

COMMITTEE REPORT

APPLICATION DETAILS

Application No:	DM/23/00446/FPA
Proposal:	Change of use from commercial (Public House) to a five-bedroom residential dwelling (C3)
Name of Applicant:	Miss Trysha Suddick
Address:	The Chelmsford, Front Street, Ebchester, Consett, DH8 0PJ
Electoral Division:	Leadgate and Medomsley
Case Officer:	Sarah Seabury Planning Officer 03000 261 393 sarah.seabury@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSAL

The Site

1. The application site is located within the village of Ebchester on Front Street. The application site consists of The Chelmsford Public House and surrounding car park. The Chelmsford is a two-storey building stone building with a slate roof dating from 1890. The building has been altered over the years with small extensions and rendering. The site is accessed from Front Street to the west.
2. The application site is located within the Ebchester Conservation Area and three Listed Buildings are located to the north, west and south.
3. The land to the rear of the pub comprises a residential development plot and woodland.

The Proposal

4. The proposal is for conversion of the existing building to a single dwelling. To facilitate this the Applicant is proposing the removal of the public house branding and to re-expose the original stonework with rendered sections re-painted. The windows are to be replaced but no details provided. No further external works would be carried out.
5. No details of external landscaping have been provided.

6. The application in being reported to committee at the request of Councillor Stephen Robinson to consider the viability of the public house because of the complexity regarding the complaints made against members regarding this application.

PLANNING HISTORY

7. A planning application was submitted on 29 March 2022 for the change of use from public house to 4 bed dwelling. A total of 35 letters of objection were received. This application was withdrawn by the Applicant on 22 November 2022.

PLANNING POLICIES

NATIONAL POLICY:

8. A revised National Planning Policy Framework (NPPF) was published in July 2021 (with updates since). The overriding message continues to be that new development that is sustainable should go ahead without delay. It defines the role of planning in achieving sustainable development under three overarching objectives – economic, social and environmental, which are interdependent and need to be pursued in mutually supportive ways.
9. *NPPF Part 2 Achieving Sustainable Development* - The purpose of the planning system is to contribute to the achievement of sustainable development and therefore at the heart of the NPPF is a presumption in favour of sustainable development. It defines the role of planning in achieving sustainable development under three overarching objectives - economic, social and environmental, which are interdependent and need to be pursued in mutually supportive ways. The application of the presumption in favour of sustainable development for plan-making and decision-taking is outlined.
10. *NPPF Part 4 Decision-Making* - Local planning authorities should approach decisions on proposed development in a positive and creative way. They should use the full range of planning tools available, including brownfield registers and permission in principle, and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible.
11. *NPPF Part 5 Delivering a Sufficient Supply of Homes* - To support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay.
12. *NPPF Part 6 Building a Strong, Competitive Economy* - The Government is committed to securing economic growth in order to create jobs and prosperity, building on the country's inherent strengths, and to meeting the twin challenges of global competition and a low carbon future.
13. *NPPF Part 8 Promoting Healthy and Safe Communities* - The planning system can play an important role in facilitating social interaction and creating healthy, inclusive

communities. Developments should be safe and accessible; Local Planning Authorities should plan positively for the provision and use of shared space and community facilities. An integrated approach to considering the location of housing, economic uses and services should be adopted.

14. *NPPF Part 9 Promoting Sustainable Transport* - Encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion. Developments that generate significant movement should be located where the need to travel will be minimised and the use of sustainable transport modes maximised.
15. *NPPF Part 11 Making Effective Use of Land* - Planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions. Strategic policies should set out a clear strategy for accommodating objectively assessed needs, in a way that makes as much use as possible of previously-developed or 'brownfield' land.
16. *NPPF Part 12 Achieving Well-Designed Places* - The Government attaches great importance to the design of the built environment, with good design a key aspect of sustainable development, indivisible from good planning.
17. *NPPF Part 14 Meeting the Challenge of Climate Change, Flooding and Coastal Change* - The planning system should support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change. It should help to: shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience; encourage the reuse of existing resources, including the conversion of existing buildings; and support renewable and low carbon energy and associated infrastructure.
18. *NPPF Part 16 Conserving and Enhancing the Historic Environment* - Heritage assets range from sites and buildings of local historic value to those of the highest significance, such as World Heritage Sites which are internationally recognised to be of Outstanding Universal Value. These assets are an irreplaceable resource, and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations.

<https://www.gov.uk/guidance/national-planning-policy-framework>

NATIONAL PLANNING PRACTICE GUIDANCE:

19. The Government has consolidated a number of planning practice guidance notes, circulars and other guidance documents into a single Planning Practice Guidance Suite. This document provides planning guidance on a wide range of matters. Of particular relevance to this application is the practice guidance with regards to design process and tools; determining a planning application; flood risk; healthy and safe communities; housing and economic development needs assessments; housing and economic land availability assessment; natural environment; public rights of way and local green space and use of planning conditions

<https://www.gov.uk/government/collections/planning-practice-guidance>

LOCAL PLAN POLICY:

The County Durham Plan (CDP)

