

**North Yorkshire Council**

**Community Development Services**

**Thirsk and Malton Constituency Area Planning Committee**

**18 JANUARY 2024**

**ZE23/06139/FUL - APPLICATION FOR THE CHANGE OF USE OF THE COTTAGE AT THE PUBLIC HOUSE FROM MANAGERS/OWNERS ACCOMMODATION TO FORM A COMPLETELY SEPARATE THREE-BEDROOM DWELLING INDEPENDENT OF THE PUBLIC HOUSE WITH ITS OWN PARKING AND AMENITY AREA ON LAND AT THE BLACKSMITHS ARMS PH MAIN STREET FLAXTON ON BEHALF OF MRS CLAIRE DOCWRA**

**Report of the Assistant Director Planning – Community Development Services**

**1.0 Purpose of the Report**

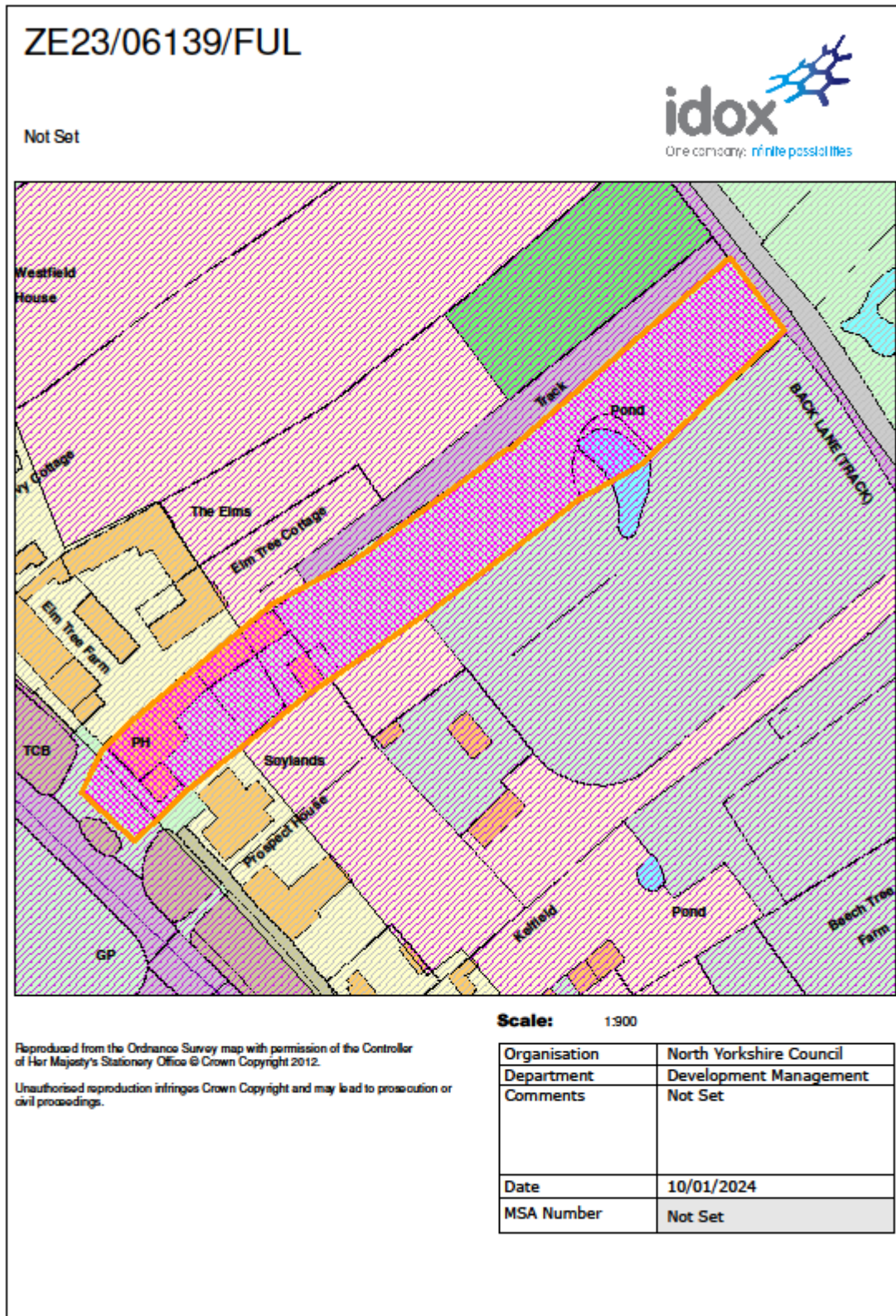
- 1.1 To determine a planning application for the change of use of The Cottage at the public house from managers/owners accommodation to form a completely separate three-bedroom dwelling independent of the public house with its own parking and amenity area on land at Blacksmiths Arms PH, Main Street, Flaxton.
- 1.2 The application is reported to the Area Planning Committee for determination because it is considered that significant planning issues have been raised.

