



Appeal Decision

Hearing held on 3 February 2026

Site visit made on 3 February 2026

by M Clowes BA (Hons) MCD PG CERT (Arch Con) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 February 2026

Appeal Ref: APP/U2750/W/25/3374945

The Former Henry Jenkin Inn (part), Main Street, Kirkby Malzeard, North Yorkshire HG4 3RY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Justin Claybourn against the decision of North Yorkshire Council.
 - The application Ref is ZC25/00661/FUL.
 - The development proposed is the conversion of vacant/redundant outbuildings to 1no. holiday cottage including external alterations and associated hardstanding.
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Decision

1. The appeal is dismissed.

Applications for costs

2. Prior to the Hearing, an application for costs was made by Mr Justin Claybourn against North Yorkshire Council (NYC). This application is the subject of a separate decision.

Preliminary Matters

3. In November 2023, all designated Areas of Outstanding Natural Beauty (AONB's) in England and Wales became 'National Landscapes' (NL). Decision makers performing functions that affect land in NL must 'seek to further' the purposes for which these areas are designated¹. The primary purpose of the Nidderdale National Landscape (NNL) is to conserve and enhance the natural beauty². I have referred to the NNL throughout my decision.
4. The appellant submitted 2 pieces of late evidence prior to the Hearing on the 21 and 30 January 2026, providing a rebuttal to comments made by the Henry Jenkins Community Pub (HJCP) group. The documents cover matters including but not limited to, ongoing discussions between the group and NYC regarding a possible compulsory purchase order (CPO) of the appeal site, the Council's approach to the marketing and change of use of the Kirkby Malzeard Methodist Church, and a rebuttal of various events and circumstances. At the Hearing the parties were given the opportunity to consider the late evidence and no objections were raised. As the information was relevant to the main issue to be discussed, it was accepted and has been taken into account in my decision. I am satisfied that no party has been prejudiced.

¹ Section 11A(2) of the National Parks and Access to the Countryside Act 1949 and section 85 of the Countryside and Rights of Way Act 2000 (as amended by section 245 of the Levelling Up and Regeneration Act 2023)

² As explained at by the Council during the Hearing.

Main Issue

5. Having regard to the written evidence and the discussions at the Hearing, the main issue is whether the proposed development would prejudice the ability of the Henry Jenkins to operate viably as a public house, and if not, whether there is a reasonable prospect of securing a satisfactory alternative community use.

Reasons

6. The Henry Jenkins Inn previously comprised a main 2-storey building fronting Main Street, with a series of attached single-storey outbuildings forming a perpendicular range to the rear. It closed in 2011 and the site including a rear car park was purchased in 2012 by the current owner for £150,000 plus VAT³. It has remained vacant since then. The eastern 2-storey 'annexe' was sold to the appellant and planning permission for its conversion into one dwelling was obtained on appeal in 2020⁴. It is not for me to determine whether that permission remains extant. However, the appellant confirmed at the Hearing that it is not available for sale to the HJCP. The remaining Inn, therefore relates to the western 2-storey section of the Inn and the range of outbuildings to the rear. An appeal for its conversion to a dwelling was dismissed in 2023⁵.
7. The appeal site comprises the most southerly outbuildings of the Inn, which are mainly constructed from natural stone with a pantile roof. Their proposed conversion to one holiday-let would therefore result in a further reduction to the size of the remaining Inn.
8. The National Planning Policy Framework (the Framework) places strong emphasis on creating healthy, inclusive and safe places, requiring planning policies and decisions to plan positively for the provision and use of community facilities. It also guards 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. There are other facilities within Kirkby Malzeard that help to meet the community's needs including a shop, a butcher, garage, primary school and the Queens Head Public House. The evidence also indicates that the Mechanics Institute has a license to sell alcohol. Nonetheless the re-opening of the Henry Jenkins Inn would provide additional choice for residents and visitors to the NNL.
9. Policy HP8 of the Harrogate Local Plan (HLP) 2020, is consistent with the Framework in seeking to protect and enhance community facilities, including public houses. Proposals for development that involve the loss of land or premises currently or last in community use can be permitted only where one of 3 criteria is demonstrated. The appellant disputes the relevance of this policy to the appeal site, arguing that the outbuildings are not and have never been, a community facility or an otherwise functional part of the pub before it closed.
10. In the 2023 appeal, the Inspector considered the Henry Jenkins Inn to comprise the 2-storey front section and rear single storey projections together with the rear car park which extends to Back Lane. The appellant has given the first line of the appeal site's address on the planning application form as 'the former Henry Jenkin Inn (part),' which indicates acceptance that the appeal site forms part of the Inn. The outbuildings were also included within the land parcel purchased by the

³ As evidenced in the land registry extract provided by the HJCP.

