

Item Number: 11
Application No: 21/00861/FUL
Parish: Thornton-le-Clay Parish Council
Appn. Type: Full Application
Applicant: Mr And Mrs Harrison
Proposal: Change of use of the Public House to form 1no. five bedroom dwellinghouse, alterations to the rear window configurations, erection of porch to front elevation and erection of three bay domestic garage with soft landscaping to front (part retrospective)
Location: White Swan Inn Low Street Thornton Le Clay North Yorkshire YO60 7TG
Registration Date: 1 June 2021
8/13 Wk Expiry Date: 27 July 2021
Overall Expiry Date: 28 October 2021
Case Officer: Jill Thompson **Ext:** Ext 43327

CONSULTATIONS:

Thornton-le-Clay Parish Council	Object
Environmental Health	
Highways North Yorkshire	Recommend conditions
Thornton-le-Clay Parish Council	
Foss Internal Drainage Board	Recommend condition
CAMRA	

Representations: Mr Terry Wilson, Mr Sam Marshall, Dr Richard Wilson, Miss Erin Foxton, Dr Amy-Jane Beer, Mr Bob Raley, Victoria And Phil Watson, Mrs Michelle Hawkswell, Mr Paul Farnell, Mrs Kathryn Fairweather, Mr John Conlon, Mr Ian Barnett, Miss Lucy Young, Mr Craig Buckby, Miss Deborah Henderson, Mrs Angela Shipley, Miss Judith Goodwill, Mr Edmund Collins, Miss Sasha Deamer, Mrs Barbara Simpson, Ms Jackie Farnell, Mrs Mary Thew, Elva Geaney, Thornton Le Clay Foston Village Institute Charity 1050428, Paul & Fiona Woollons, Mrs Margaret Frank, Dr Stephen O'Donnell, Mr Conor Macmahon, Mrs Vicki Lamb, Mr Jeremy White, Lucy Nowell, Mrs J Hardy, Mrs Elizabeth Smith, Heather Cox, Mr Patrick Shepherd, Sarah Walsh, Mr Matthew Swarbrick, Mr Robert Lonsdale, Mrs Caroline Dawkins, Mr Christopher Ellis, Mr Simon Mountford, Ms Anneli Shearsmith, Mr Brian Farrer, Anthea Edwards, Les Edwards, Mrs Patricia Bradley, The Occupier, Mrs Judith Dand, Mrs Frances Foster, Mr Calum Balding, Miss Emily Elliott, Mr Marcus Lyon, Mr Christopher Poulton, Mrs Janie Bell, Sally Hemingway, Miss Helen Clarke, Mrs Jane Robertson, Dr Martyn Smith, Miss Elspeth Arden, Mr Martin Abbey, Mr Christopher Tudor, Mr Clive Harrison, Mrs Gemma Lonsdale, Mr Philip Fisher, Mr Ian Fargher, Mr David Jordan, Mr Matthew McDevitt, Mrs Pauline Harrison, Mr Ian Paul Drury, Mrs Elizabeth White, Elspeth Wrigley, Mr Robert Wilson, Mr David Walker, Ms Emma Rowe, John And Wendy Holman, Helen Ashdown, Mr Paul Farnell, Mrs Margaret Coe, Mr James Cleary, Mrs Sarah Balding, Mr Nigel Cox, Mrs Christine Walker, Miss Sarah Proctor, Mr Barry

Crux, Mrs Bethany Buckby, Mr Mark Collins, Julian Lamb, Mr John Bulmer, Mrs Shirley Gray, Marianne And Hans-Peter Horber, Mrs Carrie Pillow, Mr Charles Foster, Karen Armitstead, Mr Thomas Lonsdale, Mrs Angie Readey, Mr Michael Dand, Mrs Susanna Morgan, Dr Mark Pickard, Mrs Vanessa Jones, Mr Harry Gillam, Mr Charles Snowdon, Valerie And Steve Loud, Mrs Michelle Johnston, Mr Richard Watson, Carol King, Allan Kind, Elaine Gathercole, Mike Rickatson, Mrs Janet Foster, Mr Tim Fisher, Katie Mills, Ellie Laughton, Cliff & Chris Segrave, Jamie Mills, Dr Mary Cleary, Richard Armitstead, Mrs Lesley Shephard, Mrs Ruth Sparrow, Mr Paul Slater, Mr Patrick Kaufman, Dr Richard Thwaites, Miss A J Franklin, Matthew Smith, Sandra Tutill, Jane Proud, Mrs S J Mills, Major ACP Manging, Barrie And Caroline Pearson, Mr Alex Sargeson, Mr Jon Cooper, Mrs Anne-Christine Titchener, Pat And Tony Wood, Mr Bob Polley, Mr Simon Armitstead, Mr Paul Tutill, Sarah Minch, Robin Greetham, Jennifer Yoward, Mrs Caroline Snowdon, Andrew J Arden, Mr Dan Conlon, Elspeth Henderson, Linda & Steven Fothergill, Joan Shipley, Lin & Andrew Lamb, Carolyn Arden, Louise Arden, Stephen R Arden, Mrs D Hope, Peter & Sally Mills, Mr Archie Fothergill, Miss Phoebe Fothergill, Dr Richard Piercy, Mrs Fiona Howell, Mrs Anna Brown, Mrs Suzy Welch, Mr Daniel Friel, Mrs Grace Mook, Mr David Johnson, Richard Collyer, Mrs Natalie Taylor, Mrs Caz Gillam, Miss Daisy Fothergill, Hannah Lamb, Ms Julie Long, Mrs Dorothy Rickatson, Mr Andrew Barker, Mr George Mook, Mrs Susan Jones, Sarah Burton, Mrs J Leedham, Mrs Kirsten Young, Mr Graham Fairclough, Mr Ben Cuthbert, Mrs Nicola Dearing, Mr David Wells, Prism Planning, Miss Sarah Frank, Mrs Stephanie Rutherford,