**2.0 EXECUTIVE SUMMARY**

**RECOMMENDATION: That planning permission be GRANTED subject to the conditions listed below.**

- 2.1. The proposed development comprises the change of use of The Cottage at the public house from managers/owners accommodation to form a completely separate three-bedroom dwelling independent of the public house with its own parking and amenity area.
- 2.2. The application site relates to the public house and associated 3 bed cottage which are located centrally within the village of Flaxton. The public house and the majority of the adjoining cottage are within village Development Limits which dissect the north-eastern part of the cottage. The application site is also wholly within the village Conservation Area. The Blacksmiths Arms is registered as an Asset of Community Value.
- 2.3. The existing lawful use of The Cottage is a residential annex to the public house. The proposed separation would relate to both ownership and occupation and if change of use is granted the existing accommodation would form a single independent dwelling unit which could be owned/occupied by an individual who is not associated with the public house.
- 2.4. Policy SP2 of the Ryedale Plan- Local Plan Strategy (2013) supports the conversion of buildings (previously developed land and buildings) to residential use (Use Class C3) subject to being restricted to Local Needs Occupancy. The proposed change of use is considered to be acceptable in principle.

- 2.5. The main issues through the course of the application have been the impact on the viability of the public house, impact on residential amenity and access and highway safety. It is considered that these matters have been adequately addressed.



### **3.0 Preliminary Matters**

- 3.1. Access to the case file on Public Access can be found here:-

<https://planningregister.ryedale.gov.uk/caonline-applications/simpleSearchResults.do?action=firstPage>

- 3.2. The following relevant planning history has been identified for the application site:

16/00963/73A- Removal of Condition 06 of approval 05/00653/FUL dated 01.08.2005 to allow the property to be sold or let off separately from the Public House known as the Blacksmiths Arms, Flaxton. REFUSED 21.07.2016. Appeal dismissed.

14/01017/FUL- Erection of single storey extension to south-east elevation to form entrance lobby together with extension and change of use of existing detached garage to form a 1 bedroom holiday let, housing for biomass boiler and fuel/general storage areas. APPROVED 18.11.2014. Lawfully commenced. Condition 2 of the permission states:-

*"The holiday let hereby approved shall remain in the same ownership as the property currently know [sic] as 'The Blacksmith Arms Public House'.*

*Reason: In the interests of neighbouring occupiers and to satisfy the requirements of Policy SP20 of the Ryedale Plan - Local Plan Strategy".*

05/00653/FUL- Change of use, alteration and extension of holiday letting units to form a self-contained residential annex for use as staff accommodation APPROVED 01.08.2005. Condition 6 of the permission states:-

*"The residential annex hereby permitted shall only be used as an annex to the main property known as the Blacksmiths Arms, Flaxton, and the accommodation provided shall only be used by employees of the public house currently known as the Blacksmiths Arms, Flaxton. The property shall at no time be sold or let off separately from that Public House.*

*Reason:- The location of the building to the rear of the public house will not provide a satisfactory level of independent residential amenity, and the proposal would not meet the requirements of Policy H7 of the Ryedale Local Plan".*

97/00858/FUL- Change of use alteration and extension of outbuildings to form three dwellings and erection of detached double garage. APPROVED 26.01.1998.

### **4.0 Site and Surroundings**

- 4.1. The application site relates to the public house and associated 3 bed cottage which are located centrally within the village of Flaxton. The public house fronts the highway and the building forms parts of the relatively continuous linear development along the eastern side of the main road. The public house and the majority of the adjoining cottage are within village Development Limits which dissect the north-eastern part of the cottage. The site is also wholly within the village Conservation Area. The Blacksmiths Arms is registered as an Asset of Community Value.
- 4.2. The Blacksmiths Arms has a white-washed frontage which contrasts with the brickwork of flanking residential properties and the detached building is clearly distinguishable as the 'village pub' within the streetscene. A two storey, pitched roof, brick built range

extends off the rear elevation of the public house with a small single storey, flat roof extension within the rear service yard.