⁴ Appeal decision reference APP/E2734/W/19/3240780 for the conversion of part of public house and flat to create 1 no. dwelling.

⁵ Appeal reference APP/E2734/W/22/3306214.

current owner, described on the land registry documents⁶ as the 'Henry Jenkins Inn'.

11. The statutory declaration from a former owner of the Inn provided by the HJCP, confirms that the outbuildings were used as a bottle store, as shown on the accompanying annotated plan. A photograph supplied by the HJCP said to be from circa 2012, shows that these outbuildings were contained within a fenced off area that extended the majority of the depth of the rear plot. To the front of the outbuildings, a fuel tank is evident⁷.
12. During my visit I observed that the outbuildings, although in a cluttered condition internally, contained items including outdoor furniture, paint, remnants of the previous fence and a small amount of glassware stacked on storage shelves. This glassware corresponded to that observed within the main pub building. The outbuildings were accessible via pedestrian doors and were of a height internally that allowed practical use. Moreover, at the Hearing the HJCP described the land to the south of the outbuildings as forming a BBQ area used by patrons of the Inn. I observed a structure resembling a BBQ in that location, with the adjacent land forming a paved patio. It would be illogical to conclude that this area of land was used as part of the public house while the intervening buildings were not.
13. Whilst the outbuildings may lack a direct physical linkage into the main pub and do not appear to have been used for eating, drinking or playing games, taken together, the evidence indicates that the outbuildings are likely to have formed part of the public house planning unit and were most likely used for ancillary purposes, namely that of storage.
14. With the exception of observations about openings consistent with a former piggery in the centre building, the appellant has provided no compelling evidence of any other lawful use. As there is no suggestion that the public house use has been abandoned, given the ongoing discussions between the owner and the HJCP to buy the property, it follows that the corresponding ancillary use of the outbuildings has also not been abandoned.
15. For these reasons, I am satisfied that the appeal site constitutes part of the Henry Jenkins Inn and it therefore forms part and parcel of a community use. As the proposal would result in the loss of part of such a use, I am satisfied that Policy HP8 of the HLP applies. The key question is whether the proposal would comply with the requirements of criterion C. This states that the loss of land or premises currently or last in community use will be permitted only where it can be *clearly demonstrated* that there is no reasonable prospect of the existing use continuing on a viable basis, with all options for continuance having been fully explored and thereafter, there is no reasonable prospect of securing a viable satisfactory alternative use. The policy does not limit its application to cases involving total loss. Its wording applies to the loss of land or premises currently or last in community use, and read in the ordinary sense, this relates to any loss.
16. The supporting text to Policy HP8 explains that to consider proposals under criterion C, applicants will be required to provide marketing evidence showing that reasonable attempts have been made to actively market the land or premises for sale or lease by an appropriate agent, at existing use value for at least 12

⁶ As supplied in the HJCP's response to the appeal notification entitled 'HJCP critique of Appellant's submission.'

⁷ As contained within the HJCP's Critique of Appellant's Submission Document.

consecutive months, prior to the application being made. It goes on to specify that the asking price should be pre-agreed in writing with the Council following an *independent valuation by a RICS certified valuer with expertise in the licensed leisure sector who is not engaged to market the property* [my emphasis]. I will come back to this matter later in my decision.

