

1. Introduction

- 1.1 Under the provisions of the Council's current Scheme of Delegation the application has been referred to the Senior Planning Manager and the Chair of the Tynedale Local Area Council Planning Committee for consideration to be given as to whether the application should be referred to a Planning Committee for determination. This matter has been duly considered under these provisions and it has been confirmed that the application should be referred to the Committee for determination.

2. Description of the Proposals

- 2.1 Planning permission is sought for the conversion of the Railway Inn public house at Fourstones to one, six bedroom dwelling. The site covers some 0.135 hectares, comprising the building occupying the southern part of the site and the existing car park to the rear and northern part of the site, which would be used as amenity space for the dwelling and provide three car parking spaces which would be accessed using the existing entrance point into the car park. Additional amenity space would be provided at the front of the building.
- 2.2 The Railway Inn is a detached stone building with a number of flat roofed extensions to the rear and a large porch extension to the front. To the rear is a large area of allocated car parking. The pub is located to the south of, and between the B6319 and the railway line within the centre of the village of Fourstones. It is surrounded by existing residential development with the Grade II listed Station House located to the south/south-west of the site. The site and village of Fourstones is washed over by the Green Belt. The property is also registered as an Asset of Community Value.
- 2.3 A previous application for the same development was refused through delegated powers under planning application 17/01323/FUL for the following reason:

The evidence submitted to support the closure of The Railway Inn and its change of use to residential fails to adequately demonstrate that all options for its retention as a public house or as a community use for the residents of Newbrough has been explored. It is considered that based on the evidence provided that the viability of the premises for its use as a public house cannot be accurately assessed and so the application would not accord with Tynedale Core Strategy Policies GD1, CS1, Tynedale Local Plan Policy TM1 and the National Planning Policy Framework.

- 2.4 The new application has been submitted following the above refusal, and the applicant has sought to address the reasons for refusal through the submission of additional information comprising:
- Planning Statement
 - Viability Report
 - Design and Access Statement

3. Planning History

Reference Number: 17/01264/FUL

Description: Proposed conversion of Railway Inn Public House inc managers flat to 2 new dwellings

Status: Application returned

Reference Number: 17/01323/FUL

Description: Proposed conversion of Railway Inn Public House inc managers flat to 1 new dwelling

Status: Refused

Reference Number: T/91/E/894

Description: Approval of reserved matters - erection of a dwellinghouse (As amended by letter and plan received 12.12.91).

Status: Permitted

Reference Number: T/90/E/779

Description: Construction of single storey dwelling and garage.

Status: Permitted

Reference Number: T/20041192

Description: Listed Building Consent - Construction of single storey extension to rear and part attic conversion

Status: Withdrawn

Reference Number: T/20041191

Description: Construction of single storey extension to rear and part attic conversion

Status: Withdrawn

Reference Number: T/81/E/490

Description: Erection of a double sided illuminated Cavaliers Head/Exhibition Ales Projecting Sign, (as amended by letter dated 17th September, 1981 and attached plan).

Status: Permitted

Reference Number: T/79/E/336

Description: Extensions to provide domestic living accommodation, dining room and additional cellar space.

Status: Permitted

Reference Number: T/78/E/494

Description: Construction of storage cellar under car park.

Status: Permitted

Reference Number: T/77/E/396

Description: Construction of a car park.

Status: Permitted

Reference Number: T/74/E/621

Description: Erection of two porches.

Status: Permitted

Reference Number: T/20030883

Description: Construction of 2.4m high shaft head gear pulley

Status: Permitted

Reference Number: T/20021180

Description: Demolition of ladies toilet and entrance porch and construction of new ladies toilet, dining area extension, disabled persons toilet and entrance (as amended by plans J1-1385-03C & 05B)

Status: Permitted

Reference Number: T/990547

Description: Change of use from public house to dwellinghouse

Status: Refused

Reference Number: T/970804

Description: Construction of dwelling and detached garage

Status: Refused

Reference Number: T/970054

Description: Proposed alterations and extension

Status: Permitted

Reference Number: T/950805

Description: Proposed erection of 2 no. single storey extensions to provide additional toilet facilities

Status: Permitted

4. Consultee Responses

Warden Parish Council	Object to the change of use planning application in respect of the Railway Inn (Ref: 18/02349/FUL). The Parish Council observe that there have been absolutely no changes in circumstance since the last application in which the applicant's change of use request was rejected comprehensively by Northumberland County Council (NCC). The Railway Inn has been an important hub for community activities within Fourstones for over 150 years. The Parish Council believe that the Railway Inn has the continued potential to be a viable community hub for the village of Fourstones and the wider community. The Parish Council applied successfully for the
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Railway Inn to be registered by NCC as an Asset of Community Value at the end of 2015. The pub's ACV status has over 2 years to run and remains, in our view, entirely appropriate. The Parish Council believe that the application of local and national planning policies, designed to preserve the community value of pubs, particularly in the face of competing, narrower commercial interests, will provide further support for the rejection of the application. The owner continues to maintain that the pub is not viable and has used this as the basis for re-submitting his application to convert the pub into a 6-bedroom house. However, many of the 106 people who objected to the last change of use application wrote of their personal experiences of the owner's seemingly deliberate attempts to run the pub's business down prior to closing the business immediately before Christmas 2015. Numerous examples were given of the deliberate deterioration of the service provided at the pub, including inadequate heating, erratic opening hours and it regularly running out of beer. The planning decision in December 2017 noted these criticisms and that the owner had reduced the pub's turnover by £32,000 per annum during his short tenure. We believe the absence of any investment, business planning or food offering, so vital to pubs in modern times has been at the core of the business' losses immediately prior to its doors closing.