- 4.3. The two storey, brick built cottage connects to the rear of the public house running on an approximate southwest/northeast axis parallel to the site boundary. The cottage appears as an extension to the two storey range which serves the public house and is slightly stepped down and inset from the adjoining building. The north-west elevation of the public house and cottage is dominated by brickwork to two storey height with relatively few window openings. In contrast the front (south-east) elevation of the cottage exhibits a domestic fenestration. The cottage benefits from a single storey lean-to extension off part of the south-east elevation and a detached double garage also to the front side of the cottage (see planning history in paragraph 3.2 of this report). The gardens associated with the cottage extend to the north-east. The south-east boundary comprises a recently constructed c.1.8 metre high brick wall to the front of the cottage which lowers to c.1.5 metres to the side of the public house. The boundary between the rear yard of the public house and the space to the front of the cottage is currently delineated by the side wall of the single storey lean-to extension and timber fence panels and double gates.
- 4.4. Access to the public house and associated cottage is gained off Main Street to the south-west. Formal parking for patrons is delineated on the hardstanding (5 spaces) to the front (south-west) elevation of the public house which falls within common land. There is a shared vehicular access to the south-east side of the public house for use by staff and the occupant of the cottage.
- 4.5. The grass highway verges to the front of the site are designated as Visually Important Undeveloped Areas (VIUA). The open grassland beyond the main road forms the village green which is also locally designated as a VIUA.
- 4.6. The detached bungalow 'Soylands' stands to the south-east of the public house. Immediately to the north-west of the public house stands the Grade II listed residential property of Elm Tree Farmhouse and antiques shop which stands on the frontage facing the village green. To the rear is Elm Tree Cottage which stands parallel to the rear of Blacksmiths Cottage.
- 4.7. The public house and adjoining cottage/manager's accommodation has been under the applicant's ownership since 2012. The pub/restaurant has been closed since August 2021 and has most recently been used for B&B purposes but retains all necessary fixtures and fittings to operate as a pub/restaurant with letting rooms above.

## **5.0 Description of Proposal**

- 5.1. Change of use of The Cottage at the public house from managers/owners accommodation to form a completely separate three-bedroom dwelling independent of the public house with its own parking and amenity area.
- 5.2. The application states that the public house will not reopen in its current configuration with the use and ownership of the cottage being tied to the public house. The applicant's supporting statement explains that the business and properties have been

previously valued by estate agents who are of the opinion that a sale is unlikely in its present configuration as it is non-mortgageable with the burden of the cottage.

- 5.3. The applicant states that *"The best hope for the pub to return to being a hub of the local community is to give it the best chance of securing a sale"* and the proposed separation of the cottage from the public house would allow this to happen.
- 5.4. The application is accompanied by a supporting letter from Barry Crux (Chartered Surveyor) and a Viability Assessment report produced by MJD Hughes Ltd. The applicant states that the viability information *"shows clearly that the pub is sustainable as a separate entity and the cottage is not required to return the pub to its previous trading success"*.
- 5.5. There would be no change to the existing floor plans of the two storey cottage which comprises a three bed property. There would be no change to the existing dimensions of The Cottage and there are no external alterations to the building required to facilitate the change of use. The gardens associated with The Cottage which extend to the north-east of the buildings would be unaffected.
- 5.6. The Cottage would continue to be accessed via the shared vehicular access to the south-east side of the public house. The parking provision for The Cottage is beyond the gated entrance and comprises 2no. spaces within the detached garage plus 3no. spaces to the side (south-east) of the cottage.
- 5.7. The floor plans indicate that the ground floor and first floor of the public house would be unchanged with the exception of part of the kitchen/staff area at ground floor being used as a domestic kitchen for the occupants/operators of the public house.
- 5.8. At ground floor the public house would continue to comprise an 'L- shaped' lounge area; bar; dining room; cellar; male and female WCs all accessed from the front entrance to the public house and commercial kitchen and food preparation area to the rear of the building. At first floor the pub would continue to offer 4no. ensuite rooms which are labelled on the floor plans as 'Kirkham'; 'Byland'; 'Fountains' and 'Rievaulx' with the latter also benefitting from a separate sitting room.
- 5.9. It is indicated that the largest bedroom ('Rievaulx' room) together with the associated first floor bathroom; sitting room and ground floor kitchen/dining room could comprise the manager/operator's private living accommodation which extends to approximately 68m<sup>2</sup> of floor space. It is apparent that the 'Rievaulx' room is of a size which could be subdivided with partition walls if required.
- 5.10. The parking provision for the public house would comprise 5no. spaces to the front of the public house for customers and 4no. spaces within the rear yard for the owners/operators staff and letting room occupants.
- 5.11. The boundary between the rear yard of the public house and the space to the front of the cottage is currently delineated by the side wall of the single storey lean-to extension and timber fence panels and double gates. It is proposed that the boundary is enhanced

with the removal of the timber fence panels and the construction of c.5.5 metre length of wall in matching brickwork which would stand to a height of 2 metres.

## **6.0 Planning Policy and Guidance**

- 6.1. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that all planning authorities must determine each application under the Planning Acts in accordance with Development Plan so far as material to the application unless material considerations indicate otherwise.

### Adopted Development Plan

- 6.2. The Adopted Development Plan for this site is:

Ryedale Plan- Local Plan Strategy (2013)

Policy SP1 General Location of Development and Settlement Hierarchy

Policy SP2 Delivery and Distribution of New Housing

Policy SP4 Type and Mix of New Housing

Policy SP11 Community Facilities and Services

Policy SP12 Heritage

Policy SP16 Design

Policy SP19 Presumption in Favour of Sustainable Development

Policy SP20 Generic Development Management Issues

Policy SP21 Occupancy Restrictions

### Emerging Development Plan – Material Consideration

- 6.3. The North Yorkshire Local Plan is the emerging development plan for this site though no weight can be applied in respect of this document at the current time as it is at an early stage of preparation.

