



Appeal Decision

Hearing held on 1 November 2022

Site visits made on 31st October and 1st November 2022

by J Williamson BSc (Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 May 2023

Appeal Ref: APP/Y2736/W/22/3294193

The White Swan Inn, Low Street, Thornton Le Clay YO60 7TG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr and Mrs Harrison against the decision of Ryedale District Council.
 - The application Ref 21/00861/FUL, dated 28 May 2021, was refused by notice dated 15 November 2021.
 - The development proposed is change of use of the public house to form 1 no. five bedroom dwellinghouse, alterations to the rear window configurations, erection of porch to front elevation and erection of three bay domestic garage with soft landscaping to front (part retrospective).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development provided in the header above differs to that provided on the application form. It was confirmed at the Hearing that the appellants agreed to the change. I have made my decision based on the amended description.
3. Although the phrase "*part retrospective*" does not describe development, its inclusion in the description relates to soft landscaping works, including the creation of a pond, that have been carried out at the front and rear of the property. It was also evident from my site visit that the appellants have made several alterations to the internal layout of the property at ground-floor level, in accordance with the submitted plans. I have made my Decision taking account of these matters and the submitted plans.
4. The appellants sought to submit late information at the Hearing, broadly related to a hospitality sector survey which had recently been published. The information could not, therefore, have been submitted within the relevant timescale. However, as the document the appellants wished to submit was a press summary of the survey, and not a copy of the actual survey document, I considered it would have been unfair on the Council to accept the information, as it would not have allowed the Council to appraise the actual research document. I therefore declined to accept the information.
5. The 2 main parties were asked to submit details of the sizes of the outdoor areas associated with the appeal building, as they were when last used as a

public house. Details were submitted by each of the parties. I have had regard to the information in reaching my Decision.

6. It was noted at the Hearing that Policy SP21 of the Ryedale District Council Ryedale Local Plan Strategy 2013, (LP), was under review. I have subsequently been informed that the Council has carried out some consultation on this Policy and other matters. However, having regard to paragraph 48 of the National Planning Policy Framework (the Framework), I consider the matter carries little weight at this stage. Policy SP21 of the LP is still adopted policy. I have made my Decision on this basis.
7. The appellants submitted additional information following the Hearing questioning the accuracy of a claim made by an expert witness during the Hearing in relation to the Rose & Crown public house at Sutton-on-the-Forest (the Rose & Crown). It was asserted at the Hearing that the Rose & Crown was viable. The point regarding viability of the Rose & Crown had not been raised in written submissions ahead of the Hearing and the appellant did not have the opportunity during the Hearing to carry out research in response to the matter. The information was therefore not available to the appellant prior to the Hearing. As I needed to ensure the matter was given due consideration in reaching my Decision, I considered it necessary to accept the information, subject to, in the interest of fairness, the expert witness whose integrity was being questioned, and the Council as the opposing party, being given the opportunity to respond to the additional information submitted.
8. No comments were received from the Council regarding the matter. Comments were received from the expert witness, to which the appellants subsequently responded. The appellants contend that their further response was submitted at the request of the expert witness, apparently requested during an exchange of communications between the expert witness and the appellant, which the Planning Inspectorate was not party to. As the expert witness has not challenged this assertion, I have no substantive reasons to consider it not to be the case. I shall refer to any relevant matters related to the Rose & Crown as appropriate below.
9. A third party, on behalf of the Save our Swan community group, (SoSCG), subsequently submitted further information. I declined to accept this on the basis that the matter initially raised by the appellant had been appropriately dealt with.

Main Issues

10. The main issues are:
 - whether the development would result in the unjustified loss of a community facility, and
 - whether the associated operational development would compromise the operational requirements of the public house, thereby threatening its viability.

