCE AND CONCLUSION**

- 11.1. The site has the benefit of planning permission for 1 no. dwelling which is sustainably located within Ripon development limits. The proposal provides 1 no. social housing unit and complies with the Council's growth strategy as set out in Local Plan Policies GS1 and GS2.
- 11.2. The proposal includes alterations to the design of the conversion which improve its overall appearance and would have no greater impact on the street scene.
- 11.3. Whilst the application does involve alterations to reduce the existing ground levels in places this is not considered to cause issues in relation to Gypsum as the original application included a suitable report which confirmed that the site was safe to develop.
- 11.4. The proposal does not seek to change any details in relation to access or parking or drainage.
- 11.5. The development is therefore considered to be compliant with Local Plan Policies, HP3, HP4 and NE9 and Ripon Neighbourhood Plan Policy A1.

## **12.0 RECOMMENDATION**

- 12.1 That planning permission be GRANTED subject to conditions listed below  
**Recommended conditions:**

### **Condition 1 Approved Plans**

The development hereby permitted shall not be carried out otherwise than in strict accordance with the submitted details.

Proposed Site Section – BH028A-XX-00-DR-A-008 Rev T1

Proposed Site Plan - BH028A-BHL-XX-00-DR-A-001 Rev T3

Proposed Plan - BH028A-BHL-XX-00-DR-A-002 Rev T4

Proposed Elevations - BH028A-BHL-XX-00-DR-A-004 Rev T4

Reason: In order to ensure compliance with the approved drawings.

### **Condition 2 Materials**

The brickwork to be used to infill the original building shall match that of the existing building in terms of size; colour; texture and pointing to the satisfaction of the Local Planning Authority.

Reason: In the interests of visual amenity and to accord with Local Plan Policy HP3.

**Condition 3 Materials**

The external materials of the extension hereby approved shall match those of the existing building to the satisfaction of the Local Planning Authority.

Reason: In the interests of visual amenity and to accord with Local Plan Policy HP3.

**Condition 4 Windows**

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order), no further windows shall be inserted in the eastern and western elevations of the development hereby approved, without the prior written approval of the Local Planning Authority.

Reason: In the interests of privacy and residential amenity and to accord with Local Plan Policy HP4.

**Condition 5 Gypsum**

The development shall be undertaken in accordance with the recommendations within the Combined Phase 1 Desk Study and Phase 2 Interpretative Ground Investigation Report (Abbeydale, April 2021) unless otherwise modified by conditions of this consent

Reason: In the interests of safeguarding against land instability and to accord with Local Plan Policy NE9.

**Condition 6 Access**

There shall be no access or egress between the highway and the application site by any vehicles other than via the existing access with the public highway at North Road. The access shall be maintained in a safe manner which shall include the repair of any damage to the existing adopted highway occurring during construction.

Reason: In the interests of both vehicle and pedestrian safety and the visual amenity of the area and to accord with Local Plan Policy HP4.

**Condition 7 Parking**

Notwithstanding the provision of any Town and Country Planning General Permitted or Special Development Order for the time being in force, the areas for parking spaces, turning areas and access shall be kept available for their intended purposes at all times.

Reason: In the interests of highway safety and to accord with Local Plan Policy TI3.

**Condition 8 contamination**

Land contamination remediation of the site shall be carried out and completed in accordance with the Remediation Strategy approved under planning reference ZC24/01948/DISCON. In the event that remediation is unable to proceed in accordance with the approved Remediation Strategy or contamination not previously considered in either the Preliminary Risk Assessment or the Phase II Intrusive Site



Investigation Report is identified or encountered on site, all groundworks in the affected area (save for site investigation works) shall cease immediately and the local planning authority shall be notified in writing within 2 working days. Works shall not recommence until proposed revisions to the Remediation Strategy have been submitted to and approved in writing by the local planning authority. Remediation of the site shall thereafter be carried out in accordance with the approved revised Remediation Strategy.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other off-site receptors and to accord with Local Plan Policy NE9.

#### **Condition 9 – Contamination**

Following completion of any measures identified in the approved Remediation Strategy or any approved revised Remediation Strategy a land contamination Verification Report shall be submitted to the local planning authority. No part of the site shall be brought into use until such time as the remediation measures have been completed for that part of the site in accordance with the approved Remediation Strategy or the approved revised Remediation Strategy and a Verification Report in respect of those remediation measures has been approved in writing by the local planning authority. Where verification has been submitted and approved in stages for different areas of the whole site, a Final Verification Summary Report shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other off-site receptors and to accord with Local Plan Policy NE9.

#### **Condition 10 – EV Charging**

An electric vehicle infrastructure strategy and implementation plan shall be submitted to and approved in writing by the Local Planning Authority prior to the occupation of any dwelling hereby permitted. The plan shall contain details of the number and location of all electric vehicle charging points which shall be of Mode 3 type (specific socket on a dedicated circuit with a minimum current rating of 16 Amp). Buildings and parking spaces that are to be provided with charging points shall not be brought into use until associated charging points are installed in strict accordance with approved details and are operational. The charging point installed shall be retained thereafter.

Reason: In the interests of providing opportunities for sustainable transport and to improve air quality across the District and to accord with Local Plan Policies CC1 and CC4.

#### **Condition 11 – Permitted Development Rights**

Notwithstanding the provisions of the Town and Country Planning (General Permitted

Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no extensions, porches, garages, outbuildings, roof or dormer windows, or additional openings other than any expressly authorised by this permission shall be erected or inserted without the grant of further specific planning permission from the local planning authority.

Reason: In the interests of privacy and residential amenity and to accord with Local Plan Policy HP4.

**Condition 12 – Sustainability**

Prior to the occupation of the dwelling the air source heat pumps and solar panels shall be installed as set out in the submitted sustainability statement and in accordance with the details submitted in relation to conditions 14 and 15 of this consent.

Reason: In the interests of sustainability and to accord with Policy CC4 of the Local Plan.

**Condition 13 – Air Source Heat Pumps**

Prior to the installation of air source heat pumps, details shall be submitted to the LPA for approval, these should include but are not limited to, technical details, visual appearance, details of location and position and ground surface material; a noise assessment report undertaken by a competent person including cumulative impacts and impact in relation to background noise; and any noise attenuation measures required.

The rating level of sound emitted from any fixed plant or multiple fixed plant associated with the development shall not exceed the background sound levels between the hours of 0700- 2300 (taken as a typical one hour LA90 at the sound sensitive premises) and shall not exceed the background sound level between 2300-0700 (taken as a typical 15 minute LA90 at the sound sensitive premises). All measurements shall be made in accordance with the methodology of BS 4142:2014+A1:2019 (Methods for rating and assessing industrial and commercial sound) and/or its subsequent amendments. Where access to the nearest sound sensitive property is not possible, measurements shall be undertaken at an appropriate location and corrected to establish the noise levels at the nearest sound sensitive property.

The air source heat pumps shall be installed in accordance with the approved details and maintained and retained as such in accordance with the details submitted and approved above, for the lifetime of the development.

Reason: In the interests of residential and visual amenity and to accord with Local Plan Policy HP4.

**Condition 14 – Solar Panels**

Prior to the installation of solar panels full elevational details and technical details of the panels shall be submitted to the Local Planning Authority for approval. The panels shall be installed in accordance with the details approved.

Reason: In the interests of visual amenity and to accord with Local Plan Policy HP3.

**Target Determination Date:** 00.00.0000

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