Site

The White Swan Public House is located on the eastern end of Low Street, next to the Village Hall. The property is a traditional two storey building. It has been extended historically to the side, through the conversion and extension of a single storey building to form a further two storey section of the property. The building has also been extended to the rear to include a two storey, cross wing extension.

The property benefits from a large garden to the rear and traditional outbuildings with an area of hardstanding. It is understood that hardstanding/ area to the rear of the property was used as a car park.

It is understood that the current owners purchased the property in August 2020 and that they are currently living in the first floor accommodation. The pub was put on the market after it was vacated by the former landlady. The White Swan is not currently trading as a pub.

The majority of the upper floor of the building is ancillary residential accommodation. This is with the exception of a small area in the south west corner of the first floor which is an area that was historically used as part of the commercial use of the building as space for a ladies toilet. The residential accommodation is accessed via a staircase within the middle of the ground floor of the building. All of the ground floor of the property is commercial space. In general, all of the footprint of the original two storey building provides bar, lounge and dining space. The ground floor space in the side extension/converted building is a cellar, commercial kitchen area and an area which formerly

accommodated toilets. The toilets, bar and commercial kitchen fittings have been removed from the premises.

The building is currently undergoing extensive renovation. Exterior works, including repairs to windows and the removal of paint have been completed, together with the installation of a front garden area and gates to the side of the property across the access to the rear garden.

The pub was listed as an Asset of Community Value in August 2021 following an application from the local parish council.

Proposal

The applicants are seeking planning permission to change the use of the building from a pub to a five bedroom single dwelling.

The application also proposes some operational development. A half open sided porch, is proposed to the front elevation, adjacent to the existing front door. It is proposed to be constructed of a timber frame on a brick plinth with a pantile pitched roof. A 3 bay garage is proposed to the rear of the property. It is proposed to be sited near to the western boundary of the site, with a footprint running perpendicular to the rear elevation of the pub. The garage building is proposed to be approximately 11.8 m in length and 6m in width, with an asymmetrical pitched roof that would be circa 3.4m to the highest point of the ridge. The garage is proposed to be built in brick with a clay pantile roof. The 3 bays are proposed to be open and are delineated with brick pillars on the eastern elevation. The garage building is also proposed to house an oil tank in a small rectangular section on its northern elevation.

An area of hardstanding and driveway is proposed to the east and south east of the proposed garage building. A 1.8m high brick garden wall is proposed to divide a section of the rear of the property to separately enclose the garage area, driveway and garden.

The application also proposes changes to the fenestration on the southern gable elevation of the existing rear extension to the property. These include the insertion of two sets of bi folding timber glazed doors at ground floor level and the installation of two large symmetrical floor to ceiling apex picture windows. All new doors and windows are proposed to be painted timber.

Proposed plans show a pond at the rear of the property which has recently been annotated as retrospective. The applicant's agent has been contacted with a view to including this within the description of the development proposed in this application. It is understood that the applicant is of the view that the pond is permitted development. This is not the case. As an amended description has not been agreed, this development has not been considered as part of this application.

The application is supported by a Design and Access Statement, a Viability Report prepared by Fleurets and a statement prepared by Prism Planning which provides, in effect, a supporting planning statement.

History

82/00469/OLD (3/136/25/PA). Permission was granted for the construction of an extension to the public house to form a kitchen, toilets and a two storey extension to form a cellar, living/dining room, playroom, kitchen and utility room with bedrooms above.

92/00559/OLD (33/136/25A/FA) Permission granted for the erection of single storey extension to form restaurant.

20/01042/FUL Planning application withdrawn for: Alterations to public house to include the remodelling of the interior to allow an increased use of the building as a dwelling house, alterations to the rear window configurations, erection of porch to front elevation and erection of four bay domestic garage (part retrospective). This application included the provision for a small public bar area on the ground floor of the property.

The current application has been submitted following discussion with the applicant/ agent over the description of the proposed development. Officers took the view that the proposed scope of the development applied for under 20/01042/FUL (above) amounted to a material change of use of the pub to a dwelling and a public bar area. The Design and Access Statement also notes that the current application has been submitted following viability work commissioned by the applicant which confirmed that the public bar space included within application 20/01042/FUL would not be a viable proposition.

Policy and Decision Making Principles

Section 38(6) of the Planning and Compulsory Purchase Act 2004 confirms that planning applications must be determined in accordance with the Development Plan unless material considerations indicate otherwise.