There are still parties interested in buying the pub, including by means of a community buy out, but as soon as offers were made at or near to the asking price the owner withdrew the pub from sale. In our view the absence of any serious engagement with potential buyers, the immediate stripping and disposal of the pub's fixtures and fittings when it closed and the accelerated dilapidation of the pub's physical condition are totally inconsistent with a genuine attempt to sell the business as a going concern.

Finally, we object in the strongest terms possible to any idea that the Viability Report produced by a London consultancy firm might be used to provide insight into this application. The report wanders from the fanciful notion that the owner, Mr Smart, actually ran the pub himself (something that is totally untrue) because he could not afford to pay staff, to the idea that the local garage and pubs in Chollerford and Haydon Bridge provide realistic alternatives for the residents of Fourstones. The errors in the report are compounded by the prominent use of financial data rejected by the planning officer at the time of the last application as being anecdotal and that clearly stated "trading records..... have not been provided".

The Parish Council have a duty to protect local assets and facilities to promote the vibrancy, cohesion and attractiveness of the community. The arguments presented in this planning application and supporting documents, which could be applied

	to the majority of rural public houses in the UK, are significantly flawed and if accepted would permanently deprive the local community of an key amenity.
Building Conservation	No objection.
Northumbrian Water Ltd	No comments.
The Coal Authority	No response received.
Public Protection	No comments.
Highways	No objection subject to conditions.

5. Public Responses

Neighbour Notification

Number of Neighbours Notified	105
Number of Objections	113
Number of Support	0
Number of General Comments	0

Notices

Site Notice - Affecting Listed Building: 15 August 2018

Press Notice - Hexham Courant: 16 August 2018

Summary of Responses:

113 objections have been received to this application, which largely raise concerns and objections on the same grounds as those previously raised in application 17/01323/FUL. The main issues identified in the representations are:

- The pub has been an important part of village life for many years and is an invaluable social hub and would be lost forever if agreed
- Limited amenities and public transport within Fourstones
- The building should be used as a community facility and it will be the loss of a valuable asset to the community
- Has been no effort to run a successful business and this has been deliberately run down – issues with not serving food, lack of heating and supply of drinks
- No investment in the business and limited maintenance during course of ownership
- No attempt to sell as a going concern whilst offers have been made but not progressed
- Pub was closed in November 2015 ahead of one of the busiest times of the year
- There are a number of people willing to purchase or lease the pub at a sensible price and offers close to the asking price have been rejected

- The advertised price for the sale of the pub was unrealistic and double the price purchased, which does not seem realistic if not a viable business
- The loss of the only community hub in the village makes the village less viable and desirable
- All other facilities, apart from the petrol station have closed within the village
- The bus service stops running at 19.00 hours and no service on Sundays
- The pub had erratic opening hours and often food and drink was not available
- If this permission was granted there will never be a pub again in Fourstones
- Used to be a vibrant community pub with lots of events including Thursday night quiz and other functions
- Pub is close to Hadrian's Wall and signposted from Military Road and used to get lots of visitors
- Dispute misleading information and inaccuracies within the submitted viability report
- A small population has been able to sustain pubs in other locations
- Planning policy seeks to retain local community services and facilities and the building is listed as an Asset of Community Value
- No new housing is required in the village although the loss of the pub would impact upon the community

The above is a summary of the comments. The full written text is available on our website

at:

<http://publicaccess.northumberland.gov.uk/online-applications//applicationDetails.do?activeTab=summary&keyVal=PB8SCJQSHJJ00>

6. Planning Policy

6.1 Development Plan Policy

Tynedale Core Strategy (Adopted October 2007)

GD1 The general location of development
 GD3 The Green Belt
 BE1 Principles for the built environment
 CS1 Community services and facilities
 H6 Change of use of existing buildings to housing

Tynedale Local Plan (Adopted April 2000)

GD2 General design criteria
 GD4 Range of transport provision for all development
 GD6 Car parking standards outside the built up areas of Hexham, Haltwhistle, Prudhoe and Corbridge
 NE14 Use of existing buildings in the Green Belt
 BE22 Setting of listed buildings
 H32 Residential design criteria
 CS27 Sewerage
 TM1 Protection of existing tourist facilities and/or community services

6.2 National Planning Policy

National Planning Policy Framework (NPPF) (2019)

National Planning Practice Guidance (NPPG) (2014, as updated)

6.3 Emerging Planning Policy

Northumberland Local Plan – Publication Draft Plan Regulation 19 (January 2019)

STP 1 Spatial strategy

STP 2 Presumption in favour of sustainable development

STP 3 Principles of sustainable development

STP 7 Strategic approach to the Green belt

HOU 2 Provision of new residential development

HOU 9 Residential development management

QOP 1 Design principles

QOP 2 Good design and amenity

QOP 4 Landscaping and trees

QOP 5 Sustainable design and construction

QOP 6 Delivering well-designed places

TRA 1 Promoting sustainable connections

TRA 2 The effects of development on the road network

TRA 4 Parking provision in new development

ICT 2 New developments and infrastructure alignment

ENV 1 Approaches to assessing the impact of development on the natural, historic and built environment

ENV 2 Biodiversity and geodiversity

ENV 7 Historic environment and heritage assets

WAT 2 Water supply and sewerage

WAT 3 Flooding

WAT 4 Sustainable Drainage Systems

INF 2 Community services and facilities

INF 3 Local village convenience shops and public houses

INF 4 Assets of Community Value

6.4 Other documents/strategies

CAMRA Public House Viability Test (November 2015)

7. Appraisal

7.1 In assessing the acceptability of any proposal regard must be given to policies contained within the development plan, unless material considerations indicate otherwise. The National Planning Policy Framework (NPPF) is a material consideration and states that the starting point for determining applications remains with the development plan, which in this case comprises policies from the Tynedale Local Plan and Tynedale Core Strategy as identified above.

