

DELEGATED

**AGENDA NO
PLANNING COMMITTEE**

10th March 2021

**REPORT OF DIRECTOR OF FINANCE,
DEVELOPMENT AND BUSINESS SERVICES**

20/0718/FUL

Vane Arms, Darlington Road, Long Newton

Conversion and alterations to existing public house and first floor accommodation to create 1 no. residential property with associated access.

Expiry Date

SUMMARY

The application site relates to the Vane Arms, a public house within the defined development limits of Long Newton. The Site benefits from a hard-surfaced frontage which provides the associated car parking associated with the public house. To the rear of the Site is an extensive beer garden. The whole of the Site is listed as an Asset of Community Value (ACV).

This application is seeking permission for the change of use of the public house to a single 5 bedroom dwelling with associated external alterations.

The application has received a total of 98 objections, including the MP, Local Member and Parish Council.

The application has been supported by a viability assessment of the existing public house and in considering the proposal the Council has commissioned an independent critique of the submitted appraisal. Whilst discrepancies were found, the overriding conclusion of the critique was that the Vane Arms is not a viable business and that the only viable option for it to remain as a Public House would be for it to be run by a community organisation.

The community had formed a community organisation called the Long Newton Community Hub, however no formal offer was made to purchase the pub. Notwithstanding this, there is no obligation for the owner to accept an offer even if one had been made.

With regards to the physical alterations, all external works are appropriate subject to the recommended conditions and no objection has been received from any technical consultee.

To summarise, the proposal has demonstrated that notwithstanding the ACV listing and the unequivocal local support for the public house, it is no longer a viable use and that there is a comparable alternative facility within the village. It is therefore no considered that the proposal would undermine the community's ability to meet its day to day needs. The principle of changing the use to a dwelling is acceptable. Whilst the presence of an ACV, is in accordance with Policy TI2 a material consideration, in considering the viability of the asset the proposal is considered to be in accordance with policies in the Development Plan and NPPF.

RECOMMENDATION

That planning application 20/0718/FUL be approved subject to the following conditions and informatives detailed below;

01 Approved Plans

The development hereby approved shall be in accordance with the following approved plan(s);

Plan Reference Number	Date Received
001A	22 April 2020
002A	22 April 2020
VA_REF-003	8 April 2020
VA_REF_004	8 April 2020
VA_REF_005A	22 April 2020
VA_REF_011	8 April 2020

Reason: To define the consent.

02. Construction Works

No construction/demolition works, or deliveries shall be carried out except between the hours of 8.00am and 6.00pm on Mondays to Fridays and between 9.00am and 1.00pm on Saturdays. There shall be no construction activity including demolition on Sundays or on Bank Holidays.

Reason: To ensure that the development does not prejudice the enjoyment of neighbouring occupiers of their properties.

03. Construction Method Statement (CMS)

Notwithstanding the submitted, no development shall take place until a Construction Method Statement (CMS) has been submitted to, and approved in writing by, the Local Planning Authority relevant to that element of the development hereby approved. The approved CMS shall be adhered to throughout the construction period relating to that element of the development and shall provide details of the parking of vehicles of site operatives and visitors; loading and unloading of plant and materials; storage of plant and materials used in constructing the development; the erection and maintenance of security hoarding; wheel washing facilities; measures to control and monitor the omission of dust and dirt during construction; a Site Waste Management Plan; details of the routing of associated HGVs; measures to protect existing footpaths and verges; and a means of communication with local residents. The development shall be carried out in accordance with these approved details.

Reason: In the interests of the occupiers of adjacent and nearby premises.

04. Means of Enclosure

Notwithstanding the proposals detailed in the submitted plans, prior to the commencement of the development hereby approved details of the means of enclosure shall be submitted to and approved in writing by the Local Planning Authority. Such means of enclosure shall be erected prior to the occupation of the development in accordance with the approved details and be maintained as such thereafter.

Reason: In the interests of the visual amenities of the locality and to safeguard the amenity of future occupiers and those occupiers of the adjacent dwellings in accordance with Local Plan Policy SD8 and paragraph 127 of the NPPF.

05. Soft Landscaping

No development shall commence until full details of Soft Landscaping has been submitted to and approved in writing by the Local Planning Authority. This will be a detailed planting plan and specification of works indicating soil depths, plant species, numbers, densities, locations inter relationship of plants, stock size and type, grass, and planting methods including construction techniques for pits in hard surfacing and root barriers. All works shall be in accordance with the approved plans. All existing or proposed utility services that may influence proposed tree planting shall be indicated on the planting plan. The scheme shall be completed in the first planting season following:

- (i) Commencement of the development;
- (ii) or agreed phases;
- (iii) or prior to the occupation of any part of the development;

and the development shall not be brought into use until the scheme has been completed to the satisfaction of the Local Planning Authority.

Reason: To ensure a high-quality planting scheme is provided in the interests of visual amenity which contributes positively to local character and enhances bio diversity.

06. Obscure glazing

Prior to the occupation of the development hereby approved, the ground floor side window on the western elevation shall be obscure glazed to a minimum opaque level 4 and shall be fixed closed, thereafter they shall be retained as such for the lifetime of the development.

Reason: To safeguard the amenity of occupiers of the adjacent dwellings.

07. Open access ducting

Open access ducting to facilitate fibre and internet connectivity shall be provided from the homes to the public highway

Reason: To ensure that infrastructure is provided to facilitate fibre connections to all new development in accordance with Policy TI3 of the Stockton on Tees Local Plan

08. Removal of permitted development rights

Notwithstanding the provisions of classes A, B, C and E of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order), the buildings hereby approved shall not be extended or altered in any way, without the written approval of the Local Planning Authority.

Reason: To prevent significant undue detrimental loss of privacy and amenity for future occupants taking into account the relationship with existing dwellings and to comply with saved Policy SD8 the Stockton on Tees Local Plan and paragraph 127 of the NPPF.

09. Ecological Mitigation

All ecological mitigation measures within Chapter 6 (Biodiversity Mitigation Proposals) of the submitted Preliminary Ecological Appraisal Received by the Local Planning Authority on the 23 February 2021 April 2020 shall be implemented

throughout the development in full accordance with the advice and recommendations

Reason: To preserve, protect and enhances the biodiversity of the site in accordance with Local Plan

INFORMATIVE OF REASON FOR PLANNING APPROVAL

Informative: Working Practices

The Local Planning Authority has worked in a positive and proactive manner and sought solutions to problems arising in dealing with the planning application by gaining additional information required to assess the scheme and by the identification and imposition of appropriate planning conditions.

Informative: NWL

The developer should develop their surface water drainage solution by working through the Hierarchy of Preference contained within Revised H of the Building Regulations 2010. Only at a last resort shall discharge to a combined sewer be considered

Informative: Northern Gas

The developer is advised to contact Northern Gas Networks prior to any construction works as there may be apparatus in the vicinity of the development.

BACKGROUND

1. Previous approvals relating to the previous use are for the creation of a new entrance lobby (removal of existing) (reference 08/0918/FUL) and for a Certificate of Lawfulness for Proposed Use of Existing residential flat & floor layout above The Vane Arms public house to be amended in order to provide B&B & residential accommodation (reference 11/2275/CPL).
2. A separate application for the creation of a new 3 bedroom dwelling within the existing beer garden as also pending (reference 20/0717/FUL) and is to be considered by planning committee.

SITE AND SURROUNDINGS

3. The application site, is the Vane Arms Public House located at the western end of Long Newton Village, on the southern side of Darlington Road. The Vane Arms, inclusive of the associated Beer Garden is a designated Asset of Community Value (ACV), is at the end of a terrace with a large area of hardstanding to the front of the Site which form the public house car park. Access to the side provides pedestrian access to the rear of the Site and the large beer garden to the rear. The Vane Arms has been closed since August 2019.
4. The village of Elton is located 1.5km to the east and Stockton is beyond. Approximately 3km to the south west lies the village of Middleton St George with Darlington beyond. Outside of the village there are generally agricultural fields broken up with farms and farmsteads.
5. The village is accessed off the A66 which provides a direct link between Stockton and Darlington and is unique in so far it benefits from a range of services within the defined development limits;
 - The Derry Public House
 - St Mary's Primary School
 - Village Hall (The Wilson Centre) has three rooms and associated facilities that can cater for groups of 15 to 80 people.
 - St Mary's Church.