Prospect of the existing use continuing on a viable basis

17. The appeal buildings form only a small part of the remaining Inn and account for a limited amount of floorspace. In considering a previous planning application⁸ for the conversion of the outbuildings to a holiday-let, the planning officer reached the view that the loss of this space alone would be unlikely to render the public house unviable. The Council position has since changed, relying on the Planning Committee's refusal of the previous scheme following a public meeting. The Inspector in the 2020 appeal also accepted that the Inn could operate without a dedicated car park. That conclusion remains relevant. However, the central question in this appeal is whether removing the appeal site would materially diminish the ability of the remaining building to operate viably as a public house. While size is relevant, so too are the siting and functional role of the outbuildings in relation to the Inn.
18. The Planning Committee⁹, the HJCP and interested parties have raised concerns that the use of the land for a holiday-let would, in practical terms, remove the opportunity for external facilities commonly associated with rural pubs. The HJCP also stated that it would restrict the flexibility to accommodate ancillary uses as part of a community pub operation. Although no business plan or drawings of the HJCP's proposals have been submitted, the group explained that its model for a community pub relies on making full use of all remaining land and space to make the scheme economically workable. Reference was made at the Hearing to proposals for residential accommodation, potentially affordable housing, and alfresco dining within the retained rear area.
19. The need for multiple facets to revenue streams is supported by the findings of the MJD Hughes Market Appraisal Valuation (MJD Valuation) which states that, '*to use the property at its maximum potential there will need to be other commercial enterprises involved in the operation that will provide a benefit to the community and allow the Henry Jenkins to operate to the maximum hours per week.*' This comment was made in respect of the larger Henry Jenkins Inn inclusive of the eastern annexe. However, there is no persuasive reason why the same principle would not apply to what remains of the Inn.
20. The conversion of the outbuildings to a holiday-let would effectively landlock the remaining Henry Jenkins Inn with land in the appellant's control. There would be no practical opportunity for staff, customers or deliveries to access the rear from Back Lane. I share the HJCP's concern that compliance with fire safety requirements may be difficult if access is limited to the front of the building, notwithstanding a small retained rear parcel of land.
21. The Inn would still require secure temporary storage for glass waste, food waste and other refuse. Rural pubs also rely on a wide range of deliveries beyond barrelled beer, including food, soft drinks and cleaning supplies. It is unclear how

⁸ Planning application reference ZC23/03121/FUL.

⁹ In its determination of planning application ZC23/03121/FUL.

realistic it would be for delivery vehicles or waste collection to operate solely from the main entrance when customers might be present. In addition, it is uncertain whether a new fuel tank would be required for heating, and if so, where it could sensibly be located.

22. Without the appeal outbuildings and their associated land, the Inn would be left with very limited external space. That which would remain, is understood to be the beer garden for the Inn and so any re-purposing for waste or storage would directly inhibit the provision of outdoor seating, a likely important revenue source especially in a rural NL location. Although noting the access issues, retaining the outbuildings and its associated land would enable the possibility of direct access onto Back Lane if required for operational reasons, whether or not this has ever been the case historically.
23. The evidence suggests that the appeal site contains the only land contiguous with the retained Inn capable of accommodating external storage, plant, or modest operational functions that often support rural public houses. Given the uncertainty created by fragmented ownership of the wider site, the realistic prospect of reopening the Inn appears to depend, in the absence of compelling evidence to the contrary, on retaining these outbuildings and the land attached to them. Taken together, I am not satisfied that it has been demonstrated that the Inn could viably operate as a public house without the land comprising the appeal site.

Marketing and Valuation

24. Policy HP8 requires that all reasonable options for the continuation of the public house use should be fully explored before its loss can be justified. The appellant contends that the Inn would not be lost but that a smaller version would remain. The 2023 appeal decision concerning the Inn¹⁰, concluded that it was not possible to discount a reasonable prospect of a viable community pub within the remaining part of the building. In doing so, it highlighted the absence of an independent valuation, an essential requirement of the policy's supporting text, and found that this had prevented meaningful negotiation. That conclusion carries significant weight. The key question under Policy HP8 remains whether the prospect of a viable community pub can reasonably be ruled out.
25. The appellant has not provided any documentary evidence such as sales particulars, advertising records or details of the offers received and the reasons for their rejection. I have some sympathy with the owner that marketing information was never requested during the application process. It is unclear as to why the Council did not request it, given its submissions that the outbuildings could be considered to be part of the former pub¹¹, and that Policy HP8 is considered applicable to the appeal site. Nonetheless, the appellant was aware of the Inspector's findings in the 2023 appeal and as a willing seller, could have obtained an independent valuation at that point to move things forward.
26. At the Hearing the owner stated that the Henry Jenkins Inn has been marketed for sale and lease since his purchase, via Facebook and an advertising board on the premises itself. This appears to be an unconventional and comparatively informal method of marketing. I was advised that the Inn is available to purchase for

¹⁰ Appeal decision APP/E2734/W/22/3306214.