- Policies of the development plan that are of specific relevance to the application are:
- Policy SP1 General Location of Development and Settlement Hierarchy
- Policy SP11 Community Facilities and Services
- Policy SP16 Design
- Policy SP20 Generic Development Management Issues

The National Planning Policy Framework (NPPF) is a key material consideration in the determination of the application. In particular Chapter 8 : Promoting Healthy and Safe Communities

Consultation

Members are reminded that copies of all of the correspondence received in response to the application can be read in full on the public web-site. Members are requested to read and familiarise themselves with the information received, prior to the meeting.

Letters from three individuals have been received which confirm neither objection or support for the application.

Letters of explicit support for the application have been received from 8 individuals. A summary of the points made in support of the application is as follows:

- A pub in the village is not viable and would not make a profit
- A pub in the village is not any enhancement to the village
- This is a positive scheme that enhances the community
- It is unreasonable for the applicants to use their own money to support a business that will fail
- The community need to come together to enhance the use of its other facilities
- The family actively contributes to community life
- Work undertaken is of a high quality and the appearance of the building has been improved
- I am an architect and I will be recommending this scheme to be submitted for a 'Best Small Scale Renovation' award
- In the last couple of years before COVID the pub was almost empty at every visit
- The business relies on customers from outside the village
- No financial accounts were made available to the applicants
- If the business was profitable a 30% rent increase should not have been a problem
- With reference to the NPPF, the application would not leave the village devoid of facilities. The Thompson Arms is within the Parish boundary as well as other facilities in the village
- It is unreasonable to expect a business to meet a community need
- The building was in a state of disrepair and in need of essential maintenance
- Previous work was unauthorised
- The new owners have been involved in many local community projects
- Fewer people use pubs

- COVID crisis puts greater pressure on pubs
- Had all of the objecting households frequented the pub it would have been thriving and viable
- Decision to close is right if it can't be run with a reasonable profit
- Change the use before anyone else loses their life savings

A further letter provides the following qualified support:

- Change of use should only be of a very last resort

160 letters of objection have been registered. These are mainly from individuals although this includes letters of objection from the Village Hall Institute and the Governors of Foston and Terrington Schools.

The main issues raised in objections to the application are summarised as follows:

General

- The Council should have intervened to stop this from happening
- Is the loss to be the legacy of RDC?
- Aghast no enforcement action has been taken/ Council should take enforcement action
- Issue an enforcement notice to reinstate the trading area
- Issue an enforcement notice to prevent residential occupation
- Object to the change of use and the other proposals. The garden, parking and size of the whole premises is relevant to the continuing success of the pub
- Commercial interior is totally reconfigured and fixtures/fittings removed
- Once lost it will never be regained/ would be needlessly lost forever
- Travesty if this was passed
- Save our pub/ Save our Swan/please reject/ must not be granted
- No unmet need for a 5 bed house
- Supporting documents make erroneous assumptions about the premises
- Present owners have made no attempt to open the pub
- The front garden looks awful
- The property should be reinstated to its original layout
- Chain of events leading to this retrospective application is deeply upsetting
- The building is still a pub
- The applicants are living in the pub and have no intention of opening it
- Conflicts with national policy and local policy
- Breaches the Government's rural sustainability agenda
- The Council has a duty to maintain the social and economic structures of our village
- The withdrawn plans with a smaller bar area were ideal
- It is missed not just by the local community but from us further afield

Economic

- Public Houses will play their part in the economic recovery
- Pubs are important to the viability of rural districts
- Increased tourism strengthen the business case
- Our holiday cottage guests used it and miss it
- Pub is part of the attraction of our holiday cottage and this will result in fewer lettings/ income
- Closure of the pub is affecting the sale of property
- Provided many of my B&B customers with good local food
- Provided a source of local employment/ source of employment for younger people in the village/ first job pf may local young people
- Regularly travelled to/ visited Thornton-Le Clay to use this pub

- Venue for business parties/ post sporting events

Community

- Loss is literally devastation/ dreadful for village community life
- Community needs the pub
- Well loved pub/Valued community facility/ vital community resource/ heart of the village for many years
- Crucial part of the village
- Provides a support network
- Safe place to socialise/ nice to have somewhere to gather socially in walking distance
- As a young person it provided me with a job that gave me confidence by interacting with and meeting people
- As a single parent meeting friends /family at this pub has saved me from sinking into despair
- People used to meet up there
- Pandemic has taught us the benefit of community and need for people to gather together has never been more important
- Removes the identity of the village
- Loss will increase rural social isolation
- Community cohesion which is such an important part of the fabric of our village will be lost
- Venues distant from the village cannot perform the role of a community hub
- One off events in the village hall is not a sufficient substitute
- Very little other means of meeting neighbours
- With more people moving to the countryside it is important to keep these facilities open
- Poor bus service – it is essential to provide such facilities
- Limited opportunities for the older generation to get out and about as public transport has been cut
- Traditions that would be lost are immense
- It was one of our reasons for being here/ presence of the pub attracted us to the village
- Played a huge part in making us feel included when we first moved here
- Place where all ages could come together/ opportunity for younger and older generations to interact
- My family used the pub regularly
- Brought locals from Thornton-Le-Clay and Foston together/ hub for both villages together
- Was a thriving community hub/ had a vibrant atmosphere/was very popular/ did lovely food/ hospitality was brilliant – the ales, food , wine and atmosphere
- Beating heart of our community with regular events, quizzes, coffee mornings for the elderly
- Our village lost its pub and there is nothing to adequately replace it
- The losers in this far outweigh the winners
- Application to have the pub listed as an ACV indicates the strength of feeling for it
- No other pub in reasonable walking distance
- Will be to the permanent social and financial detriment of all who live here
- The village/ village hall also loses car parking which the previous owners let the community use as goodwill
- Concerned that it could affect the viability of the Village Hall as the two facilities supported each other and joint events helped raise income for the village hall
- Along with the school, the pub encourages young families to live here which supports the school and keeps the village alive