PROPOSAL

6. Planning permission is being sought for the change of use from the existing public house to a residential five-bedroom dwelling.
7. As part of the overall change of use, some minor external works are proposed such as removal of a ground floor window, creation of a garage and removal of signage. To the rear of the building, selective demolition is proposed with the Store/prep room and Female WC being removed. The existing kitchen and Male WC will be turned into a lounge.
8. The proposed development includes the addition of soft landscaping to the existing carpark to the front of the Site.
9. There is a separate application being considered for the erection of a dormer bungalow in the existing beer garden of the public house. Access would be taken between this site and the property known as Mountain Ash to the east.

CONSULTATIONS

10. The following Consultations were notified and any comments received are set out below:-

Longnewton Parish Council

Introduction

The Parish Council (PC) has recognised that the residential development of The Vane Arms and the Community Hub proposal for the Vane Arms required parallel scrutiny and decision. It was clear to the PC that the issues surrounding these proposals would require the PC to have particular regard to the wishes of the residents.

In this period of Covid19 regulations the PC has followed government guidance for the administration of Councils. On-line communication between Councillors enabled the governance process as a consultee for planning applications. Consultation with residents was actioned. Relevant documentary research was undertaken.

Considerations The two options

1. The development of the site of Vane Arms to a residential property by conversion of a licensed premises and the construction of a second house.

2. The development of the Vane Arms as a community hub with the Asset of Community Value status awarded by SBC.

A detailed review was made of the Planning Application documents for Option 1 with the understanding that the need for two applications was due to the differing technical matters relating to Change of Use and New Development.

The Prospectus for the Community Hub proposal along with the public meeting response data was the relevant analysis for Option 2.

Resident consultation on the preferred option, whilst sought, was freely offered verbally and through on-line exchanges.

Outcomes Option 1 detailed submissions for two applications, whilst largely conforming to Planning Guidance, balanced strongly on the commercial viability of the Vane Arms as a public house. When the overall development of the site is assessed it is considered that without the new residence the commercial viability must be questioned.

Minimal regard was given to the impact the new house would have on the open landscape vista enjoyed by several properties on either side.

Option 2 presented the PC with a groundswell of opinion that the proposal for a Community Hub was in the best interests of the residents. The commitment to the proposal by the community being a strong feature. The support offered by The Plunkett Foundation (a national

organisation) demonstrated professional credibility. Support from local politicians was recognised.

Decision Parish Council unanimously concluded to support the Community Hub proposal on the following grounds:

1. Strong support from the residents as demonstrated by the public meeting responses.
2. Residential development of this site offers little enhancement to the village.
3. A Community Hub is offering an eclectic mix of services, leisure pursuits, hobby, and skill development to enrich the community spirit.
4. No impact on the existing community services available at The Wilson Centre.
5. The Derry Pub should not be impacted by the different genre proposed by the Community Hub.
6. Local long term employment and economic activity returning to the village.
7. National support and guidance for the proposal.
8. A business model based on similar acknowledged successes throughout the country.
9. Furthering the community spirit to engage in a proposal to preserve the history and an identity of the village.
10. Politicians support.
11. The designation of ACV status by Stockton BC

Recommendation In considering the Planning Applications Stockton Council should acknowledge and include the Community Hub proposal as integral to the decision.

It is recommended that determination of the planning applications should be at Committee level with due cognizance of the Parish Council's request for refusal.

Alexander Cunningham MP

I would like to add my support to the people of Long Newton with a plan to redevelop the now closed Vane Arms public house and formally object to the two planning applications above which would see the building converted to residential accommodation and a new property built at the back.

Your helpful note of 6th March to Nige Dennison make quite clear the Council's support for the retention and development of local services and community facilities including public houses and the application of T12:

"Proposals which would lead to the loss of valued local shops, services and facilities, including public houses and village shops, and reduce the community's ability to meet its day-to-day needs will not be supported unless:

- a. There is no demand for the facility in the locality and its continued future use would be economically unviable, or
- b. Equivalent alternative facilities are available nearby and the proposal would not undermine the community's ability to meet its day to day needs.
- c. The Council will take into account listing or nomination of 'Assets of Community Value' as a material planning consideration.

You go on to state that an application for the conversion/demolition of the public house would therefore need to satisfy the above tests even if there is another public house in the area. I would submit that they do not do so. The conversion of the building removes a vital community asset whilst the proposal for a new property, whilst oi understand it, is merely a money-making venture by the owner and adds no value to the community and may be to its detriment given

access restrictions and the impact on adjoining properties. It could be considered overdevelopment of the site

The proposals from the local group wishing to develop the pub as a community asset run by the community demonstrates both the desire and need for the public house to be retained and their development plans continue to mature. I believe it is essential that they are given the opportunity to prove the viability and desirability of their project. Timing is of course important but I would hope the fact the Coronavirus crisis will have delayed their planning is taken into account. As you are aware the group did succeed in obtaining an ACV for the building demonstrating that it a project for retaining the public house is without doubt a potentially viable proposition.

On that basis I hope the Planning Committee will reject both planning applications and encourage the community group to develop their plans and restore this public house to the people of Long Newton.

Highways Transport & Design Manager

General Summary

Subject to the comments detailed below The Highways, Transport and Design manager has no objections to this application.

Highways Comments

The existing premises has an established access onto Darlington Road and the proposed new residential dwelling, to the rear, would be accessed via a 4m wide private drive. The access arrangements are considered to be suitable.

In accordance with SPD3: Parking Provisions for Developments 2011, a 5 bedroom property requires 4 incurtilage car parking spaces, the proposed plan shows 3 however the 4 required car parking spaces can be achieved therefore no highway objections are raised.

Landscape & Visual Comments

There are no landscape and visual objection to the proposed conversion to a dwelling. The area of hard standing to the front of the property has been reduced, and the proposals indicate some soft landscaping to these areas including tree planting. Tree planting will soften the appearance of the property and integrate the dwelling into the village. It is requested that a condition be applied to any permission to secure the soft landscaping to the front of the property.

Environmental Health Unit

I have checked the documentation provided for a change of use from a public house to residential accommodation. I have found no grounds for objection in principle to the development from an Environmental Health perspective.

I would recommend the following advice in order to safeguard residents from the short-term impact of noise during the construction/demolition period.

Northern Gas Networks

Northern Gas Networks has no objections to these proposals, however there may be apparatus in the area that may be at risk during construction works and should the planning application be approved, then we require the promoter of these works to contact us directly to discuss our requirements in detail. Should diversionary works be required these will be fully chargeable.

Northumbrian Water Limited

It should also be noted that, following the transfer of private drains and sewers in 2011, there may be assets that are the responsibility of Northumbrian Water that are not yet included on

our records. Care should therefore be taken prior and during any construction work with consideration to the presence of sewers on site. Should you require further information, please visit <https://www.nwl.co.uk/services/developers/>

Having assessed the proposed development against the context outlined above I can confirm that at this stage we would have the following comments to make:

Northumbrian Water actively promotes sustainable surface water management across the region. The developer should develop their surface water drainage solution by working through the following, listed in order of priority:

- o Discharge into ground (infiltration)*
- o Discharge to a surface water body*
- o Discharge to a surface water sewer, highway drain, or another drainage system*
- o As a last resort, discharge to a combined sewer*

Councillor Andrew Stephenson (received 13th May 2020)

May I lodge an objection to the application on the grounds of being the borough councillor and have had representation from resident objecting to the loss of a public house that could be saved and the building of housing on the site. the feeling in the village is very much against the proposal so therefor should not go ahead.