Reasons

11. Policy SP11 of the LP is the key policy in the determination of the appeal. It deals broadly with community services and facilities. It is sub-divided into

several sections. The section of concern to this appeal is the "*protection*" section, which states

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

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

12. The third bullet point is not relevant to this appeal. The main parties agreed at the Hearing that the first bullet point consists of 2 parts. Consequently, there are 3 relevant parts to the Policy, ie 1) *there is no longer a need for the facility, or 2) suitable and¹ accessible alternatives exist, or 3) that it is no longer viable to provide the facility.* If it is demonstrated that either one of these requirements is met, then the development accords with the policy.

Need

13. I appreciate that many of the services and facilities that exist within the Ryedale District are dependent on various users, ie residents local to such services and facilities, residents from other localities within the district, and visitors to the district. As such, they meet the needs of people other than those that reside within their locality. Nevertheless, the opening paragraph of the "*protection*" section of Policy SP11 refers to "*local*" services and facilities. Within this context, I consider the primary "*need*" of relevance is therefore local need, ie the needs of the inhabitants of the village of Thornton-Le-Clay.
14. In my opinion, the vitality of towns and villages and the well-being of local communities are strongly influenced by the extent and range of services that exist within them. Therefore, the loss of any services or facilities that contribute to the vitality and/or well-being of towns and villages potentially undermines their vitality and/or well-being.
15. To my mind, the representations submitted during the planning application and appeal processes, in terms of both the range of matters referred to, which outline numerous economic and social benefits provided by and derived from the White Swan (WS), and the number of representations submitted, provide a clear indication that the WS, when operational, contributed to the vitality and well-being of the local community of Thornton-Le-Clay.
16. In addition to the representations, the WS has been designated as an Asset of Community Value (ACV). I appreciate that designation as an ACV does not mean that the landowner must retain its use or sell the property to the community. What it is important to note, however, is that via a recognised process of assessment, the facility has been deemed to be one that, until its

¹ My emphasis, to draw attention to the requirement of the policy being both suitable and accessible

closure, contributed to the social well-being and interests of the local community. As such, it could do so in the future.

17. Considering the above, I conclude that i) the WS is a facility that Policy SP11 seeks to protect, from loss or redevelopment, and ii) there is still a need for the facility to contribute to the social well-being and interests of the community. Consequently, I conclude that it has not been demonstrated that there is no longer a need for the facility. As such, the first part of bullet point 1 of SP11 has not been satisfied.

Alternatives - suitability

18. The appellants highlight that Thornton-Le-Clay has a village hall, which is located immediately to the east of the WS. I have been provided with evidence which confirms that the village hall has hosted various local community events, including craft activities, treasure hunts, coffee mornings, quiz nights and an awards presentation. Some of the events have included a 'pop-up-pub'.
19. The appellants have also identified around 8 public houses and 6 cafes, coffee/tea shops and/or restaurants within 5 miles of the appeal site. The nearest public house to the appeal site is the Thompson Arms, which, according to the various figures submitted in evidence, is between 1-1.5 miles from the site. The nearest eateries are the Huckleberry American Diner and Quarmby's Delicatessen & Coffee House, both around 2.2 miles from the appeal site. The appellants contend that the combination of village hall and the public houses, eateries and coffee/tea shops identified would provide suitable and accessible alternatives to the WS.
20. I accept that the alternative venues referred to could, collectively, provide some of the services provided by the WS and provide facilities to cater for some of the events catered for at the WS. For example, at one or other of the alternative venues, residents would be able to purchase alcoholic drinks, a restaurant style meal, pub grub, teas, and coffees; they would be able to listen to live music and/or attend a quiz night; and some of the venues could cater for seasonal and/or community events. However, such facts do not amount to the alternative venues being suitable alternatives.
21. There is evidence to suggest that a pub is one of the most important venues outside of the home where people meet/get together/socialise with other people, both from their neighbourhood and further afield. The WS is such a venue. It is the only pub within the village, 'the local pub'. The size of the venue along with the associated outdoor seating and playing areas, on-site car parking, and relatively extensive opening hours, enable it to provide the services/cater for the various events referred to, all at one venue. The facility allows for spontaneous visits as well as attendance at planned events; it can be used by individuals and/or groups informally and/or for organised events. Additionally, collaboration between the WS, the village hall and local school allows for sharing of facilities, eg. the pub car park, as/when required to support community events.
22. It is recognised that pubs can serve as a focal point within the community, contribute to local identity and distinctiveness, and relieve social isolation, particularly in rural areas. The representations received from residents, the nature and extent of support shown for the SoS community group, and the designation of the WS as an ACV, all indicate that the WS is more than just a

facility offering the services outlined. Thus, it is a facility that contributes significantly to the social well-being of the community.

