

# Mark Jenkinson

## Fighting for North Cumbria



Planning Department  
Westmorland and Furness Council  
South Lakeland House,  
Lowther Street,  
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### **RE: APPLICATION NUMBER 2025/0357/FPA**

I write in objection to the application for change of use, leading to the irreversible loss of the last public house in Nenthead – recognising that the decision by the current owner to cease trading for reasons other than viability represents only a temporary loss. I also wish to raise concerns about technical deficiencies in the application.

Over the last decade, government have recognised the detrimental effects of the loss of pubs on communities, particularly where they may be the last, and have sought to protect them through the planning system. That we are able to submit objections like this and scrutinise the eventual decision and the process to get there, is testament to those changes.

### **Financial Viability**

Last year pubs were lost at a rate of six per week across the UK. It is easy for some to lazily reach for that statistic, claim that the difficulties in hospitality are the same everywhere, and say that the loss of the Miners Arms in Nenthead is inevitable. But the available evidence suggests that it is simply not the case.

The unique location and characteristics of the pub – including its provenance as an official C2C stamping post - suggest that it remains a going concern, notwithstanding the current owner's decision to close the doors. The number of pubs closing annually has reduced in recent years, despite the impacts of the Covid pandemic.

The applicant states that *“[t]he decision not to re-open The Miners Arms was taken along with the evidential downturn in the pub & hospitality industry throughout the UK and the conclusion that operating the business would prove to be no longer economically viable, along with inevitable financial loss as a result”* without taking the opportunity of providing that evidence of the downturn, or indeed any viability assessment for the Miners Arms.

CAMRA list the pub as the landlord having retired, and the current marketing of the property **as a house** states that the sale is due to retirement.

The last three years published accounts suggest a business with underlying profitability when hospitality was declining at a much faster rate. The operating company didn't own the building, it is also therefore reasonable to expect that 'other charges' in the accounts included an element of rent to the current building owner – who was also the majority shareholder and a director of the operating company - on top of the published profit.

Published accounts also show an average of six people employed by the pub, thereby providing significant economic benefit to the local area. Nothing provided in the application suggests that local economic benefit couldn't return, but it is guaranteed to be lost with this proposed change of use.

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That the business should be a going concern would appear to be backed up the most recent business rates valuation (which for pubs is based on turnover information supplied to the VOA), and on the statement of affairs from the voluntary liquidation of the operating company which shows that any outstanding liabilities arose from the liquidation itself – staff costs.

I would expect planning officers to commission an independent viability assessment prior to any decision, and you are reminded that the District Valuer provides independent financial viability advice to local planning authorities in such circumstances.

## **Marketing**

The applicant states that *“initially marketed with commercial agents Sydney Phillips in February 2019”* but does not state at what price, and how that compares to the current marketing price.

The applicant goes on to state that the marketing was moved to *‘Red Hot Property’* in 2021, that Red Hot Property advised in 2022 to *“consider the prospect of applying for planning for change of use”*, and that feedback from all five viewings through Red Hot Property was that the potential purchasers *“intention would be to take on the property as a large family home and not as a pub/business”*.

This is entirely unsurprising, given that Red Hot Property are a residential estate agent marketing the Miners Arms **as a house**.

Their website is entirely geared around selling homes, and there is no mention of selling commercial property. You can filter properties on their website by the category of *‘Commercial’*, *‘Garage’* or *‘Land’* – but there is not a single property listed in any of these categories. The Miners Arms is listed in the *‘Detached House’* category.

The applicant appears to have provided no evidence of any effort to sell as a going concern. Any marketing as a pub appears to be for a short period prior to the Covid pandemic, which all but stopped property sales.

I would expect that planning officers would want to see extensive evidence of marketing for sale as a pub, prior to making any decision.