Viability

- No-one had a chance to buy it and run it as a pub

- Previous owners said it was a legitimate business that performed well
- Was a viable business with investment potential
- Was not marketed or vacant for a prolonged period
- The business was not failing. It was supported by the local community
- Marketed by a residential estate agent
- Efforts should have been made to run it as a financially viable business
- If the owners had any intention to continue the business they would have insisted on trading accounts and had a viability study commissioned before purchase/ would have been more prudent to do the viability report before purchase
- It is a viable business based on what should have been paid for it
- There was never any business plan
- The property did not come to the market because the business was unviable
- Other pubs in the area are thriving and this strengthens the business case not dilutes it
- The Viability Report does not take any up to date turnover into account / doesn't use actual figures to support its assumptions
- Seems work has been carried out to make the pub unprofitable
- Viability report charges the business with a rate of returns and costs that would not form part of the trading accounts
- The Viability Report does not take all of the positive feedback on trip advisor into account
- Viability report is full of generalisations, assumptions and misleading statements
- Viability report is a clear example of confirmation bias (supporting a predetermined conclusion)
- Viability report is a Trojan horse
- Viability report fails to take into account any new opportunities for rural pubs following the pandemic/ no reference to the trend to vacate cities for rural life/ reassessment of lifestyles post pandemic
- Conclusions of the viability report should not be relied upon
- There is ample car parking at the site
- The price the owner chose to pay is being used to suggest that the business is not viable
- Property should be remarketed on the basis of its current use
- A viable business operated alongside all of the competition from pubs elsewhere
- Insufficient grounds to prove that it is unviable
- Will thrive in a period (post pandemic) where community and supporting local business is paramount
- Asked to leave when the lease ran out. Tried to buy the commercial property and could not secure a new lease with a rental increase of 27% at the start of the pandemic

In addition to individual letters of objection, a letter has been received which is from/ signed by 44 members of a community action group known as the 'Save our Swan' Group, together with members of the wider community. The letter has 120 signatories in total and is a response to letters from the applicant's advisors, Prism Planning and Fleurets. A summary of the points made by the group is as follows:

The White Swan is economically viable and was economically viable at the time of sale

- The previous tenant offered to purchase the White Swan at a price significantly in excess of the valuation adopted by Fleurets. Demonstrates confidence in the viability of the WS as a profitable business
- Figures used by Fleurets are conjecture. No attempt to ascertain true figures
- MJ Hughes report is objective and weight should be given to that

No suitable alternatives available to the White Swan

- White Swan when trading had the highest combined trip advisor/ google ratings out of any public house in the area
- Provided a full range of services / events that no other public house in the area can match
- Gap in the market has not been filled – limited availability when booking tables
- Alternative venues offering food to a similar standard would need a taxi to access and this would take the average cost of a meal outside the means of many in the community
- No alternative in walking distance

Condition of the White Swan

- No evidence of any due diligence
- Apart from reinstalling stock, tables, chairs and appliances, the trading area was in good order and nothing was required in terms of building works to enable trading to commence
- Bar and toilets removed and key areas of kitchen removed, car parking reduced

Compliance with SP11

- There is a clear and on- going need for the pub
- The combination of the pub, school and village hall are vital to the social cohesion of the village (a reflection of the symbiotic relationship is summed up by the School Governors and Village Hall committee
- WS serves a diverse range of needs I the village which no other local pub or combination of local pubs can satisfy
- Neither Prism or Fleurets demonstrate that the first test (suitable alternative) of the first limb of SP11 is satisfied.
- The village has no public transport and non- driving members of the community would need to travel by taxi which is cost prohibitive for many
- Removes the opportunity for spontaneous personal interactions
- Accessible source of employment for young people
- Limb 2 of SP11 is whether it is no longer economically viable to provide not whether it is an attractive or profitable investment
- Former tenant ran a viable business
- Council’s advisors state that the WS is viable and this should be given significant weight

Royal Oak Decision

- There are material differences with the Royal Oak

Other material considerations

- Conflicts with Para’s 84 and 93 of the NPPF
- The White Swan is a valued facility/ service
- National policy requires that proposals should be resisted where proposals reduce the ability of a community to meet its day to day needs as well as where a proposal would remove this ability
- Evidence demonstrates that its loss is not necessary
- The current owners are not the custodians of a community asset and have confirmed that they do not want to run a Public House
- Planning permission would be contrary to national policy