20. Policy 6 (Development on Unallocated Sites) supports development on sites not allocated in the Plan or Neighbourhood Plan, but which are either within the built-up area or outside the built up area but well related to a settlement will be permitted provided it: is compatible with use on adjacent land; does not result in coalescence with neighbouring settlements; does not result in loss of land of recreational, ecological, or heritage value; is appropriate in scale, design etc to character of the settlement; it is not prejudicial to highway safety; provides access to sustainable modes of transport; retains the settlement's valued facilities; considers climate change implications; makes use of previously developed land and reflects priorities for urban regeneration.
21. *Policy 9 (Retail Hierarchy and Town Centre Development)* seeks to protect and enhance the hierarchy of Sub Regional, Large Town, Small Town, District and Local retail centres in the county.
22. *Policy 10 (Development in the Countryside)* states that development will not be permitted unless allowed for by specific policies in the Plan or Neighbourhood Plan or unless it relates to exceptions for development necessary to support economic development, infrastructure development or development of existing buildings. The policy further sets out 9 General Design Principles for all development in the Countryside. Provision for economic development includes: agricultural or rural land based enterprise; undertaking of non-commercial agricultural activity adjacent to applicant's residential curtilage. All development to be of design and scale suitable for intended use and well related to existing development. Provision for infrastructure development includes; essential infrastructure, provision or enhancement of community facilities or other countryside based recreation or leisure activity. Provision for development of existing buildings includes: change of use of existing building, intensification of existing use through subdivision; replacement of existing dwelling; or householder related development.
23. *Policy 21 (Delivering Sustainable Transport)* requires all development to deliver sustainable transport by: delivering, accommodating and facilitating investment in sustainable modes of transport; providing appropriate, well designed, permeable and direct routes for all modes of transport; ensuring that any vehicular traffic generated by new development can be safely accommodated; creating new or improvements to existing routes and assessing potential increase in risk resulting from new development in vicinity of level crossings. Development should have regard to the Parking and Accessibility Supplementary Planning Document and Strategic Cycling and Walking Deliver Plan.
24. *Policy 29 (Sustainable Design)* requires all development proposals to achieve well designed buildings and places having regard to SPD advice and sets out 18 elements for development to be considered acceptable, including: making positive contribution to areas character, identity etc.; adaptable buildings; minimising greenhouse gas emissions and use of non-renewable resources; providing high standards of amenity and privacy; contributing to healthy neighbourhoods; and suitable landscape proposals. Provision for all new residential development to comply with Nationally Described Space Standards.
25. *Policy 31 (Amenity and Pollution)* sets out that development will be permitted where it can be demonstrated that there will be no unacceptable impact, either individually

or cumulatively, on health, living or working conditions or the natural environment and that they can be integrated effectively with any existing business and community facilities. Development will not be permitted where inappropriate odours, noise, vibration and other sources of pollution cannot be suitably mitigated against, as well as where light pollution is not suitably minimised. Permission will not be granted for sensitive land uses near to potentially polluting development. Similarly, potentially polluting development will not be permitted near sensitive uses unless the effects can be mitigated.

26. *Policy 35 (Water Management)* requires all development proposals to consider the effect of the proposed development on flood risk, both on-site and off-site, commensurate with the scale and impact of the development and taking into account the predicted impacts of climate change for the lifetime of the proposal. All new development must ensure there is no net increase in surface water runoff for the lifetime of the development. Amongst its advice, the policy advocates the use of SuDS and aims to protect the quality of water.
27. *Policy 36 (Water Infrastructure)* advocates a hierarchy of drainage options for the disposal of foul water. Applications involving the use of non-mains methods of drainage will not be permitted in areas where public sewerage exists. New sewage and waste water infrastructure will be approved unless the adverse impacts outweigh the benefits of the infrastructure. Proposals seeking to mitigate flooding in appropriate locations will be permitted though flood defence infrastructure will only be permitted where it is demonstrated as being the most sustainable response to the flood threat.
28. *Policy 43 (Protected Species and Nationally and Locally Protected Sites)* development proposals that would adversely impact upon nationally protected sites will only be permitted where the benefits clearly outweigh the impacts whilst adverse impacts upon locally designated sites will only be permitted where the benefits outweigh the adverse impacts. Appropriate mitigation or, as a last resort, compensation must be provided where adverse impacts are expected. In relation to protected species and their habitats, all development likely to have an adverse impact on the species' abilities to survive and maintain their distribution will not be permitted unless appropriate mitigation is provided, or the proposal meets licensing criteria in relation to European protected species.
29. *Policy 44 (Historic Environment)* seeks to ensure that developments should contribute positively to the built and historic environment and seek opportunities to enhance and, where appropriate, better reveal the significance and understanding of heritage assets. The policy advises on when harm or total loss of the significance of heritage assets can be accepted and the circumstances/levels of public benefit which must apply in those instances.
30. Residential Amenity Standards SPD (2023 Adopted version) – Provides guidance on the space/amenity standards that would normally be expected where new dwellings are proposed.

NEIGHBOURHOOD PLAN

31. The application site is not located within an area where there is a Neighbourhood Plan to which regard is to be had.

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY CONSULTEE RESPONSES:

32. *Highways Authority* – No objections would be raised

NON-STATUTORY CONSULTEE RESPONSES:

33. *Design and Conservation* - The building has undergone a level of alteration over time, including the modest extensions with rendered sections of walling. There would be no concern with this render remaining in situ and for stonework elsewhere to be exposed should it be historic. Elevation plans also note that windows may be replaced but are not clarified on the plans. There is potential for enhancement in terms of reintroducing an appropriate traditional style.
34. *Ecology* – Given there are no external alterations or alternations to roof spaces proposed the risk to bat roosts are negligible and so no further works required.
35. *Nuisance Action Team* – The property has benefited from residential use, upstairs, in the past, it is in a similar setting to other residential properties in relation to proximity to the A694, to ensure suitable sound levels are achieved internally planners may wish to consider applying a noise condition. Any noise mitigation measures required shall be installed prior to the beneficial occupation of the development and shall be permanently retained thereafter. In addition, I can confirm that I have assessed the environmental impacts which are relevant to the development in relation to their potential to cause a statutory nuisance, as defined by the Environmental Protection Act 1990 and would comment as follows: I am satisfied, based on the information submitted with the application, that the development is unlikely to cause a statutory nuisance.
36. *Spatial Policy* – The applicant needs to demonstrate that the public house is no longer viable in accordance with the requirements set down under Policies 6 and 9. If the case officer is satisfied that the public house is no longer viable then any detailed alterations would need to accord with CDP policy requirements - including but not limited to, those set down under 29 and 44 - given the heritage value and prominence of the building in the conservation area.
37. The applicant needs to provide evidence demonstrating that there was a lack of market interest in the public house. This was to satisfy criteria g.) of Policy 6 of the County Durham Plan (CDP) (2020) which states that information / evidence should be provided to demonstrate that the public house is no longer viable. The supporting text to the policy notes that applicants must be able to provide evidence that the premises has been advertised as a going concern in the press, online and on-site, at least four times within a six-month period and all reasonable offers have been explored. It also confirms that this evidence will be considered on a case-by-case basis.