7.2 Paragraph 48 of the NPPF states that weight can be given to policies contained in emerging plans dependent upon the stage of preparation of the plan, level of unresolved objections to policies within the plan and its degree of consistency with the NPPF. Consultation has recently taken place up to the 13 March 2019 on the emerging Northumberland Local Plan. From the

Publication Date of 30 January 2019, greater weight (some weight) can be attributed to emerging Local Plan policies.

7.3 The main issues relevant to the determination of this application are:

- Principle of development
 - location
 - loss of community facility
 - applicant's viability report
 - assessment of viability report
- Impacts upon character and appearance
- Residential amenity
- Highway safety

Principle of development

Location

7.4 The site is located in the smaller village of Fourstones where Policy GD1 of the Core Strategy permits small-scale development only. Fourstones is washed over by the Green Belt, and Policy GD3 of the Core Strategy sets out that limited infill can take place within the boundaries shown on the proposals map.

7.5 The emerging Northumberland Local Plan identifies Newbrough/Fourstones as a Service Village, and Policy STP 1 states these will provide for a proportionate level of housing and be the focus for investment in rural areas, to support the provision and retention of local retail, services and facilities. Whilst the village is currently washed over by the Green Belt, the emerging Local Plan proposes that Fourstones would be one of the settlements inset from and thereby removed from the Green Belt.

7.6 Policy H6 of the Core Strategy permits the change of use of existing buildings to residential use in smaller villages. The building is large and has been in commercial use for many years. The internal arrangement of the proposed conversion would not necessarily be an issue that would be considered by planning, although potential impacts upon the amenity of adjacent properties and occupants of the new dwelling may be a material consideration. In the assessment of the previous application the officer report set out that the proposed configuration appeared rather unwieldy for the creation of a single house. Although this would not be contrary to Policy H6 of the Core Strategy, it was stated that it is questionable whether the proposed conversion would result in a property that would be viable as a single dwelling. Adequate amenity space would be provided in accordance with Policy H32 of the Local Plan.

7.7 In light of the above existing and emerging development plan policy, the conversion of an existing building within Fourstones to a dwelling would be acceptable in principle. However, further detailed consideration also needs to

be given to the principle of development in respect of the loss of the pub as a community facility.

- 7.8 With regard to development within the Green Belt, Policy NE14 of the Tynedale Local Plan states that proposals for the change of use, conversion or extension of existing buildings in the Green Belt will be permitted if the buildings are of permanent and substantial construction; and the proposed use and any associated use of land are in keeping with their surroundings and the development does not have a materially greater impact than the existing on the openness of the Green Belt or on the purposes of including land in it.
- 7.9 Paragraph 146 of the National Planning Policy Framework (NPPF) states that providing the buildings are of permanent and substantial construction, the re-use of buildings would not be inappropriate development in the Green Belt where it preserves the openness of the Green Belt and does not conflict with the purposes of including land within it. The buildings are of permanent and substantial construction, and given the nature of the existing lawful use and proposed use as a dwelling, the proposal would preserve the openness of the Green belt and not conflict with the purposes of including land within it. On this basis, and having regard to Policy NE14 of the Local Plan, the proposal would not result in inappropriate development within the Green Belt.

Loss of community facility

- 7.10 Whilst the principle of the re-use of a building for residential use within Fourstones to a dwelling would be generally acceptable, a significant and important material consideration in this instance, as with the previous application, is the current lawful use of the site as a public house and the resultant loss of a community facility should permission be granted.
- 7.11 Policy CS1 of the Core Strategy sets out the principles of retaining existing community services and facilities, which include to retain local shops and other essential community services and facilities, especially where there are no accessible alternatives. Policy TM1 of the Tynedale Local Plan states that any change of use involving the loss of an existing tourist facility and/or community service will only be permitted where the applicant can demonstrate that the facility is no longer viable and no longer serves the need of the community in which it is located.
- 7.12 The NPPF supports a prosperous rural economy, and Paragraph 83 states that *“planning policies and decisions should enable:.....d) the retention and development of accessible local services and community facilities, such as local shops, meeting places, sports venues, open space, cultural buildings, public houses and places of worship”*. Paragraph 92 states that *“planning policies and decisions should:.....c) guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community’s ability to meet its day-to-day needs”*.
- 7.13 As referred to earlier the site was listed as an Asset of Community Value (ACV) on 14 December 2015. The provisions give local groups a right to nominate a building or other land for listing by the local authority as an ACV. It can be listed if a principal (“non-ancillary”) use of the asset furthers (or has

recently furthered) their community's social well-being or social interests (which include cultural, sporting or recreational interests) and is likely to do so in the future. When a listed asset is to be sold, local community groups will in many cases have a fairer chance to make a bid to buy it on the open market. These provisions do not restrict in any way who the owner of a listed asset can sell their property to, or at what price. They also do not confer a right of first refusal to community interest groups.

7.14 The provisions do not place any restriction on what an owner can do with their property, once listed, so long as it remains in their ownership. This is because it is planning policy that determines permitted uses for particular sites. However the fact that the site is listed may affect planning decisions - it is open to the Local Planning Authority to decide whether listing as an ACV is a material consideration if an application for change of use is submitted, considering all the circumstances of the case. The moratorium period of the ACV has lapsed, as it had done at the time of assessing the previous application.

7.15 In addition to the current development plan policy and NPPF, the emerging Northumberland Local Plan sets out policy relating to the loss of community facilities and ACVs. Policy INF 2 states that:

1. Proposals that result in the loss through demolition, redevelopment or change of use of local convenience shops and public houses in villages will not be supported unless it can be demonstrated that:

- a. equivalent accessible provision is available locally; or*
- b. the continued use of the shop or public house for its current use is no longer needed to meet community needs; or*
- c. the continued use of the shop or public house for its current use is no longer economically viable.*

2. In applying the tests established in this policy regarding the need for, or viability of the continued use of the building for its community use it will be necessary to demonstrate, with sufficient documentary evidence, to the satisfaction of the Local Planning Authority that the building has been marketed at a price reflecting its current or last use for a period of not less than six months prior to the date of submission of any planning application for its demolition, redevelopment or change of use, and that no reasonable offers have been received to continue the current use of the building.