PUBLICITY

11. Publicity has been given to the planning application through site notices and neighbour notification letters.
12. A total of 98 letters of objection have been received. All those comments received are identified below (in summary) and a list of those who have contributed are listed in appendix 1. The full contents of the letters can be viewed on the public access.
 - There is a local organisation that is preparing to launch a share issue and raise the funds from members to buy the pub and re-open it as a community pub.
 - There are now about 100 community pubs across the UK that have been purchased by their communities over the past ten years using the community benefit society model.
 - Pubs purchased by community groups have no debt to service
 - Once owned by the community, that community are more committed to using the pub and to bringing their friends and relations to it
 - Community pubs usually offer a far wider range of services than those offered by private owners or pub companies and many of these services are supported by volunteers.
 - Community pubs are more responsive to local needs and more in touch with the communities they serve
 - Community pubs are more adaptable, flexible and better able to cope with change.
 - Stockton Borough Council has listed this property as an Asset of Community Value.
 - Long Newton has very few amenities and this has become less so over the years.
 - The community has lost the post office, village shop community centre and has no bus service to speak of.
 - The Vane Arms should return to being a social hub for the community
 - No demand for more new houses. Houses already for sale in the village
 - The Derry is not an equivalent alternative
 - The Vane Arms would as a community pub fill the void. The post office, Village Shop the land at the back could be an allotment getting the whole community involved.
 - The closure of the Vane Arms has affected social gatherings and events

- Bed & Breakfast accommodation which was popular for those using nearby Teesside Airport.
- Loss of the beer garden will stop people enjoying views of the Cleveland Hills
- Over the past twenty years or so, in line with the national challenges which face the general hospitality industry, it has found it difficult to achieve consistent commercial success.
- Insufficient consultation
- Never been affected by the activity of the pub with respect of noise, odour or anti-social behaviour.
- Development contrary to Local and National Planning Policy
- The Wilson Centre is also a great asset to the village it is used primarily as a community centre venue for pre-planned classes, groups and events and is in no way a substitute for a pub.
- The analysis provided by the applicant only reflects his experience in the last four years and does not address the efforts (or lack of them) to promote the business.
- Proprietor has failed to effectively manage and promote the business. Missed opportunities to draw a viable income
- Arguments have been put forward that similar facilities exist within a 4 mile radius. None of these offer an equivalent facility nor the ambience that the Vane Arms has traditionally offered.
- The 'Community Pub/Hub' prospect has received overwhelming support from villagers past and present with strong support too from Ben Houchen and Alex Cunningham (MP).
- Sentimental value
- Valuation has not considered it as a community pub and does not consider ACV listing
- Loss of rural jobs
- Property was not marketed for only 11 months which is not long enough in 2018 and for an inflated price
- Viability assessment inadequate
- Statement from planning agent is subjective and factually incorrect - offers where discussed with the owner. Disappointed with a false statement about "credible offers"
- Concerns over noise and fumes of internal garage
- Demolition of single storey extension would remove character
- Walls and hedgerows should be maintained
- The removal of the kitchen area will create clear view from the rear garden of the 5 bed dwelling straight into all windows to the rear of my property.
- Mobile shop has provided popular during the Covid 19 pandemic
- Beer garden very popular
- Currently have free access to the rear of our property through an existing gate in the garden, this has not been incorporated in the proposed plans
- Loss of privacy from existing window looking directly at my rear sun room. The amount of occupied time within that room we currently only experience occupation during licensing hours
- Experience damp
- Impact people mental health
- Not enough affordable housing
- There pubs are too far away
- What will be in place to prevent damage to property
- Noise and disturbance during construction

PLANNING POLICY

13. Where an adopted or approved development plan contains relevant policies, Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that an application for planning permissions shall be determined in accordance with the Development Plan(s) for the area,

unless material considerations indicate otherwise. In this case the relevant Development Plan is the Stockton on Tees Borough Council Local Plan 2019.

14. Section 143 of the Localism Act came into force on the 15 January 2012 and requires the Local Planning Authority to take local finance considerations into account, this section s70(2) Town and Country Planning Act 1990 as amended requires in dealing with such an application the authority shall have regard to a) the provisions of the development plan, so far as material to the application, b) any local finance considerations, so far as material to the application and c) any other material considerations.

National Planning Policy Framework

15. The purpose of the planning system is to contribute to the achievement of sustainable development. Achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways. These are economic social and environmental objectives.
16. So that sustainable development is pursued in a positive way, at the heart of the Framework is a presumption in favour of sustainable development (paragraph 11) which for decision making means;
- approving development proposals that accord with an up-to-date development plan without delay; or
 - where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:
 - i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
 - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

Para 80. Planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development. The approach taken should allow each area to build on its strengths, counter any weaknesses and address the challenges of the future. This is particularly important where Britain can be a global leader in driving innovation, and in areas with high levels of productivity, which should be able to capitalise on their performance and potential.

Para 83. Planning policies and decisions should enable:

- a) the sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and well-designed new buildings;
- b) the development and diversification of agricultural and other land-based rural businesses;
- c) sustainable rural tourism and leisure developments which respect the character of the countryside; and
- d) the retention and development of accessible local services and community facilities, such as local shops, meeting places, sports venues, open space, cultural buildings, public houses and places of worship

Para 91. Planning policies and decisions should aim to achieve healthy, inclusive and safe places which:

a) promote social interaction, including opportunities for meetings between people who might not otherwise come into contact with each other – for example through mixed-use developments, strong neighbourhood centres, street layouts that allow for easy pedestrian and cycle connections within and between neighbourhoods, and active street frontages;

b) are safe and accessible, so that crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion – for example through the use of clear and legible pedestrian routes, and high quality public space, which encourage the active and continual use of public areas; and

c) enable and support healthy lifestyles, especially where this would address identified local health and well-being needs – for example through the provision of safe and accessible green infrastructure, sports facilities, local shops, access to healthier food, allotments and layouts that encourage walking and cycling.

Para 92. To provide the social, recreational and cultural facilities and services the community needs, planning policies and decisions should:

a) plan positively for the provision and use of shared spaces, community facilities (such as local shops, meeting places, sports venues, open space, cultural buildings, public houses and places of worship) and other local services to enhance the sustainability of communities and residential environments;

b) take into account and support the delivery of local strategies to improve health, social and cultural well-being for all sections of the community;

c) 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;

d) ensure that established shops, facilities and services are able to develop and modernise, and are retained for the benefit of the community; and

e) ensure an integrated approach to considering the location of housing, economic uses and community facilities and services.

Para 109. Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe

Para 118 Planning policies and decisions should:

a) encourage multiple benefits from both urban and rural land, including through mixed use schemes and taking opportunities to achieve net environmental gains – such as developments that would enable new habitat creation or improve public access to the countryside;

b) recognise that some undeveloped land can perform many functions, such as for wildlife, recreation, flood risk mitigation, cooling/shading, carbon storage or food production;

c) give substantial weight to the value of using suitable brownfield land within settlements for homes and other identified needs, and support appropriate opportunities to remediate despoiled, degraded, derelict, contaminated or unstable land;

d) promote and support the development of under-utilised land and buildings, especially if this would help to meet identified needs for housing where land supply is constrained and available sites could be used more effectively (for example converting space above shops, and building on or above service yards, car parks, lock-ups and railway infrastructure)⁴⁵; and

e) support opportunities to use the airspace above existing residential and commercial premises for new homes. In particular, they should allow upward extensions where the development would be consistent with the prevailing height and form of neighbouring properties and the overall street scene, is well-designed (including complying with any local design policies and standards), and can maintain safe access and egress for occupiers.