23. I note that Policy SP11 does not state that if community facilities are redeveloped, they must be replaced like for like. To my mind, a suitable alternative is one that would be comparable to the facility that would be lost should redevelopment occur. In my opinion, neither of the alternative venues referred to would replace the range of services offered/range of events catered for by the WS, as well as performing the function of contributing significantly to the social well-being of the community. I therefore conclude that the alternatives referred to, neither individually nor collectively, would constitute a suitable alternative(s) to the WS.
24. Policy SP11 requires alternatives to be both suitable *and* accessible. I have concluded that the alternatives suggested would not be suitable. As such, it is not necessary for me to consider whether they would also be accessible. However, I have commented on the matter for completeness.

Alternatives - accessibility

25. I accept the broad assertion by the appellants² that the range of alternative facilities referred to would be accessible either by car, bicycle or on foot. However, except for the village hall, I question whether any of the other venues would be readily accessible on foot and whether it would be likely that many residents of Thornton-Le-Clay would cycle to any of the other venues for the purposes of using the services offered by them, eg to purchase an alcoholic drink, afternoon tea, or an evening meal.
26. I acknowledge that the nearest alternative public house to the site, the Thompsons Arms, is of a distance from the site that on paper may be manageable for some village residents to walk to. However, the route consists of a narrow, country road with several bends in it, that is subject to a national speed limit and is without pavements or street lighting for most of its length.
27. Therefore (and noting that I have not been provided with any evidence which demonstrates that use of public transport would be a feasible mode of transport to either of the alternative venues identified), except for the village hall, access to all the other alternative venues identified would, for the most part, be dependent on use of private motor vehicles.
28. I acknowledge that Policy SP11 does not specify that alternative facilities must be accessible on foot. However, to my mind, a comprehensive consideration of whether alternatives are accessible, should include consideration of the travel modes required to access them, as well as their accessibility by all members of the community.
29. Bearing these factors in mind, I consider that some members of the community at least, eg those without a private motor car, would not be able to readily access either of the alternative venues identified.
30. The appellants have referred me to other appeal Decisions in support of their case, including the conclusions reached by an Inspector colleague in appeal Ref APP/Y2736/W/19/3223570, ('the Nunnington Case'), on the matter of "*suitable and accessible alternatives*."

² Paragraph 6.21 of the Statement of Case, prepared by Prism Planning, dated March 2022

31. Although the Inspector in the Nunnington case considered that there was a need for a public house facility³, he concluded that other public houses and restaurants located in surrounding villages, between approximately 2.5 to 5 miles from the site, provided suitable and accessible alternatives to the public house/restaurant that would be lost, ie the Royal Oak Inn.
32. I accept that there are some similarities between the Nunnington case and the appeal before me. For example, the case relates to change of use of a public house/restaurant to private dwelling. The appeal site is in a village located within the area covered by Ryedale District Council. Policy SP11 was the key policy in the determination of the appeal. The village has a village Hall, within which 'pop-up-pub' events had taken place⁴. The number of residents within the village was deemed to be insufficient to sustain a gastropub without attracting customers from outside the area.
33. Nevertheless, there are some differences between the two cases. For example, Nunnington has a coffee shop and a café located within a local National Trust property, Nunnington Hall. Such facilities are not present within the village of Thornton-Le-Clay. Additionally, and more importantly, as noted, the WS has been designated as an ACV, whereas the Royal Oak Inn was not. I attach considerable weight to the designation of the WS as an ACV, as it highlights the importance the facility played, and could still play, in contributing to the well-being of village residents.
34. Consequently, although I have not been provided with full details of the Nunnington case, from the evidence before me, and for the reasons outlined, I consider the case is not directly comparable to the appeal at hand. As such, my opinion regarding what constitutes suitable and accessible alternative facilities in the context of this appeal differs to the conclusion reached by the Inspector in the Nunnington case.
35. For the reasons outlined, I conclude that it has not been demonstrated that suitable and accessible alternatives to the WS exist. Consequently, the second part of bullet point 1 of Policy SP11 has not been satisfied.

