

**DELEGATED**

**AGENDA NO  
PLANNING COMMITTEE**

**12 July 2022**

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

**21/2318/RET**

**Sutton Arms , Darlington Road, Elton**

**Part retrospective application for the part demolition and conversion of the public house with proposed extensions to form a single dwelling. Change of use of land to a domestic garden with associated external soft landscaping works including bund to rear of building**

**Expiry Date 10 June 2022**

### **SUMMARY**

The application site relates to the Sutton Arms, a public house outside of the defined development limits of Elton. The site benefits from a large area of hard surfacing for the existing car park and a beer garden. The land to the north falls outside of the curtilage of the public house. The public house has not at the time of writing been listed or nominated as an asset of community value (ACV).

The application seeks permission for the change of use of the public house, curtilage and land to the north to a single dwellinghouse with associated retrospective demolition, extension and alterations. The permission also seeks retrospective permission for the creation of an earth bund to the north of the site.

The application has received a total of 11 letters of objections.

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 Sutton Arms is not a viable business.

To summarise, the proposal has demonstrated that notwithstanding the local support for the public house, it is no longer viable. The principle of changing the use to a dwelling is acceptable and is considered to be in accordance with policies in the Development Plan and National Planning Policy Framework.

### **RECOMMENDATION**

**That planning application 21/2318/RET be approved subject to the following conditions and informatives below;**

#### **Approved Plans**

**01 The development hereby approved shall be in accordance with the following approved plans;**

**Plan Reference Number    Date Received**

1988-21-102 REV B	10 May 2022
1988-21-103 REV C	10 May 2022
1988-21-104 REV A	10 May 2022
1988-21-100	2 September 2021

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 in accordance with Local Plan Policy SD8 and paragraph 130 of the NPPF.

**05. Removal of Boundary Fence**

Notwithstanding the submitted details within 1 month of the substantial completion of the hereby approved development the existing closed boarded fence along the southern boundary shall be removed from the site and the land made good.

Reason: In the interests of the visual amenities of the locality in accordance with Local Plan Policy SD8 and paragraph 130 of the NPPF

**06. 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.

**07. Removal of permitted development rights**

Notwithstanding the provisions of classes A, AA, B, C, E and F 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: In the interests of the visual amenities of the locality in accordance with Local Plan Policy SD8 and paragraph 130 of the NPPF

**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 seeking a revised scheme to overcome issues and by the identification and imposition of appropriate planning conditions.

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.

Informative: Ecology

The developer is reminded to have a duty to cooperate with the Habitat Regulations during the construction of the development,

**BACKGROUND**

1. In 2013 the Sutton Arms public house had a single storey side extension, along with the creation of a new terraced area (ref 13/2786/FUL).
2. In 2020 planning permission was sought for the demolition of the public house and replacement with a single dwellinghouse (ref 20/2473/ret). This application was refused for the following the reasons;

Reason One:

In the opinion of the Local Planning Authority, it is considered the proposed development would result in the permanent loss of public house/ community facility whereby it has not been demonstrated that there is no longer a demand for the facility, its future use would be economically unviable or that there is a comparable local equivalent alternative facility is available to meet the community's day to day needs. The proposed development is therefore considered to be contrary to policy T12 (1) and 2 (a and b) of the Local Plan and paragraphs 83 and 91 of the National Planning Policy Framework.

**Reason Two:**

In the opinion of the Local Planning Authority, the proposed site is in an unsustainable location for additional residential development in view of the siting outside of the development limits of a settlement which has limited services and the lack of realistic and convenient alternative transport options, thereby requiring future occupants to rely on travel by private motor vehicle for employment, education, retail and recreational uses, in direct conflict with Planning Policy SD1, SD3 and the provisions of the NPPF

**Reason Three:**

In the opinion of the Local Planning Authority, it is considered that the siting, design, scale and massing of the proposed dwelling would result in a poor form of design which is out of keeping with prevalent character of the area and would introduce an incongruous feature into the open countryside. The architectural style and massing of the proposed development over and above that the original building, is considered to be contrary to development policies SD3, SD5 and SD8 of the Local Plan and paragraphs 127 and 130 of the National Planning Policy Framework

3. The site also has two pending enforcement investigations one of the works for the partial demolition that had taken place ahead of the previous planning application being submitted and the second for the creation of an earth bund through the importation of materials to the site.