Para 127. Planning policies and decisions should ensure that developments:

- a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
- b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;
- c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);
- d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;
- e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and
- f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users⁴⁶; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience

Assets of Community Value: Policy Statement 12 September 2011

These provisions give communities a right to identify a building or other land that they believe to be of importance to their community's social well-being. The aim is that, if the asset comes up for sale, then they will be given a fair chance to make a bid to buy it on the open market. If the nominated asset meets the definition of an asset of community value, the local authority will list it. The owner will have a right to an internal review by the council, and a right of appeal to an independent tribunal against the result of the internal review.

Nothing further will happen unless and until the owner decides to dispose of the asset, either through a freehold sale, or the grant or assignment of a lease, granted for at least twenty-five years. A range of important types of disposal will be exempted from the provisions (see below). Unless an exemption applies, the owner will only be able to dispose of the asset after a specified window has expired. The first part of this window is an interim period, which will allow community interest groups to express a written intention to bid. If none do so in this period, the owner is free to sell their asset. If a community interest group does express an intention to bid during this interim period, then the full window will operate. After that, the owner is again free to sell to whomever they choose, and no further window can be triggered for a protected period.

These provisions do not restrict in any way who the owner of a listed asset can sell his property to, or at what price. They do not confer a right of first refusal to community interest groups

The provisions do not place any restriction on what an owner can do with their property, once listed, if it remains in their ownership. This is because it is planning policy that determines permitted uses for particular sites. However the fact that the site is listed may affect planning decisions – it is open to the Local Planning Authority to decide that listing as an asset of community value is a material consideration if an application for change of use is submitted, considering all the circumstances of the case

Local Planning Policy

17. The following planning policies are considered to be relevant to the consideration of this application.

Strategic Development Strategy Policy 1 (SD1) - Presumption in Favour of Sustainable Development

1. In accordance with the Government's National Planning Policy Framework (NPPF), when the Council considers development proposals it will take a positive approach that reflects the presumption in favour of sustainable development contained in the NPPF. It will always work proactively with applicants jointly to find solutions which mean that proposals for sustainable development can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions in the area.

2. Planning applications that accord with the policies in this Local Plan (and, where relevant, with policies in neighbourhood plans) will be approved without delay, unless material considerations indicate otherwise.

3. Where there are no policies relevant to the application or relevant policies are out of date at the time of making the decision then the Council will grant permission unless material considerations indicate otherwise - taking into account whether:

- Any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole; or,
- Specific policies in that Framework indicate that development should be restricted.

Strategic Development Strategy Policy 2 (SD2) - Strategic Development Needs Other Development Needs

7. Where other needs are identified, new developments will be encouraged to meet that need in the most sustainable locations having regard to relevant policies within the Local Plan.

Strategic Development Strategy Policy 4 (SD4) - Economic Growth Strategy

1. Economic development needs will be directed to appropriate locations within the Borough to ensure the delivery of sustainable economic growth.

2. Proposals for the redevelopment of previously developed land, in particular prominent sites which have been derelict for a significant period of time, will be supported.

Sustainable Tourism and the Tranquil River Corridor

17. Support will be given to sustainable tourism proposals in the Borough's main town centres, tourist attractions, main parks and country parks, as well as enhancing the River Tees as a leisure, recreation and water sports destination. Out of centre proposals should be clearly related to activity in these areas and be of an appropriate scale, having regard to the intrinsic character of the countryside, in particular the desire to protect and enhance the tranquil River Tees, Leven and Bassleton Beck corridors as represented by the green wedge.

18. The Council will support appropriate economic growth development within the countryside that cannot be located within the limits to development, or is of an appropriate scale and does not harm the character and appearance of the countryside; where it:

- a. Is necessary for a farming or forestry operation; or
- b. Provides opportunities for farm diversification; or
- c. Provides opportunities for equestrian activity; or
- d. Is a tourism proposal requiring a rural location; or
- e. Is a site for new and existing land based rural businesses/enterprises.

Employment and Training Opportunities

19. Support will be given to the creation of employment and training opportunities for residents. Major development proposals will demonstrate how opportunities arising from the proposal will be made accessible to the Borough's residents, particularly those in the most deprived areas and priority groups.

Strategic Development Strategy Policy 5 (SD5) - Natural, Built and Historic Environment

To ensure the conservation and enhancement of the environment alongside meeting the challenge of climate change the Council will:

1. Conserve and enhance the natural, built and historic environment through a variety of methods including:

- a) Ensuring that development proposals adhere to the sustainable design principles identified within Policy SD8.
- b) Protecting and enhancing designated sites (including the Teesmouth and Cleveland Coast Special Protection Area and Ramsar) and other existing resources alongside the provision of new resources.
- c) Protecting and enhancing green infrastructure networks and assets, alongside the preservation, restoration and re-creation of priority habitats, ecological networks and the protection and recovery of priority species.
- d) Enhancing woodlands and supporting the increase of tree cover where appropriate.
- e) Supporting development of an appropriate scale within the countryside where it does not harm its character and appearance, and provides for sport and recreation or development identified within Policies SD3 and SD4.
- f) Ensuring any new development within the countryside retains the physical identity and character of individual settlements.
- g) Directing appropriate new development within the countryside towards existing underused buildings on a site for re-use or conversion in the first instance. Only where it has been demonstrated to the satisfaction of the local planning authority that existing underused buildings would not be appropriate for the intended use should new buildings be considered.
- h) Supporting the conversion and re-use of buildings in the countryside where it provides development identified within Policies SD3 and SD4, and meets the following criteria:
 - i. The proposed use can largely be accommodated within the existing building, without significant demolition and rebuilding;
 - ii. Any alterations or extensions are limited in scale;
 - iii. The proposed use does not result in the fragmentation and/or severance of an agricultural land holding creating a non-viable agricultural unit; and
 - iv. Any associated outbuildings/structures are of an appropriate design and scale.
- i) Considering development proposals within green wedges against Policy ENV6.
- j) Ensuring development proposals are responsive to the landscape, mitigating their visual impact where necessary. Developments will not be permitted where they would lead to unacceptable impacts on the character and distinctiveness of the Borough's landscape unless the benefits of the development clearly outweigh any harm. Wherever possible, developments should include measures to enhance, restore and create special features of the landscape.
- k) Supporting proposals within the Tees Heritage Park which seek to increase access, promote the area as a leisure and recreation destination, improve the natural environment and landscape character, protect and enhance cultural and historic assets, and, promote understanding and community involvement.
- l) Preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of ground,

air, water, light or noise pollution or land instability. Wherever possible proposals should seek to improve ground, air and water quality.

m) Encouraging the reduction, reuse and recycling of waste, and the use of locally sourced materials.

2. Meet the challenge of climate change, flooding and coastal change through a variety of methods including:

- a. Directing development in accordance with Policies SD3 and SD4.
- b. Delivering an effective and efficient sustainable transport network to deliver genuine alternatives to the private car.
- c. Supporting sustainable water management within development proposals.
- d. Directing new development towards areas of low flood risk (Flood Zone 1), ensuring flood risk is not increased elsewhere, and working with developers and partners to reduce flood risk.
- e. Ensuring development takes into account the risks and opportunities associated with future changes to the climate and are adaptable to changing social, technological and economic conditions such as incorporating suitable and effective climate change adaptation principles.
- f. Ensuring development minimises the effects of climate change and encourage new development to meet the highest feasible environmental standards.
- g. Supporting and encouraging sensitive energy efficiency improvements to existing buildings.
- h. Supporting proposals for renewable and low carbon energy schemes including the generation and supply of decentralised energy.