¹¹ As stated in paragraph 10.6 of the officer report for planning application ZC23/03121/FUL and on page 7 of the officer report for planning application ZC25/00661/FUL.

£250,000 which the owner confirmed to be the open market value and the price that it has always been available at. I do not doubt the owner's experience in buying and selling pubs or that he is well-connected in the trade. However, unlike the previous Inspectors, due to the lack of documentary evidence, I am unable to conclude that the suggested marketing efforts have been sufficiently robust to make the property widely known to potential purchasers, particularly since the 2023 appeal.

27. In any event, the supporting text to Policy HP8 is explicit that the property should be marketed following an *independent* valuation [my emphasis] and be pre-agreed with the Council. Whilst not doubting the owner's expertise or credibility, his valuation cannot be said to be independent. Moreover, the policy requires a valuation at existing use value, not open market value. Whilst I understand that the owner would not want to make a loss on their purchase, that is sometimes an inherent outcome in buying and selling property depending on the market at the time.
28. The owner has raised concerns that the HJCP does not have the money in the bank to fund the purchase of the building, noting that grant funding from the Community Ownership Fund (COF) was not drawn down and there is no current grant support in place. The last offer to purchase the Inn is understood to have been made in February 2024 and there has been no meaningful contact from the group in the interim. The HJCP was candid in discussions at the Hearing that it has no grant funding in place and there is no clear funding prospect currently being pursued, given the funding vacuum created by the Government's closure of the COF.
29. The appellant has shown that there are no active discussions with NYC senior officers about a possible compulsory purchase of the Inn, nor is there current mediation between the owner and the HJCP. Relations between the owner and HJCP appear to have broken down and negotiations have reached a stalemate. Whilst the HJCP referred to confidential discussions taking place with NYC representatives, there is no documentary evidence before me to indicate who these have been with, or what the resultant outcome might be.
30. However, the evidence demonstrates a long-standing interest by the HJCP in purchasing and restoring the Inn, although progress has fluctuated and plans have changed over time in a bid to reach a deal and secure funding. It has evidenced that it has made several attempts to buy the Henry Jenkins as a whole or in part, over a number of years, and that it did secure a funding offer from the COF based on its business plan. Despite relinquishing that offer when the conditions could not be met, it remains a willing buyer with around £146,000 in the bank, raised through increased share pledges secured since 2023. This continued fundraising supports the group's commitment to reopening the Inn.
31. I am aware that public money from grant funding cannot exceed the value of the asset to be bought. The HJCP explained that such funding typically requires an approved valuation and a clear project timetable for completion. Without a valuation and costed renovation plan, further pledges may be hard to secure, as community investors need clarity on how and when their contributions would be used. It seems to me that without an independent valuation of the existing use of the Inn and/or an acceptance of an offer, the HJCP is stuck in a chicken and egg situation regarding its potential purchase. As it does not know the true value of the

Inn it cannot demonstrate how much money is required, whether it can secure public funding and therefore whether it is in a position to proceed with a purchase as requested by the owner.