### Guidance - Material Considerations

- 6.4. Relevant guidance for this application is:
- National Planning Policy Framework 2023
  - National Planning Practice Guidance

## **7.0 Consultation Responses**

- 7.1. The following consultation responses have been received and have been summarised below. Full comments are available to view on the Council's website.

### Initial consultation

- 7.2. **Flaxton Parish Council** strongly in favour of securing a working public house for the village. The Village Plan confirmed a strong demand for a community facility offering

drinks, food, and a café. The Asset of Community Value (ACV) listing applies to the entire public house and owner's accommodation.

There are several aspects of the application on which the Parish Council require further clarification:

1. What are the specific measures that the applicant is proposing to implement to overcome the noise concerns raised in the earlier refusal of 16/00963/73A?
2. How will car parking spaces be allocated between the owner's accommodation and the public house and how many will be retained for the use of public house customers?
3. We are not confident in the method or data used to conclude that the public house would be viable as a stand-alone entity under new ownership.
4. The statements/assessments from Barry Crux and MJD Hughes Ltd are from 2022 and are out of date and do not reflect the current economic climate.

7.3. **Highways North Yorkshire** initially requested further information on the car parking provision- details the layout and position of the 14 spaces as existing and proposed.

7.4. **Environmental Health** No response received

*Re-consultation (revised plan showing parking provision for pub and dwelling)*

7.5. **Highways North Yorkshire** recommend condition to ensure parking and turning areas are created and maintained clear of any obstruction and retained for their intended purpose at all times.

#### Local Representations

7.6. The LPA has received 3 representations from local members of the public which all support the application. A summary of the comments is provided below, however, please see the Council's website for full comments.

- Desire to see the pub reopen which would be very popular
- Borrowing would be difficult for the purchase of the dwelling and pub with interest rates high plus business rates
- If it remains as one (dwelling and pub) there is certainly going to be no reopening of the venue in the near future
- If the pub were split then it would be more affordable proposition and more in reach of those wanting to buy it and run it
- It is a good idea to disconnect the Cottage property associated with the Public House to enable the separate Pub price for sale or rent to be attractive for potential purchasers or tenant landlords.
- The site is big enough to be split and access to the cottage behind ok.
- There are certain aspects of parking and external amenities to be addressed
- This application will have no detrimental effects on the way the Public house can function as a business

- There is adequate public parking to the front of the property where all patrons have parked for years, the garden was not used as a public space and customer used seating on the pub frontage as a preferable outside space.
- The accompanying reports show viable figures for both dry and wet sales and whilst at present the industry has not fully bounced back since the pandemic there are strong indications that where a desire and a drive exist to succeed it is entirely possible.
- There is certainly opportunity there for the right person with the right motivation, appetite and approach. As a free house there is no tie into scope of the offering and as such the village could benefit from a more enhanced facility which we currently lack.

## **8.0 Environment Impact Assessment (EIA)**

- 8.1. The development proposed does not fall within Schedule 1 or 2 of the Environmental Impact Assessment Regulations 2017 (as amended). No Environment Statement is therefore required.

## **9.0 Main Issues**

- 9.1. The key considerations in the assessment of this application are:
- Principle of the development;
  - Impact on the viability of the public house;
  - Impact on residential amenity; and;
  - Access & highway safety.

## **10.0 ASSESSMENT**

### Principle of the Development

- 10.1. The proposal seeks to separate the property known as The Cottage (also referred to as 'Blacksmiths Cottage') from the Blacksmiths Arms Public House.
- 10.2. The existing lawful use of The Cottage is a residential annex to the public house. The separation would relate to both ownership and occupation and if change of use is granted the existing accommodation would form a single independent dwelling unit which could be owned/occupied by an individual who is not associated with the public house.
- 10.3. Policy SP2 supports the conversion of buildings (previously developed land and buildings) to residential use (Use Class C3) subject to being restricted to Local Needs Occupancy. The principle of the change of use is supported by policy but it should be noted that if permission is granted, in line with the requirements of Policy SP21(a), the standard local occupancy condition would be imposed. The applicant, who currently occupies the cottage, would comply with the occupancy restriction.



- 10.4. The proposed change of use is considered to be acceptable in principle and consistent with Policies SP2 and SP21 subject to consideration of the impacts in relation to the viability of the public house and residential amenity.