Strategic Development Strategy Policy 8 (SD8) - Sustainable Design Principles

1. The Council will seek new development to be designed to the highest possible standard, taking into consideration the context of the surrounding area and the need to respond positively to the:

- a. Quality, character and sensitivity of the surrounding public realm, heritage assets, and nearby buildings, in particular at prominent junctions, main roads and town centre gateways;
- b. Landscape character of the area, including the contribution made by existing trees and landscaping;
- c. Need to protect and enhance ecological and green infrastructure networks and assets;
- d. Need to ensure that new development is appropriately laid out to ensure adequate separation between buildings and an attractive environment;
- e. Privacy and amenity of all existing and future occupants of land and buildings;
- f. Existing transport network and the need to provide safe and satisfactory access and parking for all modes of transport;
- g. Need to reinforce local distinctiveness and provide high quality and inclusive design solutions, and
- h. Need for all development to be designed inclusively to ensure that buildings and spaces are accessible for all, including people with disabilities.

2. New development should contribute positively to making places better for people. They should be inclusive and establish a strong sense of place, using streetscapes and buildings to create attractive and comfortable places to live, work and visit.

3. All proposals will be designed with public safety and the desire to reduce crime in mind, incorporating, where appropriate, advice from the Health and Safety Executive, Secured by Design, or any other appropriate design standards.

4. New development will seek provision of adequate waste recycling, storage and collection facilities, which are appropriately sited and designed.

Economic Growth Policy 7 (EG7) - Supporting Rural Economic Development

1. The Council will support and promote the sustainable growth and expansion of both new and existing rural land-based businesses and enterprises, both through the conversion of existing buildings and well-designed new buildings which are well related to existing development and respect the character of the countryside.

2. Support will be given to farm, agricultural and land based diversification schemes, rural leisure and tourism developments which build on the unique assets of the Borough, the introduction and improvement of information communications technology (ICT) networks to help support local businesses, including the expansion of high-speed broadband.

3. Support will be given to retail development associated with farm shops and horticultural nurseries where proposals are small in scale and ancillary to the main use of the farm/nursery and do not cause significant harm to the vitality and viability of local centres.

4. Proposals for farm diversification must be accompanied by a comprehensive whole farm diversification plan, which establishes how the proposed changes will assist in retaining the viability of a farm and its agricultural enterprise.

5. The Council will support and promote the retention and development of local services and community facilities in villages, which meet the day to day needs of rural communities such as local shops, meeting places, sports venues, cultural buildings, public houses and places of worship. Proposals which involve the re-use or redevelopment of existing land or buildings where the last use was for community purposes or providing community facilities will be considered against Policy TI2.

Community Infrastructure Policy TI2 – Community Infrastructure

1. There is a need to ensure that community infrastructure is delivered and protected to meet the needs of the growing population within the Borough. To ensure community infrastructure meets the education, cultural, social, leisure/recreation and health needs of all sections of the local community, the Council will:

- a. Protect, maintain and improve existing community infrastructure where appropriate and practicable;
- b. Work with partners to ensure existing deficiencies are addressed; and
- c. Require the provision of new community infrastructure alongside new development in accordance with Policy SD7

2. Proposals which would lead to the loss of valued local shops, services and facilities, including public houses and village shops, and reduce the community's ability to meet its day-to-day needs will not be supported unless:

- a. There is no demand for the facility in the locality and its continued future use would be economically unviable, or
- b. Equivalent alternative facilities are available nearby and the proposal would not undermine the community's ability to meet its day to day needs.

3. The Council will take into account listing or nomination of 'Assets of Community Value' as a material planning consideration.

Natural, Built and Historic Environment Policy 4 (ENV4) - Reducing and Mitigating Flood Risk

1. All new development will be directed towards areas of the lowest flood risk to minimise the risk of flooding from all sources and will mitigate any such risk through design and implementing sustainable drainage (SuDS) principles.

5. Surface water run-off should be managed at source wherever possible and disposed of in the following hierarchy of preference sequence:
 - a. To an infiltration or soak away system; then,
 - b. To a watercourse open or closed; then,
 - c. To a sewer.

6. Disposal to combined sewers should be the last resort once all other methods have been explored.

9. Sustainable Drainage Systems (SuDS) should be provided on major development (residential development comprising 10 dwellings or more and other equivalent commercial development) unless demonstrated to be inappropriate. The incorporation of SuDS should be integral to the design process and be integrated with green infrastructure. Where SuDS are provided, arrangements must be put in place for their whole life management and maintenance.

Natural, Built and Historic Environment Policy 5 (ENV) - Preserve, Protect and Enhance Ecological Networks, Biodiversity and Geodiversity

1. The Council will protect and enhance the biodiversity and geological resources within the Borough. Development proposals will be supported where they enhance nature conservation and management, preserve the character of the natural environment and maximise opportunities for biodiversity and geological conservation particularly in or adjacent to Biodiversity Opportunity Areas in the River Tees Corridor, Teesmouth and Central Farmland Landscape Areas.

2. The Council will preserve, restore and re-create priority habitats alongside the protection and recovery of priority species.

3. Ecological networks and wildlife corridors will be protected, enhanced and extended. A principal aim will be to link sites of biodiversity importance by avoiding or repairing the fragmentation and isolation of natural habitats.

4. Sites designated for nature or geological conservation will be protected and, where appropriate enhanced, taking into account the following hierarchy and considerations:
 - a. Internationally designated sites - Development that is not directly connected with or necessary to the management of the site, but which is likely to have a significant effect on any internationally designated site, irrespective of its location and when considered both alone and in combination with other plans and projects, will be subject to an Appropriate Assessment. Development requiring Appropriate Assessment will only be allowed where:
 - i. It can be determined through Appropriate Assessment, taking into account mitigation, the proposal would not result in adverse effects on the site's integrity, either alone or in combination with other plans or projects; or
 - ii. as a last resort, where, in light of negative Appropriate Assessment there are no alternatives and the development is of overriding public interest, appropriate compensatory measures must be secured.
 - b. Nationally designated sites - Development that is likely to have an adverse effect on a site, including broader impacts on the national network of Sites of Special Scientific Interest (SSSI) and combined effects with other development, will not normally be allowed. Where an adverse effect on the site's notified interest features is likely, a development will only be allowed where:

i. the benefits of the development, at this site, clearly outweigh both any adverse impact on the sites notified interest features, and any broader impacts on the national network of SSSI's;

ii. no reasonable alternatives are available; and

iii. mitigation, or where necessary compensation, is provided for the impact.

c. Locally designated sites: Development that would have an adverse effect on a site(s) will not be permitted unless the benefits of the development clearly outweigh the harm to the conservation interest of the site and no reasonable alternatives are available. All options should be explored for retaining the most valuable parts of the sites interest as part of the development proposal with particular consideration given to conserving irreplaceable features or habitats, and those that cannot readily be recreated within a reasonably short timescale, for example ancient woodland and geological formations. Where development on a site is approved, mitigation or where necessary, compensatory measures, will be required in order to make development acceptable in planning terms.

5. Development proposals should seek to achieve net gains in biodiversity wherever possible. It will be important for biodiversity and geodiversity to be considered at an early stage in the design process so that harm can be avoided and wherever possible enhancement achieved (this will be of particular importance in the redevelopment of previously developed land where areas of biodiversity should be retained and recreated alongside any remediation of any identified contamination). Detrimental impacts of development on biodiversity and geodiversity, whether individual or cumulative should be avoided. Where this is not possible, mitigation and lastly compensation, must be provided as appropriate. The Council will consider the potential for a strategic approach to biodiversity offsetting in conjunction with the Tees Valley Local Nature Partnership and in line with the above hierarchy.

6. When proposing habitat creation it will be important to consider existing habitats and species as well as opportunities identified in the relevant Biodiversity Opportunity Areas. This will assist in ensuring proposals accord with the 'landscape scale' approach and support ecological networks.

7. Existing trees, woodlands and hedgerows which are important to the character and appearance of the local area or are of nature conservation value will be protected wherever possible. Where loss is unavoidable, replacement of appropriate scale and species will be sought on site, where practicable.