**SITE AND SURROUNDINGS**

4. The application site, hereby referred to as the Site, is the Sutton Arms a public house located within the open countryside approximately 220m outside of the defined development limits of the village of Elton.
5. Elton is a village located south-west of the conurbation of Hartburn, which does not benefit from any community facilities with the defined development limits, with the exception of St John Church.
6. At the time of the site visit there had already been the partial demolition of the building, with the internal structures largely removed. Externally there has been a large area of grass land cleared and a bund created. This work is unauthorised and is subject to a pending enforcement investigation in conjunction with the Councils Environmental Health Unit.

**PROPOSAL**

7. Planning permission is sought for the part demolition and conversion of the Sutton Arms, a public house outside of the defined development limits of Elton. The proposed development includes the change of use of the former car park, beer garden and shrub land to the north as amenity space, including landscaping and the creation of a bund along the northern boundary and partial west and east boundary.
8. The partial demolition and creation of the bund is retrospective.
9. During the planning process revised plans were received which significantly reduced the scale and massing of the proposed development. The application has further been amended to confirm that it seeks retrospective permission for the creation of the bunding and change of use of the shrub land to domestic garden.

## **CONSULTATIONS**

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

11. Highways Transport & Design Manager - No objection to this application.

### Highways Comments

In accordance with SPD3: Parking Provision for Developments 2011 the proposed COU, into a residential dwelling, would require 4 incurtilage parking spaces which have been provided.

Due to the location of the proposed development a construction traffic management plan would be required, in order to minimise the disruption associated with the proposed works in Elton village, and this should be secured by condition.

Subject to the above there are no highways objections to the proposals.

### Landscape & Visual Comments

There are no landscape and visual objections to the proposals. The submitted external works plan now includes some soft landscaping and hedgerow boundaries to the plot, which soften the appearance of the site and are welcomed.

The southern boundary is currently fenced with timber close boarded fence in close proximity to the highway, and clarity is sought that the new hedge planting will be located on the outside of any fencing.

12. Environmental Health Unit - I have no grounds for objection in principle to the development and do not think that conditions need to be imposed from an Environmental Health perspective

With regards to contamination, I can confirm that the soil values are within the permitted guidance levels for human health and plant uptake in residential areas. The WAC testing and transfer consignment note shows that the import of soil is uncontaminated, and that the waste classification of exported soil assigned as non-hazardous waste. The samples have been testing by an accredited laboratory (MCERTS certified).

13. Northern Gas Networks - No Objection

14. Natural England - This proposal potentially affects European Sites vulnerable to nutrient impacts. Please refer to Natural England's overarching advice dated 16th March 2022 and sent to all relevant Local Planning Authorities. When consulting Natural England on proposals with the potential to affect water quality resulting in nutrient impacts on European Sites please ensure that a Habitats Regulations Assessment is included which has been informed by the Nutrient Neutrality Methodology (provided within our overarching advice letter). Without this information Natural England will not be in a position to comment on the significance of the impacts.

Natural England has not assessed this application for impacts on protected species. Natural England has published Standing Advice which you can use to assess impacts on protected species or you may wish to consult your own ecology services for advice.

15. Sabic UK Petrochemicals Ltd - the planning application referenced above will not affect SABIC/INEOS high pressure ethylene pipeline apparatus.