7.16 Following on from that, Policy INF 3 relates to ACVs, and states:

1. Proposals that involve the loss, redevelopment or change of use of any registered Assets of Community Value, or any part of that asset, will not be supported unless:

- a. alternative equivalent provision of the services and facilities provided by the asset is secured to meet community needs; or*
- b. it can be demonstrated that the continued use of the asset for its current use is no longer needed to meet community needs; or*

c. it can be demonstrated that the continued use of the asset for its current use is no longer viable.

2. In applying parts 1(b) and 1(c) of this policy it will be necessary to demonstrate, with sufficient documentary evidence, that the asset has been marketed at a price reflecting its current or last use as a registered Asset of Community Value for a period of not less than six months prior to the date of submission of any planning application for its demolition, redevelopment or change of use, and that no reasonable offers have been received to continue the current or last use of the asset.

7.17 Following the previous refusal of planning application 17/01323/FUL for the reasons set out in paragraph 2.3 of this report, the applicant has resubmitted the proposal with additional information within a supporting Planning Statement and a Viability Report. The latter has been prepared by a specialist consultant and seeks to provide a description of the property; a review of its trading performance and management; analysis of the provision of other licensed premises in the vicinity; an overview of the market sector as a whole; and an opinion of the property's future viability as a public house.

7.18 The report also makes reference to a viability test that has been produced by the Campaign for Real Ale (CAMRA), which is a useful tool in determining planning applications, although does not provide specific conclusions on this guidance. The CAMRA test sets out that in order to assess the continued viability of a pub business the question to address is what the business could achieve if it were run efficiently by management committed to maximising its success. In assessing trade potential this identifies the following factors to take into account:

- local trade;
- customer potential;
- competition;
- flexibility of the site;
- parking;
- public transport;
- multiple use; and
- the sale

7.19 The public house is the only such establishment within the village of Fourstones, although some 1.6 km to the west within the adjoining village of Newbrough there is The Red Lion public house, and some 3.5 km to the south-east is The Boatside Inn at Warden. Although walking from Fourstones to Newbrough would be possible, this is not the case between Fourstones and Warden where the country road is narrow and without pavements. The site of the Railway Inn is within the village and is very accessible to both locals and visitors, and it is also signposted from other roads (i.e. 'brown tourist' highway signs on the B6318 Military Road).

7.20 As with the previous application, it is clear from the letters of objection that The Railway Inn was deemed to be an important local facility. In addition the property has been listed as an ACV, which suggests the use of the asset

further (or has recently furthered) the community's social well-being or social interests and is likely to do so in the future.

Applicant's Viability Report

- 7.21 The report sets out the background to the current application including the history of the property. This highlights that the previous owners, Marstons Plc, placed the property on the market with an asking price of £245,000 plus VAT. Following marketing a sale was finally agreed in February 2014 at a price of £100,000 plus VAT, and the sale was completed in May 2014.
- 7.22 The applicant for the current application was the last licensee to operate the business, although the pub ceased trading in November 2015 and the building has been vacant since that date. The report states the business was closed due to it no longer being financially viable and as a result of ongoing losses being unsustainable. It is understood that the turnover for the year prior to the sale of the pub in 2014 was £52,000 gross. It is suggested that due to its location off the main road that tourist and rambling trade was minimal and mainly comprised local residents from the village and surrounding area. It is stated that whilst the applicant ran the business detailed records were kept of the customer visits between 6 July 2015 and 30 August 2015 being the peak summer period. Whilst no evidence or detailed records have been provided with the application, it is stated that:
- on 29 days there were 10 or fewer visitors per day;
 - on 16 days there were 5 or fewer visitors per day; and
 - on 3 days there was only 1 customer
- 7.23 The report highlights that the accounts show that for the year ending 30/4/15 the property generated a turnover of £35,453 (net of VAT) and after costs posted a loss of £11,885, which when adjusted to arrive at an "earnings before interest, tax, depreciation and amortisation" figure (EBITDA) which also usually includes any management charges or director's earnings, increases to a marginal profit of £1,395 and 3.93% of turnover. The accounts for the year ending 30/4/16, which will have only encompassed trade from 1 May 2015 through to when the business closed in November 2015, show a net turnover of £20,831 and a loss of £9,337 which when adjusted to arrive at an EBITDA increases to a marginal profit of £154 and 0.74% of turnover. An opinion is given in the report that a viable turnover should be a minimum of circa £3,000 per week net plus which, based on the reasonable margins and gross profit and an EBITDA of 18% would give a licensee an income of circa £28,000pa. However, when looking at an hourly rate this will fall below the National Minimum Wage of £7.83 per hour when it is not unusual for a licensee to work 70 hours a week plus. It is suggested that it would be unreasonable for the applicant to be expected to operate this business and not earn, at the very least, the National Minimum Wage.
- 7.24 The report provides a summary and conclusion that those businesses that are succeeding are those that offer a broad based choice of real ales, a range of drinks offers, a unique proposition (e.g. an on-site microbrewery), a complimentary food offer, letting accommodation or a strong entertainment repertoire along with a catchment area with a population capable of

supporting a public house. It is suggested that the layout and size of the property means it is not able to deliver the amenities to enable it to compete with the competition, whilst it appears the business has not had the consistent support of the local community for some time prior to the business closing.