Natural, Built and Historic Environment Policy 7 (ENV7) - Ground, Air, Water, Noise and Light Pollution

1. All development proposals that may cause groundwater, surface water, air (including odour), noise or light pollution either individually or cumulatively will be required to incorporate measures as appropriate to prevent or reduce their pollution so as not to cause unacceptable impacts on the living conditions of all existing and potential future occupants of land and buildings, the character and appearance of the surrounding area and the environment.

6. To improve the quality of the water environment the Council will:

a. Support ecological improvements along riparian corridors including the retention and creation of river frontage habitats;

b. Avoid net loss of sensitive inter-tidal or sub-tidal habitats and support the creation of new habitats; and

c. Protect natural water bodies from modification, and support the improvement and naturalisation of heavily modified water bodies (including de-culverting and the removal of barriers to fish migration).

4.7 Character and Design

4.7.4 New dwellings should be designed with significant attention given to proportions, materials and detailing, in order to provide architectural quality and to respect existing character. Porches, recessed garages, bay windows and other simple details can add a third dimension to otherwise flat-fronted dwellings, and chimneys may also be used to articulate rooflines. Such details will add architectural interest, however, form should follow function and they should not be used where they will serve little or no purpose other than aesthetic.

4.7.6 Particular consideration should be paid to the design of buildings in corner locations. These properties will be prominent within the development and can aid navigation through the site. They can also provide greater security by having windows that face in different directions and by preventing gable walls from facing the street.

4.8 Privacy and Amenity

4.8.2 The Council will normally expect a minimum of 21 metres separation to be provided between the main habitable room windows on facing residential properties. Where main habitable room windows will face windows of secondary rooms, such as bathrooms and hallways, or a blank gable, there should normally be a gap of at least 11 metres between the two properties. However, it is advisable to seek pre application advice, should a development involve this relationship, as the required separation distance will depend upon individual circumstances and may need to be increased.

4.17 Backland Developments

4.17.1 Backland development is development that is situated on land (usually private garden) behind an existing dwelling. This type of development is generally out of view from the main street but still requires good quality design. Developers of these schemes should follow the general design principles within this document but it is also important that the new property avoids dominating the host property and is not larger in height, scale or massing than the host.

4.17.2 Private garden is classified as greenfield land but this does not necessarily prevent development on these sites and all applications will be considered on their own merits. Nevertheless, the Council will often resist backland schemes as they can result in cramped developments that have an unacceptable impact upon the amenity of residents in neighbouring properties and upon local character. They may be appropriate under certain circumstances and this will generally be on larger plots or on sites that include land from a number of rear gardens. However, these schemes will also be resisted where the layout is not a common characteristic of the area or where large rear gardens are important to the distinctive characteristics of the area.

4.17.3 As backland developments are unlikely to fulfil the requirements of the sequential test, as outlined in national policy, they will also be resisted where they fall within flood zones two or three.

4.17.2 A common form of backland development is the provision of a new dwelling directly behind the existing. This is known as tandem development and often results in both properties being served by a shared access. The provision of an additional access point onto the highway for the new dwelling, alongside that of the host, will not normally be supported as it can result in significant impacts upon the street scene and pedestrian safety.

4.17.3 Access routes should be located at an appropriate distance away from the existing dwelling so as not to have a detrimental impact upon the amenity of these residents through noise and visual disruption. A suitable minimum separation distance is 3m from the edge of the access road to the edge of the nearest affected house, together with appropriate boundary treatment for screening. It may be necessary to increase this separation distance dependant on

the location of habitable rooms and the frequency of use of the proposed access. This standard may also be relaxed, where the context of the site allows.

MATERIAL PLANNING CONSIDERATIONS

18. The main considerations relating to this application are set out below, including the principle of development and associated impacts on the surrounding area, residential amenity and highway safety.

Principle of development

19. The primary issue raised by the application relates the acceptability of the development in principle, and in particular whether there is justification for approval of the application, resulting in the loss of the Vane Arms , by allowing its conversion to a residential property.

20. In considering the principle of the development there are several matters to be considered. These include: (i) the financial viability of continuing the existing pub business; (ii) the asset value/purchase price of the property which has implications for any Community Organisation or third party wanting to buy and take over the running of the pub either as a going business or for another alternative economic use; (iii) the registration of the pub as an Asset of Community Value (ACV) under the Localism Act 2011 and the implications for the continuing use of the property as a pub.

21. For completeness consideration has been given to whether there is a viable alternative economic use; and the principle of allowing the conversion of the property to residential use. There a number of key development plan policies and a number of relevant sections in the national planning policy set out in the National Planning Policy Framework (NPPF) (2019)

22. Local Policy TI2 (2) sets out that;

Proposals which would lead to the loss of valued local shops, services and facilities, including public houses and village shops, and reduce the community's ability to meet its day-to-day needs will not be supported unless:

- a. There is no demand for the facility in the locality and its continued future use would be economically unviable, or (emphasis added)*
- b. Equivalent alternative facilities are available nearby and the proposal would not undermine the community's ability to meet its day to day needs.*

23. This approach is consistent with advice set out in the NPPF which in Chapter 6 on "Supporting a Prosperous Rural Economy" states in paragraph 83 that planning policies and decisions should enable the retention and development of accessible local services and community facilities, such as local shops, meeting places, sports venues, open space, cultural buildings, public houses and places of worship. In addition Chapter 8 on "Promoting Healthy and Safe Communities", in paragraph 92, sub-paragraphs (c) and (d) state that planning policies and decisions should 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, and ensure that they are retained for the benefit of the community.

24. On the other hand, paragraph 118 states that planning policies and decisions should promote and support the development of under-utilised land and buildings.

25. Policy TI2 (3) confirms that;

The Council will take into account listing or nomination of 'Assets of Community Value' as a material planning consideration.

26. The policies on the protection and retention of existing community assets and facilities is that they cannot be used to ensure that unviable facilities or services are maintained. They can only be used in the context of applications for changes of use and conversion of existing buildings to ensure that the potential continuing or future use of a building is not prejudiced or lost altogether. An unviable business cannot be forced to stay open and a closed business or facility cannot be forced to reopen. It is also not intended that the planning system should be used to prevent the development of new uses, where an existing or past use is no longer viable and cannot continue. What is clear however, is that the presumption of Local Plan Policy TI2 and also the NPPF, is that existing facilities and assets should be retained unless, it is clearly demonstrated that, this is no longer a viable option or that there is no equivalent alternative facilities available and nearby to ensure the day to day functions are not undermined. Turning to each of the matters relevant to the consideration of the principle of the development, the Committee are advised as follows;

The Financial Viability of Continuing the Existing Pub Business

27. The first issue is the question of whether the continuing operation of the Vane Arms is no longer a viable use. What the application has sought to do is demonstrate that the continuing use of the Vane Arms as a pub is not viable through the submission of a viability assessment.
28. Due to the specialist skills required to understand a viability appraisal of the nature proposed the Council appointed an independent critique of the submission.
29. The Councils independent critique concludes that they are broadly in agreement in respect of the accurate description by the way any valuer would access trade and profitability Methodology detailed within Paragraph 4.3 of the submitted Viability Assessment, although it is noted that no reference has been made to objective tests compiled by the Campaign for Real Ale Organisation. However, the applicants Valuer argues that this test cannot be considered objective, nor is it adopted planning policy.
30. The independent critique also concludes that there are multiple factors which contribute to a viable and vibrant business and whilst the submitted Viability Assessment considers many of the factors it does not consider all of them. Whilst the independent appraiser does not have full copies of the expenditure accounts and has queried the accounts relating to works undertaken in 2016 and 2017 and the means of how this was represented within the accounts. Although it does stress that this is not necessarily wrong but just makes it more difficult to assess the probability in those years against the KPI's.
31. It goes onto state that;
- 'Assuming the Profit & Loss (P&L) figures are an accurate representation of the Trade being achieved at the premises under the ownership of the applicant, who with several years of trading experience would be considered to be a reasonable efficient operator, the premises do, on face value, appear to have been trading at a level that is insufficient to support a viable business, when all cost of operation are considered'.*
32. The independent critique confirms the below considerations are key in the determination of whether the premises are a viable business opportunity;
- £210,000pa (£4000 per week) is consistent with the historic trade performance off the venue , but at a lower level what we would consider to be the reasonable minimal requirement to operate a viable business of £260,000pa (£5000 per week)