## **PUBLICITY**

16. Neighbours were notified via a site notice and neighbour letters the comments received are set out below :-

1. Mr William Overin The Orchard Darlington Road
2. Mrs Karen Proctor Brookfield Darlington Road
3. Mr Rob Hayes The Granary Coatham Stob
4. Mr Tariq Azad Town End Farm Darlington Road
5. Ms E Mallinson Rose Cottage Darlington Road
6. Mr Nige Dennison 3 The Stray Long Newton
7. David Holtham Treecott Darlington Road
8. Doug And Anne Wieland Coatham Gill Darlington Road
9. V Roddam Kirkside Darlington Road
10. Mrs Vivien Wells Woodland View Darlington Road
11. Mr Stephen Gardner The Gables Darlington Road

- Developers have shown no regards to the planning system or local community
- No public sewer, how will the development deal with its own foul waste?
- Loss of a public house removes a facility from the Parish
- Would set a precedent
- The size and scale of the proposed development is not in keeping with national and local planning guidelines
- Loss of green space
- The previous concerns have not been addressed in this application.
- The noise and dirt associated with the building work is not acceptable as the access to the site is through the village.
- Heavy lorries hitting the speed bumps at high speed outside of my property caused damage to the roads
- Dirt carried across the field caused a covering of dust to both properties and cars
- Works started without permission
- Footprint of the proposed development is significantly larger than existing
- The previous pub house owner was selling the Pub to be continued as a public house to another entrepreneur before the applicant purchased it
- Lack of wider public consultation
- The gas pipe will be affected by the construction and demolition
- The dwelling is for a large house with at least 6-10 residents which will increase the traffic on the Darlington Road and create noise and pollution.
- The increased CO2 emissions from demolition and construction will cause damage to flora and Fauna
- The property prices will be affected hugely due to the construction work allowing pollutant gases, dust and noises in the vicinity.
- If the dwelling was to be made into a public house with considerate renovation at a much smaller scale, with no extensions the proposals may possibly be considered by the residents.

### **PLANNING POLICY**

17. 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 Plans 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.

18. 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**

19. 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.

20. 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 81. 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 84. 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 92. 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 93. 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

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)<sup>45</sup>; 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 130. 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 users<sup>46</sup>; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience

Para 134. Development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents which use visual tools such as design guides and codes. Conversely, significant weight should be given to:



(a) development which reflects local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents which use visual tools such as design guides and codes; and/or

(b) outstanding or innovative designs which promote high levels of sustainability, or help raise the standard of design more generally in an area, so long as they fit in with the overall form and layout of their surroundings.

### **Local Planning Policy**

21. 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 3 (SD3) – Housing Strategy

7. Proposals all domestic extensions will be supported where they are in keeping the property on the street scene in terms of style, proportion and materials, and avoid significant loss of privacy and amenity for the residents of the neighbouring properties.

8. Within the countryside support will be given to;

- a. extensions within the existing curtilage of dwelling where they are a suitable scale and subservient to the host dwelling
- b. A replacement dwelling whether proposed dwelling is;
  - i. not materially larger than the existing dwelling and
  - ii. located on the site of or in close proximity to the existing dwelling

#### Strategic Development Strategy Policy 4 (SD4) – Economic Growth Strategy

7. 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;

7. 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

7. 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

7. 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

7. 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.

### **MATERIAL PLANNING CONSIDERATIONS**

22. The main planning considerations of this application relate to compliance with planning policy and the impacts of the development on the character of the area, amenity of the neighbouring occupiers and highway safety.