Viability

36. A large proportion of the evidence submitted relates to viability. It isn't necessary for me to rehearse the details of each of the cases presented by the 2 main parties, or that provided by a significant 3rd party, ie the SoSCG. However, I shall outline the key factors⁵ I have borne in mind in reaching my Decision to illustrate my reasoning.
37. For the WS to be economically viable it would need to be capable of generating a level of profit, operating within a commercial market, on a sustainable basis for the long-term. All relevant parties agree that profit in this context refers to net profit. I have applied this definition in my reasoning.
38. Parties have not had the benefit of having access to publicly available, up to date, detailed financial information relating to past trade performance of the WS. Consequently, opinions expressed have relied heavily on professional

³ Paragraph 13 of the appeal Decision Letter

⁴ Paragraph 7 of the appeal Decision Letter Ref APP/Y2736/W/19/3223570

⁵ For the avoidance of doubt, not all the factors

judgement. Similarly, I have had to make professional judgements in reaching my Decision.

39. None of the documents submitted claim to provide a proper valuation of the WS. The appellants imply that as the purchase of the WS for £450,000 in August 2020 occurred between a willing buyer and a willing seller in an arm's length transaction, this provides market evidence of the value of the property⁶. However, I am of the view that as proper marketing of the property was not undertaken the figure of £450,000 does not represent a true valuation of the property.
40. Policy SP11 of the LP does not specify the requirement for marketing to be undertaken. However, to my mind, an assessment of the viability of the WS would be more robust if the sale of the property in August 2020 had included a process of proper marketing, to establish its true market value.
41. The appellants also refer to a 'For Sale or To Let' marketing leaflet related to the Rose & Crown, within which the asking price was stated as £600,000⁷. The appellants suggest that the Rose & Crown is similar to the WS.
42. I do not have all the details regarding the Rose & Crown before me. However, from the information initially submitted⁸, it is clear that the number of covers at the Rose & Crown, 62 in the conservatory and 40 on the covered external terrace, is considerably higher than the number of covers the appellant estimates could be accommodated at the WS, ie 40 internally and 16 on the outside rear patio⁹. For this reason, I consider the Rose & Crown and the WS are not directly comparable. I therefore attach little weight to the price the Rose & Crown was being marketed at as an indicator of the market value of the WS.
43. Notwithstanding the price the appellants paid for the property, they acknowledged that the sale price reflected an element of hypothetical residential value¹⁰. For this reason, the appellants viability assessment also includes calculations based on a notional purchase price of £250,000, which they consider to be a credible acquisition cost, having regard to relevant factors, including sales of other public houses in the area¹¹.
44. Taking account of all the evidence submitted, I consider the figure of £250,000 to be the most realistic hypothetical purchase price for the purposes of assessing viability of the WS.
45. The 2 main parties agree on a projected net turnover figure for the WS of £182,000 per annum, which, after deducting operating costs, would provide a profit of £42,000 per annum. I note that the expert witness acting on behalf of the SoSCG, would expect net turnover of around £200,000 per annum for a business such as the WS¹², and the SoSCG Business Plan includes a figure of

⁶ Paragraph 7.10.1 of the Review of the Viability Reports Submitted by Fleurets and MJD Hughes, produced by Everard Cole, dated 21 February 2022

⁷ The Rebuttal Statement produced by Prism Planning, dated 22nd September 2022

⁸ Copy of the 'For Sale or To Let' marketing leaflet, Appendix B of the Rebuttal Statement produced by Prism Planning, dated 22nd September 2022

⁹ Paragraphs 2.3.4 and 2.2.2 respectively in the Fleurets Viability Report.