- The estimate of gross profit at a blended rate of 61.3% is slightly below the level we would expect a business of this nature to achieve, but as discussed in Everads report, it is at a level above the Gross Profit achieved by the actual business when trading
- The percentage of turnover adopted wages of 24.7% it consisted with sector Key Performance Indication (KPI)
- Allowance has been made of £30,000 for owner's remuneration, although not agreed this should be deducted as 'wage' would be profit generated. A better assessment would be to consider if the Net Profit would be sufficient to generate enough income and allow for investment back into the business. Net profit less than £30,000 would not be a viable business.
- Fix assessment of operating expenses all the business is considered fair and reasonable and exhibit no unduly high or unreasonable costs of operation
- The assessment of interest is considered to be flawed in a number of areas as the rate of interest adopted on the borrowed funds is considered to be too low at 4%, felt that return would appear to be too high in the context of investment. However, having said this is likely that the two elements would broadly offset each other so we do not consider the allowance of £22,800 PA is too unrealistic
- Investment in industry, working capital and stock, we consider this assessment it's not unrealistic nor unreasonable.

33. In conclusion the Independent critique concludes;

The operational expenses, finance costs and annual costs of inventory and working capital and deducted from the estimate Gross Profit of £128,730, we arrive at a net profit of £11,680 (5.56% fixed market trade compared to normal required return of circa 15 to 20% fixed market trade (FMT)], which is in sufficiently large sum to pay the salary of the owner and show return on the capital invested.

As such this leads to the conclusion that the Vane Arms is incapable of generating sufficient income and profit to be considered a viable business operation by most reasonable commercial operators.

However, one further consideration must also be the potential of the subject to become a community operated asset shut up the assessment availability for an asset of community value can be somewhat different , in what that for community trusts operating the premises there is often no requirement or desire to make profit. Therefore, are lower level of turnover can be acceptable, as long as the asset covers its costs and returns either a small surplus or deficit which would appear to be the case here.

34. At this stage due to the ongoing Covid19 Pandemic whilst it is widely acknowledged that this has had a dramatic impact on the hospitality industry as a whole, it is not possible to determine what long term consequences this will have on the hospitality trade.

35. Objectors have raised concern over the loss of rural jobs as a result of the proposed development.

36. It is noted that the Vane Arms has been closed since August 2019. Whilst the permeant loss of the Public House will prevent any future job opportunities, the application has demonstrated that the continued use of the site for a public house is likely to remain unviable and therefore limited weight can be attributed to the loss of rural jobs. Likewise, the economic benefits of the proposed development are only likely to be short term during the construction phase and are therefore only attributed limited weight.

The Asset Value/Purchase Price of the Property

37. There is no requirement within the Local Plan or NPPF to demonstrate that the business has been marketed effectively and for an appropriate value. The independent critique has confirmed that the reported marketing and sales of the premise does correlate with their own records.
38. The independent critique confirms that the business was originally marketed at £345,000 in early 2018 and subsequently reduced to £325,000 in June 2018. Obviously in any agency scenario, an asking price is often set at the level above the expectations of the vendor, to allow for degree of negotiation with any purchaser. To achieve a price of £345,000 the business would need to have a new generating an earning of tax in the order of £57,500 per annum and an FMT circa £290,000, assuming a probability of 20% FMT. Which is the date of marketing it was not. Based on the trading performance of the business a more realistic asking price is considered to be circa £275,000 - £285,000.
39. In response to this the applicant has stated;

The current owners bought the pub and business for £285,000 in 2015 and in early 2018, decided to place the property on the market at £345,000 on the advice of a reputable business transfer agent who specialises in public houses. Over the course of the year, limited interest resulted in the price being reduced to £325,000 (which the Sanderson report acknowledges), and a further reduction to £305,000 was mooted. I understand that the marketing at the reduced price did generate viewings and expressions of serious interest. Whilst that interest failed to materialise into proceedable offers, it does suggest the price was not necessarily set at so high a level that it failed to encourage interested parties.

40. Notwithstanding this, there is no requirement within policy that requires an asset to be marketed appropriately and at a reflective price unlike Policy EG8 in reference to applications for the removal of agricultural occupancy conditions.
41. Under the Policy Statement the ACV listing does not seek to restrict in any way who the owner of a listed asset can sell his property to, or at what price. They do not confer a right of first refusal to community interest groups.

Registration as an Asset of Community Value (ACV) under the Localism Act 2011 and the Implications for the Continuing Use of the Property as a Pub

42. The third issue relates to the listing of the Vane Arms as an Asset of Community Value (AVC) under the Localism Act 2011. The Localism Act does not dictate that an ACV is a material consideration in the determination of a planning application, however Policy TI2(3) does set that the Council will take into account a listings as a material consideration.
43. Para 7.31 of the Local Plan sets out that;
- Applications for planning permission affecting an ACV will be determined in accordance with policies in the development plan, and taking the listing as a material consideration, the weight afforded determined on a case by case basis*
44. The submitted Planning Statement refers to a pending appeal, the appeal to remove the listing was dismissed and the ACV listing upheld.
45. The independent critique considers that the only viable way for the Vane Arms to be retained as a Public House would be if it was management by a community organisation.
46. Despite the overwhelming support of the Vane Arms, as apparent by the letters of objections, and the establishment of the Long Newton Community Hub, no formal offer was made by a

Community Organisation, or indeed any third party, to buy the Vane Arms, as confirmed by the Councils Solicitor. It is however noted that a meeting was held with the landowner and the Community Organisation in October 2019 and whilst tentative offers were discussed but no formal proposal was made. The protected window has now expired.

47. Notwithstanding that no formal offer was made, even if this had been received the owner is not obliged to accept a community bid even if the bid equals or exceeds any other offer. Also, this does not prevent the owner seeking planning permission for the change of use or redevelopment of land or buildings.
48. The Vane Arms is not the only pub in the village. The Derry is a public house which also benefits from a large beer garden within approx. 450 m of the Site. Long Newton also benefits from the Wilson Centre, church and primary school, although the latter do not form direct competition as they are community facilities. The applicant has however argued that the Wilson Centre was included

“as it provides an alternative venue within the immediate village for functions, parties, weddings, local group or business meetings which the Vane Arms had occasionally hosted.”

49. Many of the objectors have sought to demonstrate that whilst the village benefits from another public house, The Derry, this is not a comparable alternative. The objectors contend that the Vane Arms is a ‘Locals Pub’ whereby the Vane Arms is more of an eatery which attracts visitors from a wider area. There has been no evidence submitted to substantiate, as part of the planning process, that The Derry is not a suitable alternative. A review of The Derry’s website shows that it has won an award of the best outdoor pub and have held free events such as Bonfire Nights. It is understood from the submission that the Vane Arms used to serve food and whilst this may not have been the main arm of the business this element could have been developed further in an attempt to be more competitive with The Derry.
50. Furthermore, the independent critique instructed by the Council concludes that ‘The Derry’ is by far the key competition to the subject, in that it is locationally identical, being in the same village and offers a very similar range of products/services’. It goes on to conclude other venues which would be considered broadly similar include The Oak Tree, The Buick Inn and The Tuns at Sadberge. The independent critique does not conclude that the other pubs listed by the applicant are comparable as they are either suburban or within Town Centres. It also acknowledges that the Sutton Arms at Elton has closed.
51. The Councils independent critique, although anecdotal, concludes whilst historically a village could have supported multiple venues, this is becoming increasingly difficult.