38. The Marketing and Viability report received May 2023 is very similar to what was submitted in March 2023. This additional information does not include the actual evidence that the premises was advertised as a going concern in the press, online and on-site, at least four times within a six-month period and all reasonable offers have been explored. We had previously said that we were of the view that it fell short of what was required. What has been provided is the sales particulars (with two agents: Sidney Phillips & Pattinson) relating to the property, but no details have been provided from either of those agents confirming the length of time they listed the property for sale, together with details of the level of interest and/or offers which were made for the property. Without this information, we cannot conclude that the requirements of Policy 6 have been met. To rectify this, the applicant should be requested to provide letters from both agents which contains this information required by Policy 6.
39. *Further Spatial Policy Advice following the submission of the Viability Report from Mr Cartmell -*
40. The asking price (£395k) took account of the planning approval for a new dwelling (DM/19/02881/FPA) and as that development site has been sold off separately, then the pub has not been marketed in isolation, nor recently (i.e. within the last year).
41. With regard to the viability report which has been submitted, it contains the views of someone who has extensive experience in the hospitality sector and their insight into the issue facing pubs at the current time is useful. He highlights the many challenges facing public houses in terms of running costs etc, and the cost-of-living factors affecting the amount of disposable income patrons have to spend on leisure activities like visiting pubs. The section covering the marketing history of the Chelmsford does however confirm that the public house has never been marketed since the sale of the land to the rear which benefitted from a planning consent for a residential unit forming part of the sales particulars. There is therefore no robust evidence that there would be no takers from someone else wanting to re-open the pub, were it to be re-listed for sale at a price which reflected its revenue earning potential, rather than its conversion to residential home value which appears to be the case historically. Notwithstanding this, the points which are made relating to the lack of a beer garden and dedicated car park are accepted and given the length of time which the pub has been closed and not trading (3+ years), it is likely that modernisation to the internal areas would be necessary and there would be upfront costs associated with this. However, it would be expected that the valuation and asking price would take all of these factors into consideration.
42. Whilst the points around the difficulties facing the hospitality sector are acknowledged, the fact that the Chelmsford has not been marketed since May 2022 (over 1 year ago), and listed separately from the land benefiting from planning permission for a house, weighs against the proposal in assessing compliance with Policy 6 (criteria g.). The value at which the pub is listed should take account of all the factors identified within the viability submission to ensure that the valuation is realistic and reflects its earning potential.

PUBLIC CONSULTATION:

43. The application has been advertised by way of a site notice, and individual neighbour notification letters have been sent to neighbouring properties.

44. A total of three letters of representation have been received.
45. A single letter from Ebchester Village Trust states that whilst they do not want to see the demise of the village pub, they consider that there is probably no realistic alternative to its change of use. The letter makes the following requests:
- The building should look residential rather than like a public house.
 - The rendered areas are returned to stone.
 - The 'toilet block' extension be removed.
 - A smaller window should be installed to the gable end.
 - Details of the replacement windows should be provided for approval.
 - A stone wall should be constructed to the front of the property.
 - Amenity space should be included on the plans.
 - Only a single residential property should be allowed rather than flats.
46. A letter sent on behalf of the Ebchester Resident Group states that a local social media poll had been in support of the retention of the pub. The letter stated:
- Ebchester is a tourist attraction and very busy during school holidays, weekends and evenings.
 - New housing is proposed nearby in neighbouring County.
 - Pub has not been marketed at a fair price.
 - Pub deliberately ran into the ground.
 - Hope pub is reopened as a community asset.
47. The final letter of representation from a resident supports the retention of the public house. It states that it was the heart of the community and has now been run into the ground. The letter states they would be willing to contribute to a community owned pub. It also states that it is the only 'local' pub.

The above represents a summary of the comments received on this application. The full written text is available for inspection on the application file which can be viewed at <https://publicaccess.durham.gov.uk/online-applications/>

APPLICANTS STATEMENT

48. The applicant is a successful multi-business owner, and runs a thriving Pub/Restaurant in Shotley Bridge. She bought The Chelmsford Public House with a view to turning this into a successful enterprise, and put a great deal of time and money into trying to grow the business to make it a thriving venue over a period of years. In spite of the applicant's best efforts, the business remained economically unviable and was effectively subsidised by the applicant for the duration. As a result, she tried to sell the pub commercially with Sidney Philips and Pattison Agents. Neither commercial listing resulted in any viewings or any acceptable offer for the building.
49. As the applicant reached the conclusion that no amount of effort was going to see the business thrive as a public house, and there were no interested buyers, she then listed it as a potential development project with JW Wood. There were interested buyers but only if the building was granted 'change of use' from commercial to residential. This is why the applicant has submitted the current proposal to change the building's use to a private 5-bedroom dwelling.

50. In a separate application, permission was granted to sell off an area of land behind the public house and build a dwelling on it. This was done in order to raise money.
51. The planning officer now appears to raise concerns whether this sub-division of the land has affected the viability of the pub in terms of available space. The land involved has never formed part of the public house's footprint nor had it ever been used in relation to commercial activity, as an additional parking area, beer garden, or for any other purpose. It was redundant, unused land and its' sale has had no impact upon the viability of the pub as a business (nor was the pub operating when the land was sold). If the planning department had concerns at the time (that this development would negatively impact upon the original buildings' use), the proposal should not have been supported. At no time were any such concerns raised, and the application was granted.
52. The pub was closed permanently in March 2020. The building has now been unoccupied and disused for three and a half years and has therefore not been providing any services during this time. It has not been identified or listed by the community as a potential asset, and there have been no community bids to buy the premises. There are no objections locally to the current application. The property remains vacant and deteriorating, and the fabric of the structure is degrading over time.
53. The applicant will not re-open the building as a public house, and there is demonstrable evidence that it will not sell as a commercial interest. The report into viability and marketing submitted by Barry Cartmell (an expert in hospitality) makes a very strong case that it is not viable as a public house (and never was). Within close proximity to the site, the Council have granted similar applications to change the use of former licensed premises to domestic dwellings. Should this application be granted, it would be consistent with other recent decisions. The proposals are reasonable, proportionate, respectful to the building's historic integrity, and in keeping with local policy. If the application is rejected the building will remain unused and likely become derelict.
54. The applicant has done everything in her power to make a case that would be acceptable to the planning officer, and asks the committee to consider this application in good faith and without prejudice. The applicant feels that the benefits which will be derived in allowing this to pass, far outweigh any negative impacts upon the locality, and has demonstrated this in documents including the Heritage Statement, Marketing & Viability Report and associated supporting information.
55. Respectfully submitted for your consideration by Ms Trysha Suddick, 11/09/23.