¹⁰ Paragraph 4.3.26 of the Report Concerning Economic Viability & Sustaining of Public House, produced by Fleurets, dated 22nd April 2021 (Fleurets Viability Report)

¹¹ Paragraph 4.3.27 of the Fleurets Viability Report

¹² Section 15, 'Trade and Business', of the Expert Witness Report, produced by Barry Crux and Company, dated 26th August 2022

£195,000 net turnover per annum in year one¹³. These figures differ to the £182,000 agreed between the 2 main parties. Bearing in mind that the SoSCG Business Plan concludes that "*bottom line profitability is in the region of £42,000*"¹⁴, ie the same figure as that agreed by the 2 main parties, I have attached substantial weight to the net turnover and profit figures agreed between the 2 main parties in reaching my Decision.

46. As noted by the appellant, although the SoSCG Business plan is based on what is referred to as "*true actual figures*"¹⁵, the 'actual figures' referred to have not been produced¹⁶. For this reason, I cannot attach full weight to the SoSCG Business Plan. However, this does not imply that the Business Plan is not a sound document. The figures outlined in the SoSCG Business Plan may indeed be based on a review of actual figures derived from bank statements, among other things¹⁷. However, such information has not been provided as evidence.
47. I have not reduced the profit figure to take account of increased overheads, as requested by the appellant in their final comments¹⁸, as I consider any adjustments made for increased costs could only reasonably be considered if a corresponding adjustment to the notional value of the property was provided, which it hasn't been. This is because it seems to me that the reasons given by the appellant for suggesting increased operational costs are factors that could also correspondingly alter the market value of the property.
48. I accept that the population of Thornton-Le-Clay would not be sufficient on its own to provide the level of custom the WS would require to achieve the amount of profit needed to secure its long-term sustainability. However, this does not prevent the WS from being viable. As with other public houses in surrounding villages, viability of the WS would be dependent on attracting carborne customers. I am satisfied that the WS would be able to accommodate the likely level of carborne customers required to achieve the turnover/profit levels outlined above.
49. I have considered factors such as the site's location, its size, its visibility and the extent of outside seating/play areas. I accept that the WS offer would be substantially based on food sales, and I accept the generally agreed view of all main parties that the split would likely be around 70% food and 30% wet sales. I have also taken account of the surrounding competition, a factor that I consider should not significantly affect the assessment, as competition is a feature of the market.
50. I accept that the circumstances within which the viability of the WS has been appraised have presented challenges to the licensed trade industry. For example, Brexit, Covid 19 and increases in the costs of living more recently, as well as the decline in the volume of beer sold over the years preceding these more recent events. I acknowledge that such circumstances and the economic conditions they presented/present have resulted in the closure of many public houses in recent years, and they likely deterred some people from investing in the industry.