Principle of development

23. 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 Sutton Arms, by allowing the change of use to a single residential property, along with the associated works.
24. In considering the issue of the principle of the development, there are several matters to be considered. These include: (i) whether there is no demand for the facility in the locality and its continued future use would be economically unviable, or (ii) Equivalent alternative facilities are available nearby and the proposal would not undermine the community's ability to meet its day-to-day needs. It is noted that the Sutton Arms is not listed as an Asset of Community Value.
25. 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) (2021)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) 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.
26. This approach is consistent with advice set out in the NPPF which in Chapter 6 on "Supporting a Prosperous Rural Economy" states in paragraph 84 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 93, 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.
27. On the other hand, paragraph 120 states that planning policies and decisions should promote and support the development of under-utilised land and buildings.
28. 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 of 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.
29. 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

30. The first issue is the question of whether the continuing operation of the Sutton Arms is no longer a viable use. What the application has sought to do is demonstrate that the continuing use of the Sutton Arms as a pub is not viable through the submission of a viability assessment.
31. Due to the specialist skills required to understand a viability appraisal of the nature proposed the Council appointed an independent critique of the submission.
32. The Council's independent critique makes the following comments on the various conclusions of the applicant's viability report;
- Despite the viability report being submitted after the partial demolition, they consider the description of the premises and the associated accommodation to be accurate
  - Whilst not considered to be particularly relevant the expected expenditure of £200,000 to bring to building back into use as a public house to largely be due to the demolition works which have already taken place.
  - They consider the statutory enquires to be accurate
  - They consider that the trading figures of £150,000 per annum, whilst stable was lower than what would be expected from a property of this size and nature
  - It would be expected based on their experience that circa £260,000 is a realistic trade required to operate a viable owner manager venue within the north east.
  - They are satisfied the former operators would have been considered 'experienced'
  - Following their research of the marketing they do consider that the marketing period of 1 month with a sale being completed in 6 weeks is a short period compared to when done as a going concern
  - Whilst the submitted viability appraisal fails to set out the detailed methodology and does not follow Campaign for Real Ale Organisation (CAMRA) objective tests. However, in considering the offer of public houses in the area and the reassurance of 'lifestyle operators' following covid it is still expected that they should still expect to generate a reasonable level of profit.

In conclusion the submitted viability appraisal acknowledges it may have been viable if operated as a lifestyle business. However, as previously stated estimate of FMT of £180,000, the Sutton Arms would have been, at best, a marginal business. Were the business to generate in excess of £200,000 per annum turnover and successfully generate a 15% EBITDA profit (or £30,000) that would have been a more realistic expectation for an operator. The statement made that 'were the FMT in excess of £200,000 there would have been an expectation by a wider market to operate the public house' is a fair and realistic statement, but with the diminished FMT being achieved by the business and the increasing costs year on year that have been encountered by the sector, it is, in our opinion, reasonable to state that at the date of sale in 2020 this was not a truly viable business opportunity.

assessing this the Council's independent critique concludes;

*Having reviewed Messrs Christie & Co's report and the Assessment of Viability, and undertaken our considerations and assessment, we do consider that the conclusions reached in the aforesaid report, that the Sutton Arms was not an economically viable operation as a public house by a reasonable commercial operator, to be reasonable and realistic.*

It goes on to consider viable alternatives;

*Having said all the above, it is also important to remember that not all potential buyers of a public house operation require the generation of profit as a key metric of their business, for example a community cooperative, who could operate a business simply for the good of the community. Here, however, we consider this is less likely, owing to the small nature of the resident population in Elton and the substantive number of alternative venues in relative proximity.*



Whether there are equivalent alternative facilities nearby to meet the community needs.

33. The Sutton Arms is situated approximately 220 m to the west of the defined development limits of Elton. With the exception of Elton St John Church, Elton does not have any other community facilities within the development limits.

34. As part of the independent critique they have reviewed alternative public houses within a 2.5m radius, it concluded that ;

*We believe there could reasonably be considered to be 11 competing public houses within a 2 ½ mile radius of the subject property. Albeit not all of these outlets would be truly considered competition, as many are suburban or pure wet led drinking establishments. As such the independent critique concludes there is significant competition, and an oversupply in the immediate vicinity.*

35. Based on this assessment and notwithstanding the economic assessment it is not considered that the loss of the Sutton Arm would have a demonstrable impact on how the community would meet its day to day needs and that it is reasonable to consider that they could utilise the 4 out of 11 public houses which are less than 2 miles from the site.