PLANNING CONSIDERATION AND ASSESSMENT

56. As identified in Section 38(6) of the Planning and Compulsory Purchase Act 2004 the key consideration in the determination of a planning application is the development plan. Applications should be determined in accordance with the development plan unless material considerations indicate otherwise. The main considerations in regard to this application are the principle of the development, impact on heritage assets,

housing need, design and impact on neighbouring amenity, highways safety and sustainable transport, impact on ecology and drainage and surface water.

Principle of the Development

57. The application proposes the change of use of an existing public house into a residential dwelling. Policy 6 allows development of sites which are not allocated within the Plan but which are located within the built-up area. The site is located within the village of Ebchester and is therefore considered to be within the built-up area. Policy 6 sets out criteria which such development must meet. In this instance the proposal must meet the requirements of criteria (a), (d), (e), (f), (g), (h) and (i).
58. The proposal would reuse an existing building within a predominately residential area. The proposal is therefore in accordance with Policies 6(a) and (i). Discussions relating to criteria (d), (e), (f), (g) and (h) will be covered later in the report.

Loss of a community asset

59. Policy 9 defines a retail hierarchy for the county and seeks to protect and enhance the centres within the hierarchy. It goes on to advise that those locations outwith those identified in the hierarchy the loss of essential shops and services will be resisted. The supporting text goes on to identify that within smaller settlements, a local shop/convenience store or community facility such as a pub is of even greater importance to the local population and therefore the unnecessary loss of shops, community or cultural facilities within the county's smaller settlements should be avoided where possible.
60. The Plan further states that in assessing applications that would potentially see the loss of such facilities, particular consideration will be given to the accessibility or availability of equivalent facilities nearby and the role that facility plays within the settlement, in addition it highlights that the views of local people and relevant town or parish councils will be of particular importance in assessing such applications.
61. Policy 6(g) states that development should not result in the loss of a settlements or neighbourhoods valued facilities or services unless it has been demonstrated that they are no longer viable.
62. The supporting text to the policy notes that applicants must be able to provide evidence that the premises have:
- been advertised as a going concern in the press, online and on-site, at least four times within a six-month period and;
 - all reasonable offers have been explored.
63. It also confirms that this evidence will be considered on a case-by-case basis. This is supported within the NPPF under paragraph 84d) which requires proposals to enable the retention and development of accessible local services and community facilities, including pubs and paragraph 93c) which requires proposals to guard against the unnecessary loss of valued facilities and services.

Marketing and Business Viability

64. In terms of Policy 6(g) the applicant has provided evidence from estate agents, unaudited accounts and a Viability Report in support of the application.

65. The applicant has provided copies of the sales advertisements for the property from Sidney Philips estate agents from May 2017 and Pattinson estate agents which they advise they switched too, with a lower price, after no interest from the Sidney Philips advert however no specific date is given. A statement has been provided by Pattinson confirming that they marketed the property between 20 February 2020 and 19 August 2020. With no viewings and only one interested party. No additional information was provided with regard to this interest. In addition, a marketing statement from JW Wood has been submitted stating that the property was marketed between 21 August 2021 and 24 May 2022 with a total of three viewings and no offers. The only interest expressed was for the property after change of use had been granted. No other information was provided by JW Wood. The sales particulars provided by the estate agents show that the listing included the pub, and two plots to the rear of the building, one with permission for residential development.
66. The applicant has provided their own marketing and viability report to support the application prepared by Ms Anna Philips BA(Hons) History and English, RHS Dip. Hort. and a viability report prepared by Mr Barry Cartmell of Delmont Project Services. Neither document has been provided by a verifiable company and the qualifications of the authors has not been confirmed.
67. The report from Ms Philips, refers only to marketing by JW Wood estate agents and makes no reference to the previous marketing by Sidney Philips or Pattinson. It advises that the property was valued by JW Wood in August 2021 and advertised by them at that time until June 2022 via multiple websites. It states that the valuation was split into three parts including two building plots to the rear of the pub, one with existing permission for residential development and the premises themselves. The applicant has advised that Plot 1 was valued at £130,000, Plot 2 at £120,000 and The Chelmsford itself at offers over £300,000, either as a 5- or 6-bedroom detached house or split into two 3-bedroom apartments. However, the applicant has provided no copy of the estate agents valuation report. Furthermore, Ms Philips states that the pub was advertised as a 'public house' and Mr Cartmell advises in his report that the property was advertised as a 'going concern' however the sales particulars provided by the Applicant from JW Wood state that the property is 'an interesting development opportunity' and that the pub is now closed. No information is provided in the listing regarding the trading information for the pub, the opening hours, licencing details, or rateable value which potential operators would expect to see in a commercial listing of this nature.
68. The last marketing of the property, until May/June 2022 by JW Wood, included The Chelmsford premises and the two plots of land to the rear of the building. However, these plots were sold in July 2022 with only The Chelmsford remaining within the ownership of the Applicant. Therefore, the only evidence provided with regard to market interest refers to the entirety of the site, including the building plots, and is over 1 year old now. The report by Mr Cartmell states that the Applicant was advised not to market the property further until the issue of the change of use was resolved by JW Wood. Nevertheless, the lack of marketing of the single unit falls short of the requirements of Policy 6(g) and the Applicant could still have chosen to market the property should they have wished.
69. As the pub has not been remarketed as a single unit or at a revised price which reflects the loss of the additional plots of land it is considered that the Applicant has

failed to demonstrate that there is no market interest in the property in accordance with the requirements of Policy 6(g).