¹³ Page 31, section 10.2.4 of the Business Plan produced by the SoSCG

¹⁴ Page 32, section 10.2.4 of the Business Plan produced by the SoSCG

¹⁵ Page 31, section 10.2.4 of the Business Plan produced by the SoSCG

¹⁶ Page 2 Final comments document produced by Fleurets, dated 15 September 2022

¹⁷ Page 31, section 10.2.4 of the Business Plan produced by the SoS group

¹⁸ Final comments document produced by Fleurets, dated 15 September 2022

51. However, there are examples of public houses having come through such challenges and of individuals and community groups purchasing and successfully operating public houses within the circumstances outlined.
52. Like the 2 main parties, I consider a future operator of the WS is likely to be either an owner operator operating a lifestyle business, an owner seeking a tenant and a return of around 10% from the tenant, or an incorporated community interest group seeking little or no return on its investment, rather than a pub operator/corporate client.
53. I accept that any future operator of the WS needs to be able to derive a 'satisfactory living' from operating it. However, I do not agree with the appellants suggestion, who have drawn upon the judgement in the 'Brooker' case¹⁹, that any owner operator must receive a remuneration of £33,000 and this must be deducted from profit as part of the process/method of assessing viability of the WS.
54. Although I have not been provided with full details of the 'Brooker' judgement, from the evidence provided I consider the case is not directly comparable to the one before me. I understand the case was primarily concerned with renewal of a lease and the amount of rent to be paid, that the landlord was a pub owning company and that a tenant with such a landlord is usually bound to purchase most wet products from the landlord's supplier. These factors are significantly different to the case at hand.
55. The appellants contend that the approach they have used to assess viability was accepted by all parties in appeal Refs APP/H0738/W/21/3272218 & APP/H0738/W/21/3272225 as being the 'correct' approach²⁰. I have not been provided with full details of these cases and cannot be certain of the extent to which they are comparable to the case before me. Nevertheless, even if all parties agreed with the methods used to assess viability in those cases, and they were similar to the methods used by the appellants in this case, it does not inevitably follow that the approach used in those appeal cases is therefore the only, or 'correct', approach to assessing viability of the WS.
56. I accept that the WS would have required some equipment, fixtures, and fittings following the purchase of the property by the current owners/appellants, prior to being able to operate the business. However, as such requirements were clear at the time of purchase this should have been reflected in the value of the property.
57. The evidence submitted regarding sales particulars of the property state that the "*property has been extensively refurbished at considerable expense over recent years with particular investment in the commercial side of the property.*" This suggests that the property was in a state that would not have required significant investment in the public house for it to have become operational.
58. It is evident that the owners/appellants have removed some equipment, fixtures, and fittings that would now need to be replaced for the pub to be able to operate. I consider the cost of replacing these should not form part of the viability appraisal as the owners/appellants willingly chose to remove them knowing they were required for the pub to be able to operate.

¹⁹ Brooker v Unique Pub Properties Limited (2001) (Chancery Division Bristol District Registry Case No. BS002253)

²⁰ Paragraph 6.40 of the appellants Statement of Case, produced by Prism Planning, dated March 2022

59. Although the 2 main parties agree that the WS would be capable of generating a profit of £42,000 per annum, they disagree on the matter of whether certain costs should be deducted from this figure for the purpose of assessing viability of the WS. In addition to remuneration and refurbishment costs, the other costs at issue are mainly those of financing a loan, purchasing stock and providing working capital, paying Stamp Duty Land Tax, paying a return on capital invested, and 'one-off' costs such as professional fees.
60. As noted, all the main parties agree that a Reasonably Efficient Operator could expect to achieve a profit of £42,000 per annum if running the WS business in a proper manner in a commercial market. I accept that potential owner operators may differ in terms of the finances they have to hand/would use to purchase the property. I also accept that potential owner operators may invest in the WS as a lifestyle choice or as a community enterprise. I therefore consider that there could be circumstances where owner operators or tenants would be able to derive a 'satisfactory living' from operating the WS whilst also ensuring that it is sustained for the long-term.
61. The appellant has questioned whether the Business Plan of the SoSCG is realistic or ethical²¹. I have already commented on a few of the matters raised by the appellant, ie remuneration and increases in operating costs due to, for example, a rise in fuel costs.
62. Regarding other matters raised, I accept that it is highly unlikely that the current owners/appellants would wish to sell the property for a sum substantially less than what they paid for it. However, the purchase price of £250,000 used in the Business Plan of the SoS community group is the same as the figure I have concluded is the most realistic hypothetical purchase price for the purposes of assessing viability of the WS; and, as noted, it is the notional purchase price which the appellants consider to be a credible acquisition cost, and the likely market value suggested by the Council. I therefore consider it reasonable for the SoSCG to use the figure of £250,000 in its Business Plan.
63. The money required to fund the purchase of the WS and the required refurbishment has not yet been secured by the SoSCG. The SoSCG Business Plan indicates that grants may be available from various sources to support such a venture. However, the case put forward has not relied on such sources of funding. At this stage, the SoSCG Business Plan is based on raising all the required funds via selling shares in a Community Benefit Society. I consider the level of interest indicated in the survey the group undertook illustrates that raising the required funds in the manner proposed would be a realistic possibility.
64. I acknowledge that the SoSCG was not established at the point when the property was sold in August 2020 and that the property had not been listed as an ACV at that time. However, I consider the timings of the establishment of the SoSCG and the designation of the WS as an ACV is not unusual in such circumstances. Moreover, such factors would not prevent a community group from owning and operating the WS, adopting a model like the one proposed in the SoSCG Business Plan.