- 7.25 The report highlights alternative licensed premises in the area within a 5 mile radius of the site, excluding those in Hexham, and refers to the nearest at the Red Lion in Newbrough, which is around 1.6 km to the west of the Railway Inn. It states the Red Lion appears to be a well invested and thriving pub that is easily accessible from Fourstones, and will adequately cater for the local community. In addition the service station at Fourstones is identified as premises that cater for off-sale alcohol requirements. The report notes there are a number of bed and breakfast establishments, lodges and hotels showing that the area is well provisioned for accommodation that is stated appears to be crucial to the success and viability of most of the businesses in the area.
- 7.26 In terms of the marketing of the premises the applicant's report states that in an update from September 2016 the agents confirmed that 208 sets of particulars had been downloaded from the company website, 20 sets of details had been sent out following requests from interested applicants or recommendations from the agent. The property has been marketed since May 2016 at offers around £150,000 plus VAT as freehold or available as a leasehold with nil ingoing at a rent to be agreed but with one year rent free on the basis that refurbishment and fit out would be the responsibility of the ingoing tenant, although this is currently being marketed at a figure of freehold offers around £200,000.
- 7.27 The report states that after six months of marketing there had been limited interests in the property. It is stated that there was one party who applied for the leasehold interest and agreed to pay a rent deposit, although it is stated they were unable to provide valid references and the applicant felt this was too much of a risk to proceed. The report also states the applicant offered the local community the opportunity to take on the pub for a period of 12 months rent free to see if they could "make a go" of the business before making a more serious commitment, which was declined. It is also stated that an offer from the community was made at £50,000, which was not accepted as it was felt to significantly undervalue the property. It is suggested that the applicant has demonstrated the property has been openly and fully marketed with no credible offers generated.
- 7.28 The conclusions of the applicants report suggest the property has not held its own against the competition for many years. The following are also highlighted:
- there is a substantial amount of completion from pubs in the area, the local garage as well as local convenience stores and larger supermarkets;
 - the cost of bringing the property into a reasonable state of repair and condition is estimated to be in the region of £100,000 and is not justifiable based on the previous trade history and on the "hope" that business will succeed;

- the property has been openly marketed with no interest on a freehold basis as a public house and limited interest on a leasehold basis;
- the Community has been offered the property on a lease for a year at zero rent but this has been declined;
- running a business on a net turnover of £35,000 with no staff is simply not viable and it is unrealistic to expect a licensee to shoulder losses / make no return on their investment;
- the business has been closed for over two years and it is not unreasonable to assume the local customers will have found alternative venues and there is no guarantee that should the business reopen that they will return; and
- the Railway Inn is simply not a viable proposition as a public house.

Assessment of Viability Report

- 7.29 As with the previously refused scheme, the current application has generated a significant number of objections with comments and concerns highlighted earlier in this report, and which also dispute the findings of the viability report and accuracy of the information provided. These representations again suggest that the business has been deliberately run down with no investment; had erratic opening hours; there had been a lack of food and drink on offer; the building has not been adequately heated; and that offers to purchase and run the business have been rejected. Given the length of time that the pub has been closed, and the nature of some of the representations as anecdotal evidence, both from the applicant and in representations, it is difficult to provide definitive evidence to substantiate claims that the pub has been deliberately run down or that there had been no intention to properly manage the business, and these are subjective to a large degree and can no longer be tested.
- 7.30 In assessing the viability of the pub, officers have sought advice with a review of the viability report from a firm of chartered surveyors/property consultants with specialist knowledge of the licensing/leisure sector.
- 7.31 It is acknowledged that the viability test is not the full picture, and there are a number of other significant elements that may impact on the success of a business including repair, the premises simply being no longer fit for purpose such as not having adequate parking, a lack of external space, no letting bedrooms or catering kitchen etc. The applicant's report suggests that there is a huge amount of choice when it comes to available public houses on a leasehold and freehold basis, as well as a dearth of quality licensees looking to take businesses on at a struggle. In general terms this is considered to be the case, and at the present time there are a number of public houses in the Tyne Valley and south-west Northumberland available to purchase or lease.
- 7.32 One aspect that is considered to be of particular importance in assessing such a proposal, and that is prevalent in similar related decisions and appeal cases, is the marketing of a premises. It is accepted that the property has been marketed as set out in the viability report, and was done originally prior to the purchase by the applicant by James A Baker, and more recently by Sidney Phillips at an asking price of £150,000 in May 2016 and currently at £200,000.

- 7.33 Officers have been advised by the consultants reviewing the viability report that it is fair to say that both selling agents are well known and respected agents dealing with the sale and letting of licensed premises in the north of England. The advice highlights that the original marketing by James A Baker of £245,000 prior to the applicant's purchase was not achievable or sustainable. In addition, it is stated that the more recent original asking price of £150,000 is slightly surprising considering that the applicant had acquired the premises at £100,000 approximately two years earlier, and as such considering the business had failed in this interim period, to increase the asking price by 50% from the purchase price does seem unrealistic. Further enquiries have been made of the agents who are currently marketing the property to determine the level of interest generated, but no response had been received. No detailed update of the marketing and any subsequent interest has been provided other than the references in the viability report to the September 2016 marketing update.
- 7.34 In terms of the trading profile and business viability, it is acknowledged that the basic information provided in relation to visits to the premises appears to be low. However, no detailed information or evidence has been provided of visitor numbers, and this also covers a limited period of time. The accuracy of the limited figures provided is also disputed in objections that have been received.
- 7.35 In respect of the trading figures provided for the year ended April 2015 officers are advised that these are un-audited profit and loss figures, and as such it is not possible to state whether they are an accurate representation of the business. However, it is acknowledged that they are presented in a format that is common for a business of this nature and they are assumed to be an honest representation of the trade. The turnover of £35,500 net reflects takings of approximately £680 per week, which is considered to be significantly below the level felt to be reasonable for a country pub to achieve. The cost of sales (£15,655) reflects approximately 44% of turnover, and the net loss (£11,885) reflects a 33% loss. It is noted that within the submitted figures there is no allowance for wages, which would normally be expected to be in the order of 17.5 to 22.5% of turnover, which if incurred the losses would be even more significant for the business.
- 7.36 The applicant's report states they would expect a business of this nature to provide an EBITDA of circa 20% in order to be viable, and the advice officers have received is that this position would be accepted. However, the advice goes on to state that even a 20% EBITDA profit on the level of turnover being achieved at the business would not necessarily suggest the business was viable, which relates to the fact that turnover is extremely low. Officers have been advised by the consultants undertaking the review that their experience of other similar country pub venues should be in the order of £3,000 - £5,000 per week net. On this basis, it is felt that the statements made within the applicant's viability report regarding turnover and estimated EBITDA profit do seem realistic and true.
- 7.37 Furthermore, the advice received accepts that statements made regarding other factors affecting viability also appear true, in that it is no longer enough