Asset of Community Value

- The pub is registered as an ACV and this is a material consideration
- Its designation is a further indication that the pub is valued in respect of national policy and needed pursuant to SP11

Equality Act 2010

- Trust that the Council will consider the importance of accessibility to the pub and its associated facilities for the elderly and disabled within this village

The Parish Council has also objected to the application. This letter of objection is appended to the report. A summary of the views of the Parish Council is as follows:

- White Swan was profitable, well used and a place for locals to socialise and get to know each other as well as addressing social isolation and the well-being of the community
- It can be again if it retains its licensed use and is run by the right people

Members are reminded that the volume of representations made in respect of a planning application is not in itself a material planning consideration. The material planning considerations raised in support or objection to an application are the matters that must be considered in the determination of the application.

Appraisal

The application proposes the change of use of the property as well as operational development. The main issues are considered in turn below.

Change of Use: Principle

The principle of the development proposed is a key factor in the determination of the application. The need to protect community facilities in recognition of the particular importance that they play in supporting Ryedale's rural and village communities is a central objective (objective 7) of the Development Plan and central to the development strategy and approach of the Plan in village communities.

Policy SP11 (Community Facilities and Services) reads as follows:

“Existing local retail, community, cultural, leisure and recreational services that contribute to the vitality of the towns and villages and the well-being of local communities will be protected from loss/redevelopment unless it can be demonstrated that:

- *There is no longer a need for the facility or suitable and accessible alternatives exist, or*
- *That it is no longer economically viable to provide the facility, or*
- *Proposals involving replacement facilities provide an equivalent or greater benefit to the local community and can be delivered with minimum disruption to provision”*

The supporting text to the policy also notes that community facilities such as pubs, contribute to quality of life and help to support sustainable communities. It notes that *“in rural Ryedale and in particular, those villages that are not well served by public transport, the loss of such facilities can have a major impact on the vitality of local communities as well as individuals, particularly the less mobile and those without access to a car”*.

Policy SP11 is in accordance with national policy. Chapter 8 (Promoting healthy and safe communities), paragraph 93 of the National Planning Policy Framework (NPPF) makes it clear that to provide the social, recreational and cultural facilities and services that a community needs, planning policies and decisions should (amongst other things):

“Guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day to day needs”

“Ensure that established shops, facilities and services are able to develop and modernise and are retained for the benefit of the community”

National Policy makes it clear that local public houses are examples of the type of community facility that the community need.

It should be noted that with respect to the need to protect community facilities, the current version of national policy does not differ from the national policy which was in place at the time that Policy SP11 was examined and adopted. Members are aware that the NPPF is a material consideration in the decision making process.

The application proposes to change the use of the public house to a dwelling. This would result in the loss of the facility. The public house would cease to exist if planning permission is granted for the change of use of the property. This would be after over 160 years as a community facility.

The starting point for the consideration of the proposal against Policy SP11 is the extent to which it is considered to be a local facility as well as one that contributes to the vitality of the village and the well-being of the local community.

The White Swan is the only public house in Thornton-Le-Clay and it occupies a central position in the village. As with any public house in an attractive rural area, the pub has the potential to serve a wide catchment area and customer base, including visitors and tourists. Notwithstanding this, it exists in and serves a local area. The term 'local' is an adjective which by definition relates to a small area and whilst geographically it is a relative term, it is evident by virtue of its location that the pub is a local facility in a village which is available to serve and meet the needs of the village and the local community.

It is considered that the needs of the community are more than the ability to simply be served an alcoholic beverage or meal in the locality, although convenience and accessibility are important considerations in rural areas. The needs of communities include the more subtle need for social interaction, cohesion, sense of belonging and mutual support all of which will be addressed in different ways by different facilities in the village, for different members of the local community. It is for all of these reasons that local policy and national policy consider local public houses (amongst other facilities) as being community facilities which communities need.

It is clear from some of the points made in objections from members of the local community to the proposal that the pub is considered to contribute to the vitality of the village and the well-being of the local community. It is valued by members of the local community. This is in part evidenced by the fact that the local community made an application for the property to be listed as an Asset of Community Value. It is also of note that Members of the community see the pub as having a 'symbiotic' relationship with other community facilities and that its presence has directly helped to support the village hall and indirectly, the school.

Having concluded that the pub is a local community facility which contributes to the vitality of the village and the well-being of the local community, the proposed loss/ change of use of the pub needs to be considered against the two relevant policy criteria within SP11. It should be noted that only one of either of these criteria needs to be satisfied in order for the policy protection afforded by SP11 to be relaxed. These are addressed in turn below.

There is no longer a need for the facility or suitable and accessible alternatives exist or,

As noted above, objections to the proposal indicate that a need for a local pub exists within the local community. The mobilisation of the local community through the formation of the 'Save Our Swan' group and the nomination of the White Swan as an asset of Community Value are also an indication that the facility is needed by the local community. In addition, a letter of objection from the former tenant and licensee notes that members of the local community continued to patronise the pub up to the point at which she ceased trading and the pub was subsequently sold. No new public houses have been established in the village since the White Swan ceased trading and against this context, Officers are of the view that there is no evidence to suggest that the local community no longer have a need for the facility.