Whether there is a Viable Alternative Economic Use

36. Policy T12 does not require the applicant to demonstrate that there is no other viable alternative community use which could operate from the Site.

37. Concerns has been raised that the proposed development would set a precedent, as member will appreciate each application has to be considered on its own merits. Furthermore, in application such as this, the applicant is required to submit the required evidence if they are to seek to satisfy the requirements of T12.

The principle of allowing the conversion of the property to residential use

38. The previous application was considered to be tantamount to a demolition and rebuild with a new dwelling, consequently the proposed development was considered against the tests of Policy SD1 and SD3 of the Local Plan. The proposed development was notable to demonstrate that it met any of the exceptional circumstances for new dwellings in the open countryside and therefore it was not possible to establish the principle of development. Weight was also attributed to a recent appeal decision refused planning permission for additional dwellings within Elton, due to it representing an unsustainable location, appeal ref APP/H0738/W/19/3222759.

39. However, the revised application and subsequently revised plans have satisfactorily demonstrated that the proposed development would more accurately be considered as a change of use and extension. The assessment of whether the proposed extensions would meet the policy requirements of local plan policy SD3(8(a)) are considered in the later stages of this report.

40. For the reasons detailed above it is considered that reasons one and two of the previous refusal have been overcome.

Character and Form

41. The National Planning Policy Framework para 130 requires that developments should not only maintain a strong sense of place but should improve the quality of the area. Developments should also be visually attractive as a result of good architecture, layout and appropriate and effective landscaping.

42. Paragraph 124 also requires that support should be given to development that makes efficient use of land, taking into account amongst others the identified need for different types of housing and other forms of development, and the availability of land suitable for accommodating it, local market conditions and viability, the desirability of maintaining an area's prevailing character and setting (including residential gardens), and the importance of securing well-designed, attractive and healthy places.
43. The core focus of policies SD3 and SD5 of the local plan, is to safeguard the open countryside by ensuring whether it be an application for domestic extension or rebuild, that the proposed development would neither be materially larger than the existing dwelling or of a suitable scale and subservient.
44. The existing building has previously been extended albeit principally single storey. The ground floor footprint of the Sutton Arms, prior to the demolition works which have already taken place was approximately 328sqm with a first floor of approximately 166sqm. The previously refused scheme had a footprint of approximately 457sqm which was largely replicated at first floor. The proposed development as originally submitted for this application proposed a footprint of approximately 464sqm. The revised scheme which Members are now asked to consider has a footprint of approximately 329sqm which is largely replicated at first floor.
45. The form of the revised development would largely reflect the existing form of the Sutton Arms, with the main bulk off the extension being situated to the rear. In consideration of the significant reduction in built form it is not considered that the proposed development would be materially larger than the existing building as to sustain a reason for refusal against policy SD3. Furthermore, along with the reduction of scale, the change of architectural style and materials from that of the previous refused development, within the context of the site, existing built form of Elton and immediate area that the proposed development is considered to represent an appropriate form of development in the context of local and national planning policy. It is therefore considered that the revised proposal has overcome reason three for refusal. However, to prevent further additional development, without adequate consideration being given to whether it is appropriate, it is recommended to remove permitted development rights from the proposed dwelling.
46. The Highways Transport and Design Managers comments are noted and it is considered that such details could be secure via conditions. Additional conditions are sort with regards to the landscaping of the wider site to ensure the change of use of the shrubland, as well as the bunding do not have an adverse impact in the character of the area. To safeguard the overall amenity value of the site, it is considered necessary to remove permitted development rights to the amenity space, to prevent additional development within the curtilage to the detriment of the site and wider area.
47. The applicant has confirmed that the existing close boarded timber fence along Darlington Road is a temporary feature. The presence of such a strong boundary treatment adjacent to the highway within the open countryside is not something which support could be given for and therefore should permission be granted the removal of the fence following substantial completion of the works along with an alternative scheme could be conditioned.
48. The property is neither listed nor in a conservation area. The demolition works that have been carried out today largely relate to the demolition of the single storey later additions, and in themselves are not considered to be harmful. However, should planning permission be refused and any subsequent appeal dismissed, the Local Planning Authority would work with the applicant to ensure that the site is not left in a condition which in itself would cause harm to the character and appearance of the site or wider area.