70. In terms of viability, applications which propose the loss of pubs are often assessed against the Campaign for Real Ale (CAMRA) 'Public House Viability Test'. Although this is not a Policy requirement, the test considers several criteria to assess the continued viability of a pub business many of which include considerations from Policy 9 and is therefore a useful tool for this assessment. This includes local trade, customer potential, competition, flexibility of the site, parking, public transport, multiple use, partial loss, competition case studies, the business-past and present and the sale. These are discussed below.
71. The Chelmsford is the only pub within the village and is therefore considered to be a community asset. In respect of visitor potential and local trade, the pub is located within the village of Ebchester with local historical sites and the River Derwent attracting visitors into the area. There are also walking routes leading into the village. In addition, the area benefits from a rowing club which attracts people into the area. The village itself benefits from over 400 properties therefore it is considered that there is a good local population in the area. In terms of neighbour interest in the application, three letters of representation were received from a neighbouring resident, from the Ebchester Residents Group and the Ebchester Village Trust. The Ebchester Village Trust has stated that whilst they do not want to see the demise of the village pub, they consider that there is probably no realistic alternative to its change of use. However, all letters consider the pub to be a community asset and that local tourism and existing and proposed housing in the area would provide a customer base for the business. The previous application, which was withdrawn, had over 35 letters of representation raising concerns regarding the loss of the pub however the current application has not received similar levels of interest. Whilst no application has been received to include The Chelmsford on the 'asset of community value' list this alone does not demonstrate that the pub would not be used should it reopen and consideration must be given to the length of time the business has been closed, impacting on local interest.
72. The Chelmsford is the only pub within the village of Ebchester, with the next nearest pub, The Derwent Walk Inn located over 700m to the southwest of The Chelmsford within Ebchester Hill. There are a further 2 pubs within 1.5miles of the application site, The Royal Oak and The Miners Arms located within Medomsley. The Chelmsford is located within the settlement and is a walkable option for those living within Ebchester or those visiting local attractions. Whilst those living closest to The Chelmsford would need to use private cars or public transport to access these pubs, these options are not considered to be an unreasonable distance from these properties. Nevertheless, it is considered that there is limited competition for customers within 1.5 miles of the pub and that as the sole remaining pub within the settlement it is a valuable community asset.
73. The report by Mr Cartmell states that the pub itself lacks 'premium features' which are offered at those neighbouring pubs in the wider area which makes them a more attractive option to customers, such as catering, larger car parks and beer gardens. As set out above the Applicant has sold the land to the rear of the pub which was included within the estate agents listing. This land was an asset to the public house which would have given future owners options with regard to increased parking and provision of a beer garden. Together with the installation of a commercial kitchen this could have brought The Chelmsford on par with other pubs in the wider area.

74. In terms of the flexibility of the site, the building itself benefits from a 3-bedroom flat the first floor together with the pub. Should any future owner not wish to reside onsite they would have the option to rent the first floor flat as visitor accommodation to bring in additional revenue. Based on the marketing information submitted by the Applicant the building and flat are in good condition and would not require extensive works to bring back into use.
75. The sale of the two plots of land to the rear of the property has resulted in a reduction in the outside space available to the pub, however some space has been retained which can be used for outdoor seating and parking. It is considered however that even with the loss of the land the site overall still retains some flexibility in terms of being brought back into use through the potential to offer catering, visitor accommodation and utilising the remaining space available.
76. Nevertheless, as set out above, had the land to the rear been retained it would have offered future owners more options for the expansion of the business. Thus, the sale of the land has effectively 'asset stripped' the business to the detriment of the future viability of the public house.
77. Parking and public transport comprise the next two tests on the Viability Test. As the plots to the rear of the building have been sold the available parking spaces have been reduced to 4 to the front and 4 to the rear. However, given the central location of the pub within the village local users would easily be able to walk to the pub should they wish. Additionally, the site can be accessed by public transport with the nearest bus stop less than 100m from the pub connecting Ebchester to Consett, the Metro centre and Newcastle. On balance, given the options for public transport and village location it is considered that the parking provision is sufficient, and the site is accessible. Again the ability to expand the parking further has been removed by the Applicant through the sale of the land to the rear.
78. In terms of multiple use of the building, the local area benefits from a community centre, church and shop. Therefore, it is considered that there are existing community facilities within the area and that it is unlikely that there would be demand for the use of the pub for community activities give the availability of the community centre. Nevertheless, the pub could be utilised for local and private events if any future owner desired to offer these.
79. Given the nature of the proposal that part 8 (partial loss) of the Viability Test is not relevant in this instance.
80. In terms of competition case studies, Mr Cartmell has advised in his report that other pubs within the local area provide better services than The Chelmsford. He specifically states that the area benefits from a healthy pub industry, many only a short drive from The Chelmsford. These pubs are able to offer "*large capacity dining, significant outdoor public spaces, car parking provision for numerous vehicles and guest accommodation*". As set out above the Applicant has chosen to sell the land to the rear of the property separately which could have been utilised for increased dining, outdoor public space, increased car parking and subject to a planning application, visitor accommodation. The ability of The Chelmsford to compete with other pubs in the area, as set out in their own viability report, has been diminished by the Applicant themselves. Yet, as set out above there are opportunities to offer some outdoor space, parking, increased catering and visitor accommodation on site and

the Applicant has failed demonstrate that this is not an attractive option on the open market through their failure to advertise the property as it is currently without the land to the rear.