Whether there is a Viable Alternative Economic Use

52. Policy TI2 does not require the applicant to demonstrate that there is no other viable alternative community use which could operate from the Site. Notwithstanding this, as set out within the Site and Surrounding section of this report the village benefits from several community facilities, including another public house (The Derry) within 450m east of the Site.

The Principle of Allowing the Conversion of the Property to Residential Use.

53. Long Newton is considered to be a sustainable village and therefore the principle of the change of use to a residential dwelling is supported by Policy SD3, material considerations with respect of appearance, neighbour amenity, highways and ecology are considered in the later stages of this report.
54. The objectors concern over the lack of affordable housing and that there is no demand for more dwellings. The proposed scale of development would not trigger the need for the

provision of affordable housing as detailed within Local Plan Policy H4. The fact that there are other properties for sale in the village, is not a material consideration as part of this application.

Character and Appearance

55. The proposed development is seeking to make minor alterations to the external appearance of the building, including the demolition of the single storey prep/ ladies w/c. The external alterations are appropriate for the proposed conversion of the building and are considered to be in keeping within the context of the wider street scene.
56. Objections has been received regarding the loss of the single storey rear extension on the character of the building. The site is not a listed building, nor is the site within a Conservation Area. It is not considered that the demolition of such a minor element of the existing built form would have a detrimental impact on the character and form of the host being and how it is viewed within the wider context of the Site and area.
57. The proposed addition of soft landscaping to the front amenity space is considered to being an enhancement to the context of the street scene. The Councils Senior Urban Designer has requested a soft landscaping condition is imposed to secure a high level of design.
58. Concern has been raised that the development would represent over-development of the site, it is assumed that this is in response to application 20/0717/FUL and as such it is considered that this will be appraised as part of the aforementioned application.
59. Notwithstanding the above consideration of the viability of the Site to be retained as a public house, in consideration of paragraph 118 of the NPPF limited weight has been attributed to the fact that the Vane Arms has remained closed since August 2019. At the time of the site visit the site was seemingly still being maintained.
60. The proposed external alterations are therefore considered to be acceptable in accordance with Policy SD8 and Paragraph 127 of the NPPF.

Residential Amenity

61. The Vane Arms, up until it closed in August 2019, operated as a Public House and B&B which benefited from a large Beer Garden to the rear and car park to the front, immediately adjacent to residential dwellings. Whilst the local support is noted and that the neighbours have confirmed that they have never had complaint about the operation of the public house on their amenity it is considered that the proposed change of use to a single dwellinghouse, and dwelling to the rear (20/0717/FUL) would be a betterment to those current and future occupiers immediately adjacent to the Site.
62. An objection received raised concern over the loss of privacy of the existing window, which currently serves the bar area and is proposed to serve the living room, would result in a loss of privacy. Whilst it is noted that this window is existing it is considered that the change of use may lead to prolonged periods of occupiers residing in this area and therefore a condition is recommended that this window will be obscured glazed.
63. It is not considered that the level of activity associated with the use of a garage incidental to the proposed dwelling would give rise to a level of activity which would have a significant impact as to significant adverse impact on noise or air quality. The Environmental Health Unit have raised no objection to the proposed development subject to the imposition of the recommended conditions.
64. Public Houses do not benefit from permitted development rights, and therefore no development could have occurred at the site previously without requiring permission and the impact on residents properly considered. Due to the tight relationships with the adjoining neighbours and

their rear amenity spaces it is considered that permitted development rights should be removed in relation to the alterations of the host building and outbuildings.

65. The proposed external alterations are not considered to result in a loss of light, privacy or appear overbearing to any of the occupiers of the adjacent dwellings. Whilst concern has been raised that the demolition of the single storey element would open the site up enable viewed of the neighbour's rear amenity space. However, subject to the recommended condition in relation to boundary treatment both current and future occupiers' amenity would be safe guarded.
66. The degree of separation, orientation and controls over boundary treatments would safeguard the amenity of future occupiers of the proposed dwelling to the rear (application ref 20/0717/FUL).
67. The concerns over noise and disturbance during the construction phase are noted and subject to the imposition of the recommended conditions it is considered that the development of the site would not have an adverse impact on the occupiers of surrounding residential dwellings.
68. The concerns over impact of traffic along the private drive are noted however it is not considered that the traffic generation resulting from one dormer bungalow would create a level of activity which would have a significant adverse impact over and above the existing commercial use of the Site, as to sustain an objection on these grounds.
69. The proposed development is therefore considered to be acceptable in accordance with Policy SD8 and Paragraph 127 of the NPPF.

Highways and Parking.

70. Paragraph 109 of the NPPF sets out;

Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

71. The Highways Transport and Design Manager set out that on accordance with SPD3: Parking Provisions for Developments 2011, a 5 bedroom property requires 4 incurtilage car parking spaces, the proposed plan shows 3 however the 4 required car parking spaces can be achieved therefore no highway objections are raised.

Ecology

72. Following reference to the Darlington Local Plan a revised Ecology report was received on the 23 February 2021. , the proposed mitigation measure as detailed within Chapter 6 Biodiversity Mitigation Proposals are considered to be proportionate and subject to the recommended condition requiring the development to be carried out in accordance with the recommendation the proposed development would not have an adverse impact on any protected species and their habitats.

Infrastructure

73. In line with Transport and Infrastructure Policy 3 (TI3) - Communications Infrastructure, the Council supports the expansion of communications networks, including ensuring the new dwellings are suitably connected to internet services. A standard condition in this respect can therefore be applied.

Treatment of Foul and Surface Water

74. Northumbria Waters comments are noted, however consideration is given to the existing operations of the Site and therefore it is considered that an informative is appropriate.

Residual

75. Concern has been raised over potential damage to neighbouring properties during the construction phase and right of access to the rear of existing properties. These are civil issues and are not considered to be material in the determination of this application.
76. It is readily understood from the letters received in objection to the proposed development that the Vane Arms is a valued asset to current and past residents of Long Newton and the sentimental value that this holds regardless of whether the operation is considered to be viable. As set out about in the Policy section of this report. The degree of weight which can be attributed to the Listing in the determination of a planning application should be determined on a case by case basis.
77. Loss of the beer garden and the views of the Cleveland Hills. As set out within the Site and Surroundings section of this report the Beer Garden forms part of the ACV and as such forms part of the consideration, although this is principally considered within the assessment of application ref 20/0717FUL.

CONCLUSION

78. The local support to retain the Vane Arms as a public house by not only the residents of the village but those visitors from further afield is understood and respected. However, as has been demonstrated not only through the submission by the applicant but the Councils own independent review, the Vane Arms is not a viable enterprise. The loss of the public house whilst regrettable would not significantly undermine the existing facilities that the residents of Long Newton benefit from.
79. Whilst the ACV listing is a material consideration the weight can be attributed to the listing has to be balanced with the viability of the operations as well as the equivalent alternative facilities nearby which are capable of meeting the community's day to day needs.
80. The applicant has successfully demonstrated the operations of the Vane Arm to be economically unviable. The principle residential development is accepted and therefore it is recommended that the application be Approved with Conditions for the reasons specified above.

Director of Finance, Development and Business Services
Contact Officer Helen Boston Telephone No 01642 526080

WARD AND WARD COUNCILLORS

Ward Western Parishes
Ward Councillor

IMPLICATIONS

Financial Implications:

N/A

Environmental Implications:

N/A

Human Rights Implications:

The provisions of the European Convention of Human Rights 1950 have been taken into account in the preparation of this report.

Community Safety Implications:

The provisions of Section 17 of the Crime and Disorder Act 1998 have been taken into account in the preparation of this report

Background Papers

Stockton on Tees Local Plan Adopted 1997

Alteration Number 1 to the Adopted Local Plan – 2006

Core Strategy – 2010

Emerging

N/A

Supplementary Planning Guidance Notes

N/A

Supplementary Planning Documents

SPD1 – Sustainable Design Guide

SPD3 – Parking Provision for Developments