to simply open the doors and wait for customers. There is increasing competition for disposable income and increasing availability of low cost alcohol from supermarkets, operators in the trade need to be innovative, present a well-managed and arranged operation to ensure customer loyalty and longevity. Relevant factors include location, condition, trade area and configuration of the trade area, as well as outside amenities. However, it is also argued in objections received that the applicant has not attempted to make the pub a more attractive proposition in terms of investment and its promotion.

- 7.38 It is agreed that the property is not prominently located on a main highway and this may impact on its ability to generate significant passing trade. However, it should also be recognised that the pub is signed from the B6319 road and junction with the private road leading down to the site, as well as with 'brown tourist' signs from the Military Road, and objections submitted suggested that the pub did attract trade from tourists. Whilst the configuration of the layout of the pub itself may not necessarily be ideal and could be improved, it is also far from unusual for a smaller country pub and did include a main bar area and separate dining area. There is also a reasonable sized area for car parking, and whilst again the external areas may not be as good as some other sites, there is some provision for this site.
- 7.39 The other premises identified within the applicant's report are accepted as being in real terms direct competition for the Railway Inn. It is also acknowledged that being around 1 mile from the site, the Red Lion at Newbrough is the closest alternative for the Fourstones community. There is a footpath along the highway between Fourstones and Newbrough, although this is not necessarily considered to be within a reasonable walking distance. Current standards suggest that a desirable distance would be 400 metres, acceptable would be 800 metres and the preferred maximum would be 1200 metres (Providing for Journeys on Foot - IHT 2000). The Red Lion could be said to be potentially capable of providing for the local area. However, appropriate weight needs to be given to the ACV status and level of objection to the application and desire to retain the Railway Inn as a local facility for the community of Fourstones. Given that it has been identified in the applicant's report there is a range of tourism accommodation within the area, it could be argued that this would also assist in contributing to the viability of a pub in the area.
- 7.40 The review of the applicant's viability report acknowledges that if generating a turnover of £35,000 per year or thereabouts, it seems clear the business is not capable of generating sufficient profit to make it a viable operation. To make a licensed business viable in this premises it is considered that any operator would need to make significant investment to promote the premises and trade therein. It is noted that many country pubs have failed in the recent past, particularly those that focussed on the local community and were wet-led only. Those that have thrived have had a particular draw, such as a strong reputation for food (i.e. The Rat at Anick or The Feathers at Hedley-on-the-Hill); a unique and specialist element such as a micro-brewery (i.e. The Ship at Low Newton); or are located in a position to capitalise on existing tourist attractions such as Hadrian's Wall or Coast to Castle cycleway/footpath (i.e. The Twice Brewed.)

- 7.41 The advice officers have received does highlight that a further consideration is the potential for a community operated asset such as the Rose and Crown Inn at Slaley. The assessment of viability for an ACV can be somewhat different, in that for a Community Trust or Community Interest Company (CIC) operating the premises there is often no requirement or desire to make a profit. On that basis a lower level of turnover can be acceptable, as long as the asset covers its costs and returns a small surplus or deficit. With regard to The Railway Inn, even if the asset were to continue to generate the low £35,000 per annum turnover generated in the year ended March 2015, looking at the operational costs, it was generating a small surplus on an EBITDA. As such, if operated by a Community Trust or CIC, purely and simply for the benefit of the community, being staffed on perhaps a volunteer basis, there is the potential for an argument to be made for viability. It is, however, acknowledged that should any degree of wage bill be added to the operational costs, then that degree of viability is significantly altered, and the advice to officers is that it is believed the business would fall into a non-viable categorisation.
- 7.42 An objection has been received from Fourstones Community Ventures Ltd (FCVL), which is a limited company set up by members of the Fourstones community in support of reopening The Railway Inn as a working public house following consultation with local residents. The objection received from FCVL highlights that its formation emphasises the importance the community place upon keeping the pub as a community asset. The company has attracted grant funding to commission a survey to identify the condition of the building and remedial work necessary to reopen the pub.
- 7.43 FCVL has confirmed that it made an offer of £50,000 to purchase the pub in November 2016, which followed a full survey of the building and assessment of the business, but this was rejected by the applicant, which is matter and decision for them to make. Officers have been advised that following this exchange the property was taken off the market, with the owner only willing to consider only leasehold deals with prospective landlords. It is also understood that FCVL have been in correspondence with the applicant and have sought to discuss further. FCVL have advised they had been offered the pub on a rent free two year contract, during which time they would be required to repair any defects (costs circa £100,000) and the owner would be free to set a new level of rent at the end of the two year period or to exercise the choice of not renewing the lease at all, which the FCVL declined.
- 7.44 FCVL has advised that it regularly meets and has identified capital to purchase the freehold of the pub, and that local support for the pub remains strong. This is evidenced in the level of objection again to the current application. It is understood there has been some correspondence with FCVL and the applicant, most recently around the time the current planning application was submitted, although it does not appear that there has been any subsequent progress in terms of formal offers or further discussions.