The purpose of Policy SP11 is to protect local facilities. Against this context, suitable and accessible alternative facilities are considered to be those which are capable of providing for the local needs of the residents of the village. The White Swan is the only local pub in Thornton-Le-Clay. There are no other

local public houses that are a suitable or accessible alternative in the village.

It is self-evident that any member of the community in Thornton Le Clay with access to private transport would be able to drive to any public house in Ryedale, York, or indeed beyond, in order to satisfy a need for a drink or a 'meal out'. However, alternative facilities in alternative locations, even those in relative close proximity to the village do not replicate the social value and role that local facilities have in providing for a communities collective need for social interaction and mutual support from within their own community on a day to day basis. On this basis, they cannot be considered to be suitable alternatives. They are also not accessible alternatives for those members of the community that do not have an independent means of travel or for whom travel by taxi may be prohibitive in terms of cost.

This is central to the purpose of SP11 and the protection afforded by national policy.

In addition, there are no other community facilities present in the village such as the school, church or village hall which are considered to provide a suitable alternative to a public house in terms of the services provided or for the members of the community that they serve.

Prism Planning on behalf of the applicant, has noted that there are seven pubs within a five mile radius of the village and 25 pubs within a ten mile radius. In addition, the supporting information prepared by Fleurets on behalf of the applicant also documents the range of alternative facilities in alternative locations which the author concludes are both suitable and alternative facilities. In this respect, the presence of other pubs and restaurants in other locations are no more than points of fact which are not disputed. However, for the reasons outlined above they are not considered to represent suitable or accessible alternatives in terms of meeting the holistic needs of the local community, the application of Policy SP11 or national policy.

Prism Planning refer to the appeal decision relating to the Royal Oak at Nunnington and draws on conclusions made by the planning inspector in that decision. Members may recall that the Inspector concluded that alternative facilities several miles from the village represented suitable and accessible alternative facilities and that the convenience of a local pub was not a test of Policy SP11.

Nunnington is not Thornton-Le-Clay and it has a different range of services and facilities. It is clear from the Inspectors decision that the other facilities at the village and the fact that the village Darts Team had secured a suitable alternative venue were matters that the Inspector took into account when considering the individual merits of that specific application. Nevertheless, Officers are of the view that this Inspectors interpretation of SP11 demonstrates a disappointing and very limited understanding and appreciation of the way in which local and by definition, more convenient facilities meet a community's needs in rural areas. Surprisingly, it is also unclear from the decision how the Government appointed Inspector reconciled this decision against the purpose of national policy.

Prism Planning have referenced Fleuret's conclusions that the trade base for the pub is such that it cannot rely on local resident custom. It is considered that this is not a matter that which is relevant to the policy criteria relating to the communities need for the pub.

That it is no longer economically viable to provide the facility

The application is supported by an Economic Viability report prepared by Peter Scholes of Fleurets. To assist consideration of the application, the Council has commissioned Mike Hughes of MJD Hughes Ltd to advise on the viability of the public house in response to the Fleuret's report. The reports of both of these registered chartered surveyors are appended in full to this report together with rebuttal statements. In addition, the Save Our Swan group has asked Barry Crux, a chartered surveyor with previous involvement with the property to comment on the viability of the pub. A letter from Mr Crux on this matter is also appended to this report.

In summary, Fleurets are of the view that the property does not have credible or economically sustainable future trading as a public house. Mr Hughes takes an opposing view and has concluded that a business is viable at the property.

There is some agreement and consistency on several key parameters. Mike Hughes broadly agrees with the Fleurets assumptions of operating costs and projections of a net turnover of £182,000 per annum and gross profit calculations of £112,000. This can be triangulated with Mr Crux's view that a business would generate an optimum net turnover of circa £200,000 per annum. Mr Hughes calculates a net operating profit of £42,000 and Mr Crux has confirmed that he would expect the business to be capable of generating a trading profit in the order of £50,000 per annum. In contrast, the Fleurets assessment concludes that the business would not generate a profit and would operate at a loss.

Fleurets have prepared two viability appraisal scenarios. The first is based on the actual sales value of the property of £450,000 with a £50,000 cost against the costs of the refurbishment and replacement of fixtures and fittings. Taking account of projected sales less other costs, including owners remuneration and the cost of finance this scenario shows a loss of over £27,000. A second scenario based on what Fleurets describe as a 'more credible' acquisition cost results in a projected loss of just over £13,000.