81. Mr Cartmell states that four pubs within the Durham area are currently for sale as freehold businesses and these all benefit from outdoor space, larger car parking and larger catering than the application site. The report advises that these properties have been on the market for a significant period of time without a buyer coming forward. Mr Cartmell states this is indicative of the situation in the hospitality industry at present. It is not disputed that the industry is struggling regionally and nationally, nevertheless, some businesses are turning a profit, as demonstrated by Mr Cartmell himself in his report. In recognition of this Policy 6(g) allows applicants to demonstrate that their business is no longer viable and lacking market interest through the provision of marketing evidence from a six-month period. This is not something that the Applicant has provided for the business as it stands at the moment. Therefore, irrespective of the other premises for sale in the local area the Applicant has not provided evidence that this business lacks market interest.
82. Based on the above, The Chelmsford is the only pub within walking distance within the village of Ebchester and the area itself attracts visitors for both recreation and historical interest. The pub would therefore not be solely reliant on local trade and there is limited competition in the immediate area. Whilst parking is limited on site there is some available and customers have access to sustainable transport options as an alternative. It is considered in light of this, that the Applicant has failed to demonstrate that the pub is not viable in line with parts 1-9 of the CAMRA Public House Viability Test.
83. The final two criteria of the Viability Test focus on the business past and present and the sale of the property. As set out above these specific elements are also key considerations for Policy 6(g).
84. Only limited details have been provided with regard to historical trading performance. The sales particulars from 2017 by Sidney Philips state that the Applicant operated the business on a part-time basis due to the Applicants' other businesses. It is stated that at that time they were able to achieve an average of £3000 wet only, per week. The (unaudited) accounts submitted in support of the application cover the period 2016 to July 2019. The Applicant has advised that the minimum weekly takings would need to be £5000 just to keep the business open. Therefore, longer opening hours and diversification into catering has the potential to boost turnover. Whilst it is recognised this is based on figures from 2017 these are the only figures provided by the Applicant for consideration. Ms Philips advises in her report that the property was tenanted in 2018 and subsequently opened under a new manager in October 2019. The pub has not reopened since March 2020 and the Covid lockdown.
85. Mr Cartmell has stated that the customer base would be predominately limited to local residents (400) due to the lack of the 'premium features' discussed above. He therefore surmises that based on 'a countrywide survey' which found that the average household spend on alcohol per week as £1.60 (in 2021 after the pandemic restrictions were lifted) the potential takings for The Chelmsford would be only £640 per week. The report goes on to state that the space available within the pub would further restrict capacity for additional customers. It is stated that based on his experience the potential for takings would be up to £2500 per week whilst the net costs in running the business would be approximately £3380 per week. However,

whilst increased opening hours and increased catering are discussed these options are not fully costed. Furthermore, as stated above, this report has been provided by an individual rather than a verifiable company with specific experience in viability assessment.

86. There has seemingly been no effort on the part of the Applicant to reopen the pub or increase turnover since lockdown. There is a lack of evidence provided by the Applicant in terms of verified audited accounts, a business plan or viability assessment provided by a verifiable company or individual to demonstrate that the pub is not or would not be a viable business. There is no evidence at this time that a new pub operation would necessarily fail.
87. The CAMRA have been consulted on the proposal but have provided no comment to date.
88. The Chelmsford is therefore considered to be a valued community asset. The loss of such a community facility which would be significantly harmful to the quality of life of the local community. It is for the Applicant to demonstrate that the loss of such a community asset is justified in terms of its future viability. No meaningful evidence has been provided that demonstrates that the property has been advertised, as it stands as a single premises with a much-reduced plot, for a suitable length of time, or as a going concern or that all reasonable offers have been explored. Without such evidence it is considered premature to conclude that the property is not of interest to another operator or that the public house itself is unviable. The Applicant has failed to demonstrate that it is not a viable business. As such the proposal is considered to be contrary to Policies 6(g) and 9 of the County Durham Plan. It would also conflict with paragraphs 84d) and 93c) of the National Planning Policy Framework which requires planning decisions to retain and guard against the unnecessary loss of valued and accessible facilities and services, particularly where this would reduce the community's ability to meet its day-to-day needs.

Impact on heritage assets

89. Policy 44 (Historic Environment) seeks to ensure that developments should contribute positively to the built and historic environment and seek opportunities to enhance and, where appropriate, better reveal the significance and understanding of heritage assets. The policy advises on when harm or total loss of the significance of heritage assets can be accepted and the circumstances/levels of public benefit which must apply in those instances.
90. The Chelmsford is located within the Ebchester Conservation Area. It is specifically noted within the Ebchester Conservation Area character appraisal:
91. *"The only public house in the heart of the village. Built in 1890. The post office, which was once attached to the Front elevation has since been demolished. Stone building with slate roof. Although it has undergone significant alteration that has undermined its character, its south elevation has an important townscape value in the village when viewed alongside the listed Burn House and Jubilee House".*
92. The building is considered to be a prominent building within the Conservation Area and village centre. The Applicant is proposing limited external changes to the building to convert into a residential property. The public house branding would be removed, that the original stonework would be re-exposed and the rendered sections of the

building repainted to match the stonework. The windows would be upgraded but no details have been provided on the specification however this detail could be controlled by condition. The Design and Conservation Officer has advised that the building has undergone a number of changes over the years and that the proposed works would not harm the Conservation Area. It is considered that the proposal would not result in harm to the character or appearance of the Conservation Area or the building itself, therefore the proposal, subject to a condition relating to the windows, is in accordance with Policy 44 of the County Durham Plan and would cause no harm to the heritage asset which would be preserved in accordance with Part 16 of the NPPF and Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

Housing Need

93. The Council has established a 6-year housing land supply therefore the need for new housing is afforded limited weight in terms of a benefit to the proposal. However, this does not mean that new housing cannot be supported. In this instance there is no justification for the loss of a community asset therefore this loss is not outweighed by the benefit of additional housing.