Summary

- 7.45 In assessing the proposed change of use officers have given careful consideration to Policy TM1 of the Local Plan, Policy CS1 of the Core Strategy and the NPPF, in particular paragraphs 83 and 92 relating to the protection of community facilities. In addition, although it cannot yet be given full weight, officers have also taken into account Policies INF 3 and INF 4 of the emerging Northumberland Local Plan.
- 7.46 There is a clear emphasis in local and national planning policy towards the protection of community facilities that are considered to be of value to the community, unless being able to demonstrate that the facility is no longer viable and no longer serves the need of the community in which it is located having regard to the current development plan policies. Officers have also taken into account the guidance within the CAMRA Public House Viability Test.
- 7.47 In this instance, based upon the viability report submitted by the applicant, and the review undertaken by the Council's appointed consultants, there is evidence to suggest that the pub would not be a viable proposition, and this is a material consideration in the assessment of the application. However, it is also considered that there may be scope for the pub to operate on a community-led basis, and in this instance there is support for the retention of the pub and interest and willingness to take on the pub from a community group. There is also clear opposition to the proposals and community support for the retention of the pub within the village. On this basis it is officer opinion that the assessment of the application is quite finely balanced.
- 7.48 Policy TM1 of the Local Plan states that the loss of an existing tourist facility and/or community service will only be permitted where the developer/applicant can demonstrate that the facility is no longer viable **and** no longer serves the need of the community in which it is located. The submitted evidence suggests that the applicant may satisfy to a degree the first part of this policy requirement. However, it is officer opinion that the application has not satisfactorily demonstrated that the pub no longer serves the need of the community and the change of use would result in the loss of an important and valued local facility and an ACV, which would affect the level of services and ability to meet the day-to-day needs of the community. It is clear that there remains significant opposition to the change of use of the pub from the local community. In addition, the pub is listed as an ACV, and is therefore felt to be of importance to the community, whilst there is a willingness from the community to continue the use of the pub.
- 7.49 It is acknowledged that there are other pubs within the wider area, including The Red Lion at Newbrough. However, given the nature of the rural area and the more limited accessibility, as well as the distance from Fourstones beyond being a reasonable walking distance, and taking into account the level of objection, it is not considered that these would satisfactorily fulfil the needs of the Fourstones community.
- 7.50 There are also concerns in relation to the marketing of the premises and whether this has been done at realistic price to reflect its use and status as an ACV. This is an exercise that can assist in assessing the viability of a pub and opportunities to continue the use and avoid the loss of a valued community

facility. It is not disputed that the property has been marketed, including with specialist agents. However, there is no detailed information with the application in terms of what marketing has been undertaken since 2016, including levels of interest, and concerns remain that it has not been marketed at a realistic price. It is felt that the asking price of £150,000 appears to be optimistic given the purchase price of £100,000 two years earlier. Officers therefore question whether it is appropriate to expect the capital value of the premises to have increased by 50% when the turnover had decreased by approximately 35%, whilst the property is now being marketed at £200,000.

- 7.51 In light of the above, it is officer opinion that the proposal would result in the loss of an important and valued local asset, and local and national planning policy seeks to protect the loss of such facilities. There is significant support for the existing use, despite some reservations that the pub had limited visitor numbers prior to closure, whilst there remains community interest in taking on the premises. It is acknowledged that there is no agreement with regard to another party taking on the freehold or leasehold of the pub, although there remains strong interest and the potential for this to take place. However, once planning permission is granted for an alternative use without sufficient justification it is very likely that the pub use would be completely lost from Fourstones, and there is no sufficient or accessible alternative provision to serve the community. On this basis, and having regard to the information submitted with the application at this time and weighing up all relevant material considerations, on balance the proposal is considered to be contrary to Policy TM1 of the Local Plan, Policy CS1 of the Core Strategy and the NPPF.

Impacts upon Character and Appearance

- 7.52 In addition to Policy GD1 of the Core Strategy, which requires the scale and nature of development to respect the character of the town or village concerned, Policies GD2 and H32 of the Tynedale Local Plan seek to ensure that development is appropriate for its location in terms of matters such as layout, scale, design and impact upon the amenity of residents. Policy BE1 of the Core Strategy seeks to conserve and enhance Tynedale's built environment and conservation areas. Policy BE22 of the Local Plan requires consideration to be given to the effect of development upon the setting of listed buildings.
- 7.53 Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that in considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
- 7.54 On the basis of the nature and scale of the development, the layout of the site and the former use, the proposal would result in an acceptable form of development and would not result in any harmful impacts upon the character and appearance of the site or the surrounding area. In addition, the proposal would not result in any harm to the setting of the adjacent listed building. The

development would be in accordance with Policies GD2, H32 and BE22 of the Local Plan and Policy BE1 of the Core Strategy.

Residential Amenity

- 7.55 As well as looking to achieve a good quality of design in new residential development, Policies GD2 and H32 of the Local Plan set out the requirements for developments to ensure there would be no adverse effects upon residential amenity, and future occupants would also achieve acceptable standards of amenity.
- 7.56 Having regard to the nature and scale of the development as a single dwelling, and on the basis of the former use as a public house, it is considered that the proposal to convert the public house to a private dwelling would not impact on the amenity of any adjoining properties, or on future occupants of the dwellings. The development would therefore accord with Policies GD2 and H32 of the Tynedale Local Plan.

Highway Safety

- 7.57 With regard to matters of access, parking and highway safety, any proposal would be assessed having regard to Policies GD4 and GD6 of the Tynedale Local Plan, Policy GD4 of the Core Strategy and the NPPF. Policy GD4 of the Local Plan states that development proposals will be required to conform to criteria including that safe access to the site and to the classified road system should be secured; and the development should not create levels of traffic which would exceed the capacity of the local road network or create a road safety hazard.
- 7.58 Paragraph 108 of the NPPF looks to ensure that safe and suitable access to a site can be achieved by all users. Paragraph 109 states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
- 7.59 The site has an existing large parking area which would be used for both amenity space and parking. Adequate parking would therefore be available on the site. The Highway Authority has assessed the application and has no objection subject to conditions in respect of car and cycle parking provision. The application would accord with Policies GD4 and GD6 of the Local Plan.