32. My attention has been drawn to the MJD Valuation carried out on behalf of the HJCP in 2017. This valued the Inn along with the eastern annexe and rear car park at £180,000. Although internal inspection was not possible, it noted the poor condition of the building and the significant works required to make it tradeable. This is the only evidence-based valuation before me.
33. The stripping out of internal fittings in 2015 does not reflect the actions of a landlord or seller seeking continuation of a pub use, and it is likely to have deterred prospective occupiers. During my site visit I was also able to view the significant hole in the roof which has led to a section of the first-floor ceiling to collapse, with further repercussions for the ground floor ceiling. There do not appear to have been any attempts to repair the roof or make the building watertight. It is now likely to require significant investment to restore it and bring it back into use.
34. Against this background, it is unclear why the current asking price significantly exceeds both the 2012 purchase price and the 2017 valuation, when it is for a smaller portion of the building and in a significantly deteriorated condition. Neither has it been disclosed how much the owner is seeking from the appellant for the purchase of the appeal site and therefore, how much this would reduce the asking price for the remaining Inn. I cannot be certain on the evidence presented that the owner's valuation is realistic.
35. The owner suggests that the lack of an independent valuation was not a concern for the Inspector in the 2020 appeal and I note the reasons for her position. However, I cannot ignore the length of time that Policy HP8 has been adopted, nor the clear finding in the intervening 2023 appeal, that the policy requirements in respect of criterion C of Policy HP8 were not met due to the absence of an independent valuation¹². It seems to me that the circumstances have not changed or moved on significantly since that time, to warrant me reaching a different view.
36. I appreciate that the marketing of a building cannot go on indefinitely. The Inn is no longer an Asset of Community Value and the owner does not have to sell to the HJCP. However, even if the marketing to date could be considered acceptable, the purchase price remains critical to assessing whether there is a reasonable prospect of a community pub operating viably in the Inn. Only an independent valuation of the existing use of the Inn, irrespective of ownership divisions, would enable the HJCP to demonstrate funding prospects with any certainty. Without this, the group cannot reliably evidence that it is a credible purchaser. In the absence of the requirements of Policy HP8 being met, it has not been demonstrated that there is no reasonable prospect of the existing community use continuing on a viable basis.
37. I am mindful that there remain a sizeable number of objections to the current proposal which also advocate support for the re-opening of the Henry Jenkins as a community pub. There is therefore evidence before me that the Inn would be valued by local residents and no doubt also visitors to the NNL in the future, if reopened.

¹² Paragraph 40 of appeal decision APP/E2734/W/22/3306214.

Conclusion – Main Issue

38. I find that the proposed development would prejudice the ability of the Henry Jenkins Inn to operate viably as a public house. As that threshold is not met, it is unnecessary to consider alternative community uses in detail. For completeness, I note that the evidence indicates no substantiated interest from other groups beyond the HJCP, although this is inevitably constrained by the absence of marketing information. This does not however, displace the need for clear and robust evidence that the existing community use has no reasonable prospect of continuing.
39. It has not been demonstrated that there is no reasonable prospect of the public house use continuing on a viable basis, and the loss of the appeal site would diminish the potential for the property to function as a community facility in the future. For these reasons, the proposal conflicts with Policy HP8 of the HLP as set out above. It would also conflict with the objectives of the Framework to guard against the unnecessary loss of valued facilities and services.

Other Matters

40. Reference is made to a planning permission that was recently granted for the conversion of the Kirkby Malzeard Methodist Chapel to a dwelling¹³. Consistency in decision making is important. However, based on the information presented to me, in that case the Council was provided with an up-to-date marketing report from an independent source. There is no evidence that there was a community group interested in taking it on. The circumstances do not therefore appear the same.
41. The proposal relates to the conversion of existing buildings within the NNL. The Council suggests that the proposed alterations would not be harmful to the character and appearance of the host building or the wider area. While this does not overcome the failure to demonstrate a reasonable prospect of a viable community pub, I am satisfied that the proposal would conserve and enhance the scenic beauty of the NL through the retention and re-use of an existing building.
42. The proposal would deliver a holiday-let in an accessible location through the conversion of existing buildings. However, the economic benefits would be limited given the small-scale nature of the proposal and would be at the expense of a potentially viable public house.

Conclusion

43. I have found conflict with the development plan arising from the loss of land and buildings in community use. There are no considerations of sufficient weight to outweigh this conflict. Accordingly, the appeal should be dismissed.

M Clowes

INSPECTOR

¹³ Planning application reference 25/02568/FUL as set out on the officer report contained within the appellant's response to schedule or representations by the HJCP Ltd received by email dated 21 January 2026.

APPEARANCES

FOR THE APPELLANT:

Mr Simon Randle	Counsel
Mrs Jennifer Hubbard	Planning Consultant
Mr Justin Claybourn	Appellant
Mr David Fielder	Owner

FOR THE LOCAL PLANNING AUTHORITY:

Mr Stuart Mills	Development Management Team Manager
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INTERESTED PARTIES:

Mr Richard Sadler	Chair of the Henry Jenkins Community Pub Ltd
Mr Andrew Taylor	Treasurer of the Henry Jenkins Community Pub Ltd
Mr David Robinson	Henry Jenkins Community Pub Ltd
Mr Mark Owen	Henry Jenkins Community Pub Ltd.