Impact on the viability of the public house

- 10.5. Paragraphs 88(d) and 97(a) of the NPPF (2023) and Policy SP11 of the Local Plan Strategy underline the importance of protecting existing community facilities which contribute towards the vitality of towns and villages and the well-being of local communities.
- 10.6. Policy SP11 of the RPLPS seeks to protect community facilities unless it can be demonstrated that: *“there is no longer a need for the facility or suitable and accessible alternatives exist, or that it is no longer economically viable to provide the facility, or Proposals involving replacement facilities provide an equivalent or greater benefit to the community and can be delivered with minimum disruption to provision”*.
- 10.7. The proposal does not seek to either redevelop or change the use of the existing public house but the proposed separation of the cottage has the potential to impact upon the viability of the public house and it is necessary for that impact to be considered.
- 10.8. There is local concern in relation to the future of the public house although it should be noted that any speculation about the future sale of the public house or any change to its current lawful use are not material to the application under consideration.
- 10.9. The Parish Council’s response to consultation sets out some concerns in relation to the proposal although the responses to the application from individual local residents have been positive and express hope that the proposal will enable a new owner/operator to re-open the village pub as a viable entity.
- 10.10. It is clear that the public house is valued by local residents and that is reflected by the representations received and the fact that the building is registered as an Asset of Community Value.
- 10.11. Prior to closure the public house traded with a traditional offer of wet sales and food sales with letting rooms at first floor. It is evident from recent inspection that the public house retains a commercial kitchen with necessary fittings and food preparation area; lounge/dining area with furniture; a bar with the necessary serving and washing equipment and a cellar capable of being returned to use.
- 10.12. The floor space available within the public house is unchanged although as a result of the proposed change of use it may be that a future owner/operator of the Public House occupies some of the accommodation currently in use as one of the four letting rooms. The supporting plans show that the public house would be capable of functioning with a bar; cellar; dining room; snug; commercial kitchen; WC’s; and domestic kitchen/dining room at ground floor and at first floor 4no. en-suite letting rooms. The largest of the four letting rooms is capable of functioning as private accommodation for the owner/operator in association with the bathroom, sitting room and domestic kitchen

available within the public house. There is no internal connection between the public house and the adjoining cottage.

- 10.13. The applicant has explained that it has previously been proven that the public house can operate independently as tenants have previously lived in the accommodation provided within the public house and operated the pub.
- 10.14. It is understood that the public house has not previously operated with a rear beer garden with a premises licence for the consumption of alcohol. The extensive gardens which extend to the north-east of the buildings are associated with the cottage and that will remain the case should the proposed change of use be permitted.
- 10.15. The application is supported by a viability assessment which examines the impact of the separation of the cottage from the public house.
- 10.16. The applicant's supporting statement explains that the business and properties have been previously valued by estate agents who are of the opinion that the sale is unlikely in its present configuration as it is non-mortgageable with the burden of the cottage.
- 10.17. It is clear that the cottage is substantial in size with generous gardens and a double garage and the accommodation is, arguably, disproportionate to the needs of the public house.
- 10.18. The supporting statement provided by Barry Crux on behalf of the applicant explains that the property as a whole is "*over-capitalised*" and "*this has the effect that the combined overall capital value of the site as a whole is significantly higher than if treated as a Public House with living accommodation*". The applicant has also explained that the running costs of the cottage is a further financial burden on the public house.
- 10.19. The viability assessment produced by MJD Hughes Ltd considers annual turnover, costs and profit margin and concludes that should the cottage be separated the public house can operate as a sustainable, stand-alone operation.
- 10.20. The assessment includes examples of how the public house could operate and provide a sustainable and viable business based on a sales mix primarily focused on the wet and food sales. It is shown that the public house could operate as a sustainable and profitable business with or without the operation of the associated letting rooms.
- 10.21. The statement from Barry Crux notes that it is anticipated that there will be good demand should the public house be put on the market as a conventional village inn with a history of good wet and food sales.
- 10.22. In light of the concerns raised by the Parish Council that the viability conclusions reached in 2022 are no longer up-to-date the applicant sought a further update to the previously completed viability assessments and a response from Barry Crux has reiterated the conclusions previously reached. Barry Crux summaries "*if the cottage can be split off from the pub with the latter having living accommodation over it, then it should be a viable proposition for an owner operator, either as a freehold purchase or*

*by way of a lease. It is the capital cost of the cottage being included which drags down the viability of the pub”.*

- 10.23. It is considered that the proposed change of use to separate The Cottage from the public house would not undermine the viability of the public house as a stand-alone entity. On the contrary the assessments completed by the applicant’s representative indicate that the public house would be a more viable proposition once separated from The Cottage and in light of this it is concluded that there is no conflict with Policy SP11 or the NPPF in respect of the protection of such community facilities.