Design and impact on neighbouring amenity

94. Policy 29 (Sustainable Design) requires all development proposals to achieve well designed buildings and places having regard to SPD advice and sets out 18 elements for development to be considered acceptable, including: making positive contribution to areas character, identity etc.; adaptable buildings; minimising greenhouse gas emissions and use of non-renewable resources; providing high standards of amenity and privacy; contributing to healthy neighbourhoods; and suitable landscape proposals. Provision for all new residential development to comply with Nationally Described Space Standards. The Council's Residential Amenity Standards SPD offers advice in relation to the design of new developments, including minimum privacy distances and garden spaces. Policy 6(d) also requires that the proposal is appropriate in terms of scale, design, layout and location not the character, function, form and setting of the settlement. Policy 31 seeks to prevent development that would have an unacceptable impact upon the amenity of existing neighbouring residents and only allow development where adequate amenity for future occupiers is provided.
95. As set out above, the building itself is considered to make a positive contribution to the character and appearance of the area. As set out above the Design and Conservation Officer raises no objection to the proposed limited changes to the building.
96. There are existing residential properties to the north, west and south. The SPD requires a minimum separation distance of 21m between two storey dwellings with windows to habitable rooms. Properties to the west and south of the application site are located in excess of 21m from the application site. There is a single window in the northern elevation of The Chelmsford which overlooks the neighbouring property, the School House, to the north. This window is currently a bedroom window and would be retained as a bedroom window. The proposal would retain the existing level of overlooking currently experienced between the two properties rather than increasing it. To the east of the site is the building plot which the Applicant has sold. The previously approved dwelling is currently under construction and the western elevation of the dwelling will face onto the rear elevation of The Chelmsford. The

property would be located 23m from this elevation therefore achieves the minimum required separation distance. It is therefore considered that the proposal meets the required minimum separation distances between the properties and therefore would not result in an unacceptable impact on the neighbouring property.

97. In addition, the existing car park would be landscaped to provide amenity space in excess of 9m for future occupants in line with the requirements of the SPD.
98. The Government have introduced 'Nationally described space standards' (NDSS) which set out the minimum floorspace required for dwellings, bedrooms and storage. The building currently comprises two floors with an approximate floorspace of approximately 249.2sq.m. It is proposed to provide 4 bedrooms at first floor level with an additional room labelled as a study/bedroom. Bedrooms 1 and 3 would have their internal ceiling heights raised to achieve the minimum required 2.2m headroom, nevertheless a 1.5m headroom could be achieved based on the submitted plans. The plans show a study which could be used as a bedroom, this would not meet the minimum requirements and therefore would need to be used as study. The remaining two bedrooms would meet the required floorspace.
99. One of the environmental objectives of the NPPF is to mitigate climate change and Policy 29(c) requires that the proposal is designed to reduce greenhouse emissions. A condition would therefore be recommended that would ensure the submission and implementation of a scheme to minimise greenhouse gas emissions if the proposal were deemed to be acceptable.
100. In terms of the noise and disturbance, the proposal would introduce residential use to the building in line with neighbouring properties. Overall, noise and disturbance resulting from the use of the public house would be considered to be greater than that resulting from residential use therefore the impact on neighbouring properties would be reduced in the long term. However, it is acknowledged that there would be noise and disturbance resulting from the conversion works but as these would be temporary it is considered to be acceptable.
101. Given the above, it is considered that the proposal meets the requirements of Policies 6(d), 29 and 31 and the SPD of the County Durham Local Plan.

Highways safety and sustainable transport

102. Policy 6(e) requires proposals to not be prejudicial to highway safety and 6(f) requires good access to sustainable modes of transport. Policy 21 of the CDP requires all development to deliver sustainable transport by: delivering, accommodating, and facilitating investment in sustainable modes of transport; providing appropriate, well designed, permeable, and direct routes for all modes of transport. One of the social objectives of the NPPF is to support a strong, vibrant, and healthy community by fostering a built environment with accessible services. Paragraph 110 of the NPPF advises that in assessing applications for development appropriate opportunities to promote sustainable transport modes can be or have been taken up, given the type of development and its location. Paragraph 112 advises that development should be designed to enable charging of plug-in and other ultra-low emission vehicles in safe, accessible, and convenient locations.
103. The proposal would be 100m to bus stops which is considered accessible. These bus stops have regular services to Ebchester, Consett and Newcastle. Whilst there is a

local shop any future occupant would need to travel to Consett or further afield to access larger and more diverse shops and services. However, given the distance to and accessibility of the bus stops it is not considered that there would be a heavy reliance on the private car for all journeys or that there is a need to include measures to improve sustainability in this case. Furthermore, it has been borne in mind that the former use would have involved a significantly greater number of car journeys. The proposed residential property would utilise the existing access and off-road parking would be provided in curtilage. In addition, the Highways Officer is raising no objection to the proposal.

104. It is therefore considered that the proposal meets the requirements of Policies 6(e)(f) and 21 of the County Durham Local Plan and the NPPF.

Impact on ecology

105. Policy 43 of the CDP requires all development that would likely have an adverse impact on the ability of species to survive, reproduce and maintain or expand their current distribution to not be permitted unless appropriate mitigation, or as a last resort compensation, can be provided, which maintains a viable population and where possible provides opportunities for the population to expand; and where the species is a European protected species, the proposal also meets the licensing criteria (the 3 legal tests) of overriding public interest, no satisfactory alternative and favourable conservation status. These policies are in accordance with section 15 of the NPPF.
106. The Ecologist has confirmed that no works are required. It is therefore considered that the proposal meets the requirements of Policy 43 of the County Durham Local Plan and the NPPF.

Drainage and surface water

107. The proposal would not alter the existing surface drainage situation that is currently in situ and the property is already connected to the public sewerage system. The proposal is therefore considered to be in accordance with the requirements of Policies 6(h), 35 and 36 of the County Durham Plan.

CONCLUSION

108. The Chelmsford is the only pub within the village of Ebchester and therefore considered to be a community asset, the loss of which would be significantly harmful to the quality of life of the local community. The CAMRA Public House Viability Test demonstrates that there is both a local market of customers together with potential trade from visitors to the area. The lack of local competition puts The Chelmsford in a strong position. The test did not prove that the pub would be unviable.
109. The sale of the land to the rear of the property has impacted upon the long-term viability of The Chelmsford. The Applicant has effectively 'asset stripped' the business reducing the overall flexibility of the site. Though, there remains potential for changes to increase the profitability of the premises. Due to a lack of marketing of the single unit the Applicant has failed to demonstrate that there is no market interest in the premises as a pub.