49. Paragraph 133 of the NPPF sets out that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area. The revised development is considered to result in a form of development which would comply with the requirements of the development plan policies SD3, SD5 and SD8 as well as paragraph 130 of the NPPF.

#### Residential Amenity

50. The closest residential dwelling to the east is approximately 220 metres from the site boundary and approximately 200m to the west. It is therefore not considered that despite the increase in bulk and massing and resulting balcony that the proposed development would not have an impact on the amenity of the occupiers of the adjacent residential properties with regards to a loss of light, outlook or privacy.
51. Whilst it is noted that a number of objectors have raised concerns over the noise and disturbance caused during the construction to date, should permission be granted conditions could be imposed to limit construction hours as well as mitigating mud and dust. The Council's Environmental Health Unit have not raised an objection on the grounds of air quality or recommended any conditions.
52. The Council's Environmental Health Unit has confirmed that materials brought on site to create the bund are not contaminated and are safe for residential areas. No further controls are considered necessary.
53. Subject to the recommended conditions, it is not considered that the proposed development would have an adverse impact on the occupiers of the adjacent dwellings.

#### Highways

54. Paragraph 111 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.'

55. In accordance with SPD3: Parking Provision for Developments 2011 the proposed development into a residential dwelling, would require 4 curtilage parking spaces which have been provided.
56. Concerns received from residents in terms of the impact of construction traffic are noted and according to the location a construction traffic management plan would be required, in order to minimise the disruption associated with the proposed works in Elton village, and this should be secured by condition.
57. It is not considered that the vehicle movements associated with a single family home would be greater than that of a public house and associated manager accommodation.

#### Nutrient Neutrality

58. The comments from Natural England are noted however in this instance the proposed development would not result in an increase of overnight accommodation. The former Sutton Arms had the benefit of a manager's flat, in accordance with Natural England's guidance this development would not lead to an increase of overnight accommodation.
59. Furthermore, the proposed development is to connect to the existing septic tank, which serves the public house and manager accommodation.

### Ecology

60. A large degree of the site clearance works and demolition had already taken place prior to the application being received. Due to this, whilst the application has been submitted without the benefit of a preliminary ecological appraisal, it is considered that should planning permission be granted a suitably worded informative alerting the applicant to the requirements of the Habitat Regulations.

### **Residual Matters**

#### Gas Pipes

61. It is noted that an objector has raised concern over impact on the potential damage to a gas pipeline. Northern Gas and Sabic have been consulted, both have raised no objection.

#### Objections

62. Concern has been raised over the impact of the proposed development on property prices, members will be aware that property prices are not a material consideration of which weight can be attributed.

63. Some of the objectors raised concern over the lack of consultation, those occupiers closest were notified by letter and a site notice was also displayed at the site. This is in accordance with the requirements of the Development Procedure Order 2015.

64. Concern has been raised that construction vehicles have caused damaged to the public highways, unfortunately without sufficient evidence of how, when and who caused the damage the Highways Authority is unlikely to be able to take action.

### **CONCLUSION**

65. 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 Councillor Steve Matthews**

### **IMPLICATIONS**

#### **Financial Implications:**

None known

#### **Environmental Implications:**

The report sets out the environment implications and considers the associated visual impact as well as an noise and pollution matters.

#### **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 2019

**Supplementary Planning Documents**

SPD1 – Sustainable Design Guide

SPD3 – Parking Provision for Developments