#### Residential amenity

- 10.24. As required by Policy SP20 (Generic Development Management Issues) the development should respect the character of the area without having a material adverse impact on the amenity of present or future occupants, the users or occupants of neighbouring land and buildings or the wider community. Policy SP20 also requires that the proposed development is compatible with the existing ambience of the immediate locality and the surrounding area and with neighbouring land uses and would not prejudice the continued operation of existing neighbouring land uses.
- 10.25. Condition 6 of planning permission ref. 05/00653/FUL ties the cottage accommodation to the public house due to concern over the level of independent amenity which could be afforded to its occupants.
- 10.26. It is clear that the cottage benefits from extensive outdoor amenity space in the form of an outdoor seating area and gardens which extend to the north east of the dwelling. The cottage also retains the existing access to the side of the public house and is served by a generous parking and turning area and double garage to the front (south-east) of the cottage.
- 10.27. The proposed boundary treatment (2 metre high brick wall and gate) combined with the single storey, lean-to extension to the front of the cottage would provide a good degree of enclosure and screening from the rear of the public house and would result in an enhancement compared to existing arrangements.
- 10.28. The presence of the adjoining public house is not considered to be overbearing for occupants of the cottage. In terms of privacy the patio/outdoor seating area for the cottage is off the north-east end elevation and the extensive garden is beyond. The outdoor space is clearly separated and well screened from the public house by the cottage itself.
- 10.29. Overall, it is considered that the Cottage is served by a good level of private, outdoor amenity space and parking and refuse/recycling bin storage areas within its curtilage in line with the expectations of Policy SP4.
- 10.30. Paragraph 193 of the NPPF is also relevant. The policy states that *“Planning policies and decisions should ensure that new development can be integrated effectively with existing businesses and community facilities (such as places of worship, pubs, music venues and sports clubs). Existing businesses and facilities should not have*

*unreasonable restrictions placed on them as a result of development permitted after they were established. Where the operation of an existing business or community facility could have a significant adverse effect on new development (including changes of use) in its vicinity, the applicant (or 'agent of change') should be required to provide suitable mitigation before the development has been completed".*

- 10.31. In terms of any potential noise or odour nuisance there are no proposed changes to the existing commercial kitchen extraction/ventilation arrangements serving the public house.
- 10.32. The Cottage is no closer to the commercial kitchens of the public house than the more recently constructed Elm Tree Cottage to the north which has window openings serving habitable rooms at ground and first floor level in its south east elevation. It is also noted that the ground floor living/sitting room within Blacksmiths Cottage is the furthest room from the public house. As an additional level of protection should permission be granted a condition shall be imposed to ensure that any new or replacement mechanical extraction/ventilation systems associated with the commercial kitchens of the Public House are first agreed by the Local Planning Authority in consultation with the Environmental Health Officer.
- 10.33. The public house does not benefit from a 'beer garden' as such although outdoor seating has previously been provided immediate to the front (south-west) elevation of the pub furthest from the adjoining cottage. The Planning Inspector's concerns cited in the earlier appeal in relation to noise associated with the public house are noted, however, the rear service yard would not provide an outdoor area for customers as it is used for the parking of vehicles (secured by condition) and there is to be no public access to this area from the public house bar and restaurant areas which are accessed via the front door in the south-west elevation. In addition to the use of external areas the Planning Inspector was concerned about noise/music escaping from within the Public House when external doors are open. The application provides an opportunity to impose control over the public house in respect of noise disturbance and it is considered prudent to require by condition that the double doors in the north-east elevation of the dining room are closed during amplified music. In addition, a condition shall require that there shall be no amplification of music or vocals in any external areas associated with the Public House.
- 10.34. No physical alterations to either the Public House or the proposed dwelling are proposed as part of this application. In the interests of retaining acceptable levels of residential amenity a condition shall prohibit the creation of any additional windows in the building without the prior grant of permission.
- 10.35. The existing parking provision and arrangements are largely unchanged. Parking for customers of the pub and restaurant would remain available to the front (south-west) of the public house. The pub's rear yard area will be available as a parking and turning area for the owner/operator, staff, and occupants of the letting rooms. The existing boundary treatment separating the rear yard from the cottage is to be enhanced by the construction of a 2 metre high brick wall and it is not considered that the general comings and goings in this area, which can accommodate four vehicles, will have an

unacceptable adverse impact on the levels of amenity enjoyed by the occupants of the adjoining cottage.

- 10.36. No concerns have been raised by the Council's Environmental Health Officer in relation to any potential disturbance or nuisance issues.
- 10.37. The public house and cottage are not internally linked and do not share any internal areas. Within the public house the public and private areas are clearly defined across both the ground floor and first floor. There is existing signage on internal doors to indicate the extent of public access and that would continue to allow for private accommodation for the manager/operator and the occupants of the letting rooms. The domestic accommodation that would be available within the public house at ground and first floor level for a future owner/operator is adequate in terms of size and privacy and would provide a suitable level of amenity for future occupants.
- 10.38. The vehicular access to the side of the pub would be shared by the owners/operators of the public house and their staff and the occupants of the cottage. Parking for the owner/operator and staff would be within the rear yard of the public house which is separate from the outdoor areas associated with the cottage. It is not anticipated that the continued use of the existing shared access gives rise to any adverse amenity impacts.
- 10.39. With regard to neighbouring properties 'Soylands' bungalow is sideways on to the public house with principal windows serving habitable rooms in the front and rear elevations of the dwelling. The outdoor space nearest the rear of the bungalow is adjacent to the access and service yard/parking area to the rear of the pub. It is not anticipated that the proposal would result in unacceptable intensification of use of these areas (by individuals or vehicles) adjacent to the rear of 'Soylands' to harm existing levels of residential amenity enjoyed by the occupants.
- 10.40. Due to a combination of the position and orientation of the buildings and also the intervening boundary treatment the cottage does not have any direct views towards any habitable rooms within 'Soylands'. It is not anticipated that the proposal would give rise to any materially adverse impacts on living conditions currently experienced by occupants of 'Soylands'.
- 10.41. In light of the orientation of the buildings and the limited number of openings in the northern elevation of the public house and adjoining cottage those buildings effectively 'turn their back' on the residential properties immediately to the north (Elm Tree Farmhouse and Elm Tree Cottage).
- 10.42. There have been no comments or concerns raised by the occupants of any neighbouring residential properties.
- 10.43. It is considered that the public house and cottage are capable of functioning as two distinct and separate planning units. In conclusion, it is considered that the proposed change of use would not give rise to unacceptable living conditions for the future occupants of The Cottage. Furthermore, it is considered that the proposal is unlikely