²¹ Pages 5-6 of the Final comments document produced by Fleurets, dated 15 September 2022

65. Ultimately, I have not been persuaded that the only way to assess viability is via the approach adopted by the appellant. To my mind, the approach adopted by the Council, which allows for the WS to be operated in various ways, including by a community group, and the matters I have outlined above, seriously call into doubt the conclusion reached by the appellant that the WS is not economically viable.
66. I consider the associated operational development, ie that already undertaken and that proposed, would compromise the operational requirements of the public house, thereby threatening its future viability. To operate viably, the WS requires at minimum the extent of car parking, outdoor seating and play areas to the rear of the property that existed prior to the current owners/appellants making alterations to such areas. Additionally, although the area to the front of the property may not be able to accommodate parked cars without them encroaching into an area of public highway, it could be used for additional outdoor seating, which could attract passers-by into the public house as well as provide an attractive facility for customers. I therefore conclude that the associated operational development does/would undermine the viability of the lawful use of the property.
67. As noted in paragraphs 7-8 above, following the Hearing the appellants questioned the accuracy of a claim made at the Hearing by an expert witness acting on behalf of the SoSCG with respect to the viability of the Rose & Crown. I have had regard to all the information submitted pertaining to the matter in reaching my Decision. Regardless of whether the Rose & Crown was or was not viable does not alter the Decision I have reached.
68. In light of all the above, I conclude that it has not been clearly demonstrated that the WS is no longer economically viable. As such, the requirement of bullet point 2 of Policy SP11 has not been satisfied. Consequently, the proposal would result in the unjustified loss of a community facility. The proposed development does not therefore accord with Policy SP11 of the LP. Nor does it accord with paragraphs 84, 92 and 93 of the Framework, which advise, among other things, that planning decisions should enable the retention of accessible local community facilities, such as public houses; and aim to achieve healthy places which support healthy lifestyles, especially where this would address local well-being needs, and guard against the unnecessary loss of valued facilities, including public houses.

Planning Balance & Conclusion

69. The appellants have not drawn my attention to any considerations, other than those dealt with above, that they wish me to take account of in the event that I conclude the proposal does not accord with the development plan. Nor am I aware of any. For the reasons outlined, I therefore conclude that the appeal is dismissed.

J Williamson

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

David Hardy – Solicitor (CMS UK)

Steve Barker – Planning Consultant (Prism Planning)

Peter Scholes – Surveyor (Fleurets)

Jon Heald – Surveyor (Everard Cole)

Mr Richard Harrison – Appellant

Mrs Tracy Harrison – Appellant

FOR THE COUNCIL:

Shemuel Sheikh – Barrister (Kings Chamber)

Jill Thompson – Planning Services Manager (Ryedale District Council)

Mike Hughes – (MJD Hughes)

OTHER:

Barry Crux – Surveyor (Barry Crux & Company)

Matthew Smith – (Save Our Swan)

Peter Mills – (Save Our Swan)

Sarah Proctor – (Save Our Swan)

Richard Armitstead – (Save Our Swan)

Nick Love – Pub Protection Officer (CAMRA)

Christine Walker – (Parish Council)

Claire Docwra – (Blacksmiths Arms, Flaxton)

DOCUMENTS SUBMITTED PRIOR TO/DURING/FOLLOWING THE HEARING

1. Statement of Common Ground – signed and dated 21st October 2022
2. Plans denoting the size of the outdoor areas associated with the appeal building as they were when last used as a public house

3. Additional information pertaining to the Rose & Crown referred to in paragraphs 4-8 above.
4. Notification from the appellant that consultation on the review of Policy SP21 has begun, and comments from the Council in response to the notification.

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