In summary Fleurets conclude that the White Swan is not an economically viable proposition for the following reasons:

- *“After allowing for finance costs the business is loss making*
- *The return on the investment required does not reflect the risk*
- *The property would not be of interest to corporate pub companies, either leased or managed operators*
- *Nationally beer volumes have been in decline*
- *The limited car parking facilities required to operate as a destination food house*
- *Better located competition will limit the opportunity to growth the turnover and profit”*

In response, Mr Hughes takes the view that:

- *“The public house would only be loss making if unsustainable finance costs were put against the business*
- *The return on investment is only too high for the current owner or another operator in the same position. The property is the test of viability not the owner*
- *Corporate clients have increased costs. The approach assesses the viability for the client rather than the business*
- *All public houses have had to deal with the decline in beer sales and the need to adopt a range of income streams*
- *The availability of car parking is not limited at the White Swan. The current owner has proactively limited where cars can be parked*
- *Competition is always present for businesses. I do not consider other public houses in the area are necessarily positioned better and that the presence of this competition limits a viable turnover and profit”*

In Mr Hughes opinion, “the target market for the White Swan is for an owner who has assessed the level of return a business at the property can achieve and finds acceptable”. In his opinion, the types of owner include:

- An owner operator who would operate a lifestyle business
- An owner who would achieve a rental of between 8% to 10% of turnover from a tenant
- An incorporated group wishing to purchase the pub as a community facility with limited return on investment

Mr Hughes' conclusions are endorsed by the professional opinion of Mr Crux who has confirmed that in his view the business should be a viable proposition. It is also of note that the pub traded to the point of the COVID pandemic and the lease not being renewed. There is no evidence to suggest that the business ceased trading on the basis that it was no longer viable. Indeed, the correspondence from Mr Crux and the former landlady would indicate the opposite. In addition, there is no market evidence to suggest a

lack of business interest. The fact that the pub was sold at a price which was not a reflection of its use value and (removed from the commercial market) sold by a residential estate agent rather than a specialist commercial agent does not help demonstrate that a business is not viable.

Both the Fleurets and Hughes reports are detailed. The divergence between the two advisors largely relates to a difference in opinion over the extent to which a return on investment and the costs of financing the acquisition of the property are accounted for.

In the view of officers, value and viability are separate, albeit related entities. It is clear from the conclusions of both advisors that the purchase price of the pub at £450,000 was not reflective of its market value as a pub. The use of an unrealistic and excessive purchase price in Fleuret's first viability scenario is not considered to be a reasonable calculation or realistic basis on which to basis the viability of the business. The fact that Fleurets have ran a second scenario based on a more realistic value would seem to endorse that point.

The price at which the property was marketed and subsequently sold is not reflective of its use. It was not priced to sell at a value that reflected the value of the business (as a function of turnover and profit). It would not be unreasonable to conclude that the market price and subsequent sale price was more a reflection of speculative development potential. The decision of the applicants to proceed with the purchase on that basis can only be described as a decision taken based on their appetite for risk. By not consulting any specialist agents prior to the purchase, the current owners have not undertaken any prudent due diligence. It does not appear to have been a decision that related to the viability of the pub business or the lawful use of the building.

It is the understanding of Officers, that the costs attributed to refurbishment and the reinstatement of fixtures and fittings appears to be central to the difference to the operating profit estimated by Mike Hughes and the loss calculated by Fleurets when a more realistic sales value is attributed. Mr Hughes's advice to the Council is that such costs should be accounted for in terms of the value of the property and not the viability of the business. Officers agree with Mr Hughes advice, particularly given the circumstances of this particular case.

The evidence, including the purchase price of the pub; the level of internal alteration works undertaken to date; the removal of fixtures and fittings including the bar, toilets and kitchen; the removal of car parking spaces, together with this proposal to change the use of the building, would indicate that the pub has not been purchased with an intention of running it as a viable concern. It is not unreasonable that the costs of this work and reinstating these features is something that should be borne by the current owner and reflected in the current value of the property in its current lawful use. To consider this in any other way would be to legitimise an approach which would, in the opinion of Mr Hughes, mean that *"change of use could be achieved by undertaking cynical building works to make re-investment too costly"*. Valued community uses would be too easily lost and local as well as national policy would be undermined.

It is clear that the White Swan is a valued local community facility in its own right and in the way in which it has operated alongside other community facilities in the village. The pub contributes to the vitality and sustainability of the local community and is needed by the local community. There are no suitable or accessible alternatives which meet this need and it has not been demonstrated that the business is not viable. In this respect, the proposal is in clear conflict with Policy SP11 of the Local Plan Strategy. In addition as a valued community facility for which a need remains, the proposal is in conflict with national policy. The specific circumstances are such that the proposal would result in an unnecessary loss of valued, local community facility, in conflict with national policy.

Officers are of the view that the conflict with the development plan and national policy significantly weighs against the proposal.

Change of use: Economic Impact

It is understood that when it was last trading, the pub did provide a source of employment to a limited number of full time staff as well as additional staff working a range of part-time hours. The proposal would represent a loss of this local source of employment, albeit, limited.

The loss of the local facility has the potential to make the village a less attractive destination for visitors using B& B or holiday cottage accommodation. In this respect the proposal would be detrimental to the local visitor economy and the economic vitality of the village, in conflict with SP11.

Change of Use: Housing

Members are aware that new housing and net additions to the housing stock is an important material planning consideration. However, Ryedale is meeting and exceeding its housing target of 200 dwellings per annum. Whilst this is a minimum target, it is considered that very limited weight should be given to the proposal in terms of the need for additional housing. The creation of a single new dwelling is not considered to outweigh the proposed change of use of the property and its loss as a Public House.

Proposed Operational Development

The operational development proposed as part of the application includes the erection of the proposed garage to the rear of the pub and garden walling; alterations to the fenestration of the existing rear extension; the erection of a front porch and, the creation of a landscaped garden area to the front of the public house. The landscaped garden area has been created and is a retrospective element of the application. The main issues relating to these proposals are considered below.