to give rise to unacceptable levels of amenity for existing/future occupants of the public house or occupants of neighbouring properties.

#### Access & highway safety

- 10.44. Policy SP20 advises that *“Access to and movement within the site by vehicles, cycles and pedestrians would not have a detrimental impact on road safety, traffic movement or the safety of pedestrians and cyclists. Information will be required in terms of the positioning and treatment of accesses and circulation routes, including how these relate to surrounding footpaths and roads”*.
- 10.45. The established access arrangements are to be unchanged and the plans show the shared access on the southern side of the pub and cottage. The plans illustrate the parking available for staff and users of the public house and letting rooms with the public house benefitting from prescriptive rights over parking immediately to the front (south-west of the building) which falls within common land. There is also ample parking within the private curtilage of the adjoining cottage for the occupants.
- 10.46. There are no objections from the Local Highway Authority subject to a condition to ensure the parking and turning areas are retained unobstructed.
- 10.47. In light of this it is considered that the proposal would not result in individual or cumulative impacts that would have any significant adverse effect on highway safety in compliance with Policy SP20.

#### Other matters

- 10.48. The site is within the village Conservation Area. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special attention is paid in the exercise of planning functions to the desirability of preserving and enhancing the character and appearance of a Conservation Area. The proposed change of use would not have an impact upon the Conservation Area. The proposal involves building operations in the form of a replacement boundary wall and gates. The works are minimal and are to be undertaken using matching materials in a position set back towards the rear of the site. It is considered that there would be no harm the character and appearance of a Conservation Area in accordance with the NPPF and Policy SP12.
- 10.49. It is, however, considered prudent to include a condition to remove certain householder permitted development rights from the newly created dwelling in light of its location within the Conservation Area and on the edge of the village development limits.
- 10.50. It is to be noted that should permission be granted to separate the cottage from the public house and, at a future date, the applicant or any future owner of the cottage wishes to convert the detached garage to a holiday let allowed by extant planning permission ref. 14/01017/FUL then it would be necessary to first seek to vary condition number 2 of that planning permission (see planning history in paragraph 3.2 of this report).

## **11.0 PLANNING BALANCE AND CONCLUSION**

- 11.1 The proposed change of use is supported in principle by Policies SP2 and SP21 subject to the imposition of the local needs occupancy restriction.
- 11.2 With regard to the requirements of the NPPF and Policy SP11 it has been necessary to consider whether the separation of the cottage (annex accommodation) from the public house would undermine the viability of this public house which is locally valued as an important community facility.
- 11.3 The application includes evidence to show that the public house would be economically viable as a stand-alone unit following its separation from the adjacent cottage. The viability assessments produced by Barry Crux and MJD Hughes Ltd conclude that the separation of the cottage from the public house would not adversely affect the viability of the business and would make the sale of the public house more likely. These positive conclusions, when considered in the planning balance, weigh in favour of granting permission as no conflict with Policy SP11 is identified.
- 11.4 With regard to residential amenity it is clear that as a result of the layout; orientation of the buildings; arrangement of outdoor space; and boundary treatments the cottage benefits from a good sense of enclosure with a generous curtilage which is clearly separate from that which is associated with the public house.
- 11.5 The proposed conditions relating to the public house would suitably control the use of external areas, require the closure of doors during amplified music and require the construction of the proposed boundary wall. Cumulatively, it is considered that these measures address the Planning Inspector's concerns raised as part of the 2017 appeal and, in combination, would ensure a good standard of amenity can be achieved for the future occupants of the cottage without limiting the viable operation of the public house.
- 11.6 The proposal would give rise to any unacceptable highway safety conditions and would not result in any harm to the character and appearance of the village Conservation Area.
- 11.7 This application complies with the Development Plan and NPPF (2023), with no other material considerations indicating otherwise, the application is recommended for approval.

## **12.0 RECOMMENDATION**

- 12.1 That planning permission be **GRANTED** subject to the conditions listed below.