Other Matters

- 7.60 The site falls within the Coal Authority's defined Development High Risk Area, however, the change of use to a dwelling represents a type of application and nature of development that is listed as exempt. The Council's Public Protection team has raised no objections and offers no comments on the application.

Equality Duty

- 7.61 The County Council has a duty to have regard to the impact of any proposal on those people with characteristics protected by the Equality Act. Officers have had due regard to Sec 149(1) (a) and (b) of the Equality Act 2010 and considered the information provided by the applicant, together with the responses from consultees and other parties, and determined that the proposal would have no material impact on individuals or identifiable groups with protected characteristics. Accordingly, no changes to the proposal were required to make it acceptable in this regard.

Crime and Disorder Act Implications

- 7.62 These proposals have no implications in relation to crime and disorder.

Human Rights Act Implications

- 7.63 The Human Rights Act requires the County Council to take into account the rights of the public under the European Convention on Human Rights and prevents the Council from acting in a manner which is incompatible with those rights. Article 8 of the Convention provides that there shall be respect for an individual's private life and home save for that interference which is in accordance with the law and necessary in a democratic society in the interests of (inter alia) public safety and the economic wellbeing of the country. Article 1 of protocol 1 provides that an individual's peaceful enjoyment of their property shall not be interfered with save as is necessary in the public interest.
- 7.64 For an interference with these rights to be justifiable the interference (and the means employed) needs to be proportionate to the aims sought to be realised. The main body of this report identifies the extent to which there is any identifiable interference with these rights. The Planning Considerations identified are also relevant in deciding whether any interference is proportionate. Case law has been decided which indicates that certain development does interfere with an individual's rights under Human Rights legislation. This application has been considered in the light of statute and case law and the interference is not considered to be disproportionate.
- 7.65 Officers are also aware of Article 6, the focus of which (for the purpose of this decision) is the determination of an individual's civil rights and obligations. Article 6 provides that in the determination of these rights, an individual is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal. Article 6 has been subject to a great deal of case law. It has been decided that for planning matters the decision making process as a whole, which includes the right of review by the High Court, complied with Article 6.

8. Conclusion

- 8.1 Having regard to the identified adopted policies of the development plan, the NPPF as well as emerging Local Plan policies, there is a clear emphasis for the retention of tourist and community services/facilities unless there is justification to allow the proposed change of use.

- 8.2 In this instance the change of use of the site has previously been refused as a result of insufficient justification being demonstrated in respect of all options for retention and assessment of viability. The current application has been submitted with additional information, including a viability report from a specialist consultant, and officers have taken the opportunity for this to be reviewed by another specialist consultant.
- 8.3 It is acknowledged that there are concerns identified in relation to the ability of the Railway Inn to be a viable proposition for any commercial operator based on the evidence presented with the application, as well as an overall decline in the country pub market. However, concerns have been identified with the marketing that has been undertaken, including the extent of this and whether the price appropriately reflects the use and status as an ACV.
- 8.4 Furthermore, despite some indication of low visitor numbers prior to the closure of the pub, alongside details of the turnover, it is apparent that there is strong public support for its retention. In addition, FCVL is a community group with a clear willingness to take the pub on and retain the use as a community facility. Although an offer to purchase the pub has been rejected by the owner, which they are entitled to do so, it is officer opinion that whilst there is clear interest and a willingness from parties to continue the use of the pub it would not be appropriate to entertain a change of use at this time given policies around the retention of community facilities. It is also noted from a review of the applicant's viability report that there is also potential for a viable business if operated by a CIC or Community Trust for the benefit of the village with no view to making a profit. Although this is not something that has been pursued or is , there remains potential for a viable business at the site.
- 8.5 There are some subjective comments around the way that the business has previously been managed and around the level of support from the community in terms of how it has been used. It is not possible to test these comments around management given the length of time The Railway Inn has been closed. However, as it stands it is felt that the change of use would result in the loss of a community facility when there are still some outstanding concerns in relation to demonstrating that the facility is no longer viable and no longer serves the need of the community in which it is located. In addition, whilst there are other premises in the wider area, it is not felt that these are sufficiently accessible as an alternative.
- 8.6 The assessment of the application is felt to be very finely balanced given the policy context, issues raised in respect of viability and the level of objection to the proposals seeking the retention of the pub. In light of the above, and whilst acknowledging the issues identified within the viability report and previous levels of turnover, it is not considered that the application has demonstrated that The Railway Inn is no longer viable and no longer serves the need of the community of Fourstones, and it is not considered that there are suitable and accessible alternatives to meet the needs of the community. The proposal would result in the loss of a valued community facility that would be harmful to the social and community life and sustainability of Fourstones, and on balance, is therefore considered to be contrary to Policy TM1 of the Tynedale Local Plan, Policy CS1 of the Tynedale Core Strategy and the NPPF.

9. Recommendation

That this application be REFUSED permission for the following reasons:

01. The evidence submitted to support the closure of The Railway Inn, an Asset of Community Value, and its change of use to a dwelling fails to adequately demonstrate that the public house use is no longer viable and no longer serves the need of the community of Fourstones, and it is not considered that there are suitable and accessible alternatives to meet the needs of the community. The proposal would result in the loss of a valued community facility that would be harmful to the social and community life and sustainability of Fourstones, and is therefore contrary to Policy TM1 of the Tynedale Local Plan, Policy CS1 of the Tynedale Core Strategy and the National Planning Policy Framework.

Background Papers: Planning application file(s) 18/02349/FUL