Proposed Three Bay Garage & Garden Walling

The garage is proposed to the rear of the public house, adjacent to the western boundary. It is proposed to be constructed in brick with a clay pantile roof and an asymmetrical pitched roof. In terms of its design, the proposed garage would appear as a traditional outbuilding and it would be subservient in scale to the public house. The asymmetrical roof form and position in relation to the form and orientation of the neighbouring property to the west would ensure that the proposed building would not have an overbearing impact on the residential amenity of the occupiers of the adjacent property. In this respect, the design of the proposed garage is acceptable in terms of Policy SP16 (Design) and SP20 (Generic Development Management Issues).

Notwithstanding the above, the garage is proposed to be sited immediately to the rear of the public house. Due its scale and position it will compromise the space available to the rear of the public house for convenient car parking and turning. Once in situ, the presence of a garage in this location would compromise the functional space of the public house, to the detriment of the operation of the business and users. Moreover, any costs required to remove it from the site in order to provide or reinstate convenient car parking are likely to be unattractive to future operators and will be detrimental to the viability of the business. Similarly, the proposed garden wall segregates the space to the rear of the property and would compromise the functionality of the space for the lawful use of the building. The proposed garage and internal garden walling would, in this respect, undermine the community use of the site and would be detrimental to its use, contrary to Policy SP11.

Proposed Rear Fenestration Detailing & Front Porch

The fenestration detailing proposed to the rear extension is designed to modernise and update this section of the property. The existing fenestration is not particularly sympathetic in style and proportion to the traditional character of the property. The proposed glazed gable apex windows are contemporary in style. Whilst the windows are in clear contrast to traditionally styled windows at the property, in design terms they are not considered to undermine or detract from the character or appearance of the property. In this respect, the proposed fenestration details are considered to be acceptable against the policy requirements of Policy SP16.

The front elevation of the property is typical of traditional rural vernacular. The installation of the porch would interrupt this simple character and appearance. However, the proportions and mass of the proposed porch are such that it would not appear visually dominant or impact upon the appearance of the building to an unacceptable extent. In this respect, the proposed porch is considered to be acceptable against the policy requirements of Policy SP16.

Landscaping/ garden to the front of the property

An area of landscaping has been installed to the front of the property, immediately to the front of the principal elevation and the highway (pedestrian footway). The area has been planted as a small garden and is bounded to the front by a lightweight timber post and rail fence. Although a number of properties in the village have gardens to their front elevations these are domestic dwellings. The White Swan is a commercial building with a road frontage and in this respect the garden area is considered to be out of character with the building and its context in the street scene. Moreover, the landscaped garden area prevent the use of some of the space to the front of the property being used as car parking to serve the Public House. Whilst any car parking in this area should not overhang the public highway (pedestrian footway), it is considered that parking, albeit limited, can be achieved in this space. The front garden area undermines the ability to provide car parking immediately to the front of the Public House which would be particularly convenient for some users. Its presence compromises the functionality of the space for the lawful use of the building and as such is in conflict with Policy SP11.

Other Matters

The Local Highway Authority has confirmed that has no objection to the development proposed and recommends a condition. The Internal Drainage Board has recommended a condition in relation to surface water drainage.

Conclusion

The proposed change of use of the White Swan Public House is in conflict with Policy SP11 of the Ryedale Plan Local Plan Strategy. It is considered that there are no material considerations that outweigh this clear conflict with the development plan. In addition, elements of the proposed operational development are considered to compromise the functionality of the spaces around the Public House and on that basis, it is considered that they would undermine the lawful use of the property, in conflict with Policy SP11. Refusal is therefore recommended for the following reasons:

Reasons for Refusal

1. The proposed change of use of the Public House would result in the unnecessary loss of a valued local community facility which meets the day to day needs of the local community. It has not been demonstrated that suitable alternative and accessible alternative facilities are available to meet the needs of the local community or that it is no longer economically viable to provide the facility in conflict with Policy SP11 (Community Facilities and Services) of the Development Plan. There are no material considerations which are considered to outweigh this conflict with the development plan or which outweigh conflict with the protection afforded by national policy.
2. The proposed garage, garden walling and landscaped area (to the front elevation) will undermine and threaten the viability of the lawful use of the property by virtue of the fact that they will compromise the ability of the associated spaces to meet the functional and operational requirements of a Public House, in conflict with Policy SP11 (Community Facilities and Services) of the Development Plan. There are no material considerations which are considered to outweigh this conflict with the development plan or which outweigh conflict with the protection afforded by national policy

Planning Enforcement

There are a number of breaches of planning control at the site, including the installation of buildings/ structures and the pond in the land to the rear of the property, as well as the landscaped garden area to the front of the White Swan. The building is not a listed building and Members are aware that internal

works to the building are not development and do not represent a breach of planning control. In view of the on-going residential occupation of the White Swan, Officers are taking legal advice on the scope of potential enforcement action.

If Members resolve to refuse the application, a report will be brought to the next meeting to allow Members to fully consider the expediency of addressing breaches of control at the site in detail.