110. The Applicant has failed to provide meaningful evidence to demonstrate that the pub has been appropriately advertised for the minimum required time and that all reasonable offers have been explored to accord with the policy requirements, and therefore the loss of the community asset is therefore considered to be unjustified and therefore contrary to Policies 6(g) and 9 of the County Durham Plan.
111. All other considerations in terms of impact on heritage assets, housing need, design and impact on neighbouring amenity, highways safety and sustainable transport, impact on ecology, drainage and surface water are neutral or could be controlled via conditions.
112. The development has been assessed against all relevant policies of the County Durham Plan, it is concluded that the development would conflict with the identified policies, there are no material considerations which would outweigh the identified harm as a result of the policy conflict, or which would indicate a decision should be otherwise and therefore the application is recommended for refusal.

Public Sector Equality Duty

113. Section 149 of the Equality Act 2010 requires public authorities when exercising their functions to have due regard to the need to i) the need to eliminate discrimination, harassment, victimisation and any other prohibited conduct, ii) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it and iii) foster good relations between persons who share a relevant protected characteristic and persons who do not share that characteristic.
114. In this instance, officers have assessed all relevant factors and do not consider that there are any equality impacts identified.

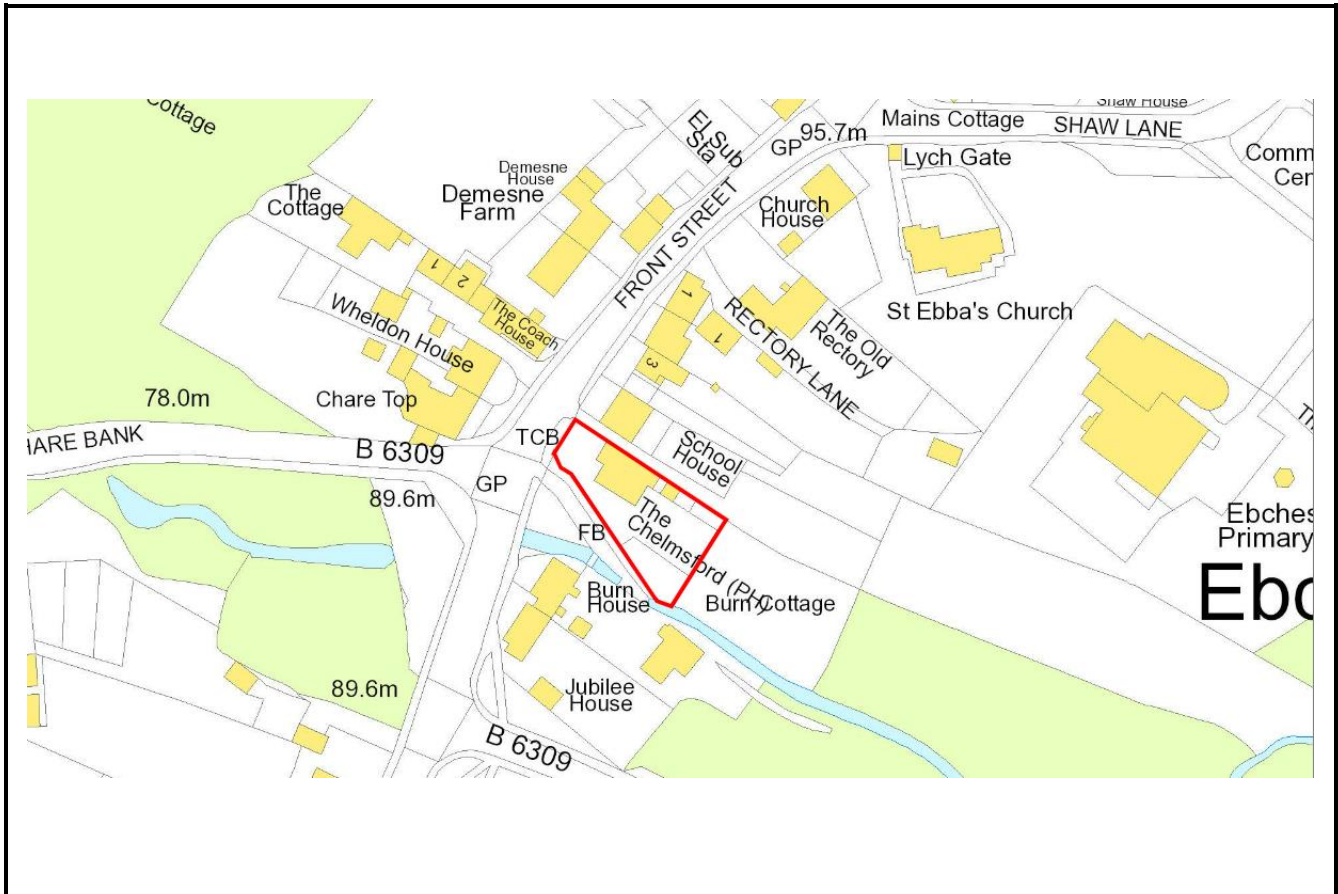
RECOMMENDATION

That the application be **REFUSED** for the following reasons:

1. The pub use provides a community asset to the local community and its loss would have a negative impact upon the quality of life of the local community which has not been adequately justified by the viability, marketing and supporting information submitted with the application. The proposal is therefore in conflict with Policies 6(g) and 9 of the County Durham Plan and paragraphs 93(c) and 84(d) of the National Planning Policy Framework and there are no material considerations that indicate that the local plan should not be followed in this case.

BACKGROUND PAPERS

The National Planning Policy Framework (revised 2021)
National Planning Practice Guidance Notes
Durham County Plan 2020
Residential Amenity Standards Supplementary Planning Document
Statutory, internal and public consultation responses
Submitted forms, plans and supporting documents



<p>Planning Services</p>	<p>Change of use from commercial (Public House) to a five-bedroom residential dwelling (C3)</p> <p>Application Number DM/23/00446/FPA</p>	
<p>This map is based upon Ordnance Survey material with the permission of Ordnance Survey on behalf of Her Majesty's Stationary Office © Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceeding. Durham County Council Licence No. 100022202 2005</p>	<p>Comments</p>	
	<p>Date 28 September 2023</p>	<p>Scale NTS</p>