### **Recommended conditions:**

- 1 The development hereby permitted shall be begun within three years of the date of this permission.

Reason: To ensure compliance with Section 51 of the Planning and Compulsory Purchase Act 2004.

- 2 The development hereby permitted shall be carried out in accordance with the following approved plans:

Site Location Plan (Comino Doc Date: 08.01.2024)  
Public House Block Plan (Comino Doc Date: 08.01.2024)  
Dwelling Block Plan (Comino Doc Date: 09.11.2023)  
Proposed Floor Plans (included Proposed wall and gate elevation) ref. 3339/02, dated 09/2023

Reason: For the avoidance of doubt and in the interests of proper planning.

- 3 The dwelling hereby approved (referred to as 'The Cottage' or 'Blacksmiths Cottage') shall only be occupied by a person(s) together with his/her spouse and dependents, or a widow/widower of such a person, who:

- Have permanently resided in the parish or an adjoining parish (including those outside the District), for at least three years and are now in need of new accommodation, which cannot be met from the existing housing stock; or
- Do not live in the parish but have a long standing connection to the local community, including a previous period of residence of over three years but have moved away in the past three years, or service men and women returning to the parish after leaving military service; or
- Are taking up full-time permanent employment in an already established business which has been located within the parish, or adjoining parish, for at least the previous three years; or
- Have an essential need arising from age or infirmity to move to be near relatives who have been permanently resident within the District for at least the previous three years.

Reason: To satisfy the requirements of Policies SP2 and SP21 of the Ryedale Plan - Local Plan Strategy.

- 4 Prior to the commencement of the change of use hereby approved the proposed boundary treatment (brick wall and gate) as shown on the approved elevation drawing ref. 3339/02, dated 09/2023 shall be completed using materials first agreed in writing by the Local Planning Authority.

Reason: In the interests of visual and residential amenity in accordance with Policies SP16 and SP20.

- 5 The access, parking, manoeuvring and turning areas for all users at Blacksmiths Arms Public House Main Street, Flaxton as shown labelled 'Public House Parking Area' on the approved 'Proposed Floor Plans' drawing must be maintained clear of any obstruction and retained for their intended purpose at all times.

Reason: To provide for appropriate on-site vehicle facilities in the interests of highway safety and the general amenity of the development in compliance with Policy SP20.



- 6 Prior to the installation of any new or replacement exterior mechanical extraction/ventilation systems associated with the commercial kitchens of the Blacksmiths Arms Public House details of the system and location shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that the amenities of nearby residents are not unreasonably affected in compliance with Policy SP20.

- 7 The double doors in the north-east elevation of the public house (serving the room labelled 'public dining room' on the approved floor plans shall be closed during live or amplified music except when immediately required for emergency access.

Reason: In the interests of protecting the amenities of neighbouring occupiers and to satisfy the requirements of Policies SP16 and SP20.

- 8 There shall be no amplification of music or vocals in any external areas associated with the Public House known as The Blacksmith's Arms.

Reason: In the interests of protecting the amenities of neighbouring occupiers and to satisfy the requirements of Policies SP16 and SP20.

- 9 Notwithstanding the provisions of the Town & Country Planning (General Permitted Development) Order 2015, (or any Order revoking, re-enacting or amending that Order), no additional windows shall be formed in the buildings (public house and dwelling) without the prior written consent of the Local Planning Authority following a specific application in that respect.

Reason: In the interests of amenity and to ensure that the appearance of the buildings are not prejudiced by the introduction of unacceptable additions and in the interest of residential amenity in accordance with Policies SP16 and SP20.

- 10 Notwithstanding the provisions of Schedule 2, Part 1 of the Town & Country Planning (General Permitted Development) Order 2015 (or any Order revoking, re-enacting or amending that Order) development of the following classes shall not be undertaken other than as may be approved in writing by the Local Planning Authority following a specific application in that respect:

Classes A & AA: Enlargement, improvement or other alteration of a dwellinghouse  
 Class B: Additions etc to the roof of a dwellinghouse  
 Class C: Other alterations to the roof of a dwellinghouse  
 Class D: The erection or construction of a porch outside any external door of a dwellinghouse  
 Class E: Buildings etc incidental to the enjoyment of a dwellinghouse  
 Class F: Hard surfaces incidental to the enjoyment of a dwellinghouse

Reason: To ensure that the appearance of the areas is not prejudiced by the introduction of unacceptable materials and/or structure(s) in compliance with Policies SP12, SP16 and SP20.

**INFORMATIVES**

1. Any future owner/operator of the public house should be made aware of the requirements set out in conditions attached to this permission.
2. Any future owner/occupant of the dwelling hereby permitted should be aware of condition number 2 of planning permission ref. 14/01017/FUL and the extant restrictions on the garage to a holiday let conversion.

**Target Determination Date:** 04.01.2024

**Case Officer:** Alan Goforth, [alan.goforth@northyorks.gov.uk](mailto:alan.goforth@northyorks.gov.uk)