## **Current Planning Policy**

The National Planning Policy Framework seeks to preserve community facilities such as public houses **(my emphasis)**:

*88. Planning policies and decisions should enable:*

*a) the sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and well-designed, new buildings;*

*b) the development and diversification of agricultural and other land-based rural businesses;*

*c) sustainable rural tourism and leisure developments which respect the character of the countryside; and*

*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.*

*98. To provide the social, recreational and cultural facilities and services the community needs, planning policies and decisions should:*

*a) plan positively for the provision and use of shared spaces, community facilities (such as local shops, meeting places, sports venues, open space, cultural buildings, **public houses** and places of worship) and other local services to enhance the sustainability of communities and residential environments;*

The adopted Eden Local Plan sets out how that will be achieved in further detail, in Policy COM1 - Principles for Services and Facilities (**my emphasis**):

*Where permitted development rights do not apply, the change of use of rural facilities such as a shop, **public house**, doctor's surgery, dental surgery, school, bank, Church/chapel, village hall, allotments or other facility considered important to the community will only be permitted where it can be demonstrated that:*

- *There is no longer a need for the facility or suitable and accessible alternatives exist.*
- *That it is no longer economically viable to provide the facility.*
- *That the site has been unsuccessfully marketed for sale in its current use.*

The rationale for Policy COM1 is set out in the Local Plan commentary (**my emphasis**):

4.35.3 *The policy also provides specific safeguards to help prevent the loss of community facilities in rural areas, which can often run on the margin of viability. In rural Eden and in particular those villages that are not well served by public transport, a lack of such facilities can have a major impact on the vitality of local communities as well as individuals, particularly the less mobile and those without access to a car. Once lost, these facilities can be difficult to replace. For this reason, this policy requires that applicants demonstrate that it is no longer possible to run any existing facility as a profitable ongoing concern. **This may require provision of evidence that the site has been marketed for sale for the current established use for a sustained period. This period is set as a minimum of twelve months...***

4.35.5 *Community services and facilities are an essential part of life for the residents of Eden. One of the major challenges facing small rural settlements in particular is their ability to retain local services and facilities, which are **essential for maintaining villages as sustainable communities.***

4.35.6 *Supporting thriving rural communities is also one of the core planning principles set out in the National Planning Policy Framework (NPPF), which requires Local Authorities to **promote the retention and development of local services and community facilities in villages**, such as local shops, meeting places, sports venues, cultural buildings and places of worship.*

Also relevant in this case is Policy EC2 - Protection of Employment Sites (**my emphasis**):

*On non-allocated sites, where land is currently or last in employment use permission will be given for alternative uses if there is **no strong economic case for the retention of the site as an employment use** and there is no significant adverse impact upon the continued operation of neighbouring existing uses.*

*This applies where any of the following criteria apply:*

- *The loss of the site would not have an **unacceptable impact on the quality and quantity of employment land and premises** in the area.*
- *The development would result in the removal of a non-conforming use from a residential area.*
- *The benefits arising from the new use for the locality outweigh the disadvantages caused by the loss of an employment site.*
- *It can be shown that the continued use of the site for employment use is **no longer viable.***

And again, the rationale for policy EC2 is set out in the commentary (**my emphasis**):

4.17.1 *This plan aims to support and develop Eden's economy, and to this end includes allocations of employment land, which can be found in Chapter 3. This policy seeks to protect these allocated sites from a possible change of use. In addition, it seeks to protect employment land and existing employment sites unless there is a **reasonable prospect that a site will not be able to be developed for employment or retained in employment purposes.** Change of use from employment use will only be granted if the benefits of the resultant use outweigh the loss of the site for employment use, for example through the provision of additional local services, through providing opportunities for wildlife creation or through the creation of renewable energy technologies. Where a change of use from employment to retail use is proposed Policy EC7 (which applies a sequential test to new development) will apply.*

- 4.17.2 *In determining the viability for employment, a development appraisal should accompany proposals to **clearly demonstrate why redevelopment for employment purposes is not commercially viable**, identifying the abnormal and other costs which would prevent an appropriate employment scheme coming forward within a reasonable timescale during the plan period. Development Appraisals should be prepared on an open book basis. In assessing viability, consultation should also be undertaken with the Council and others to explore the range of funding sources and mechanisms that could potentially be used to bring forward sites. Also, if a wholly employment scheme is not a viable form of development, developers / applicants will also be expected to consider whether mixed-use development (including an appropriate element of employment) would be an effective means of overcoming viability constraints.*
- 4.17.3 *To ensure sites allocated for employment use in this plan are not developed for other uses unless it can be demonstrated that employment uses are **no longer viable** in that location.*

I would also draw officers' attention to part of Policy ENV10 – The Historic Environment:

*The Council will require proposals to protect and where appropriate, enhance the significance and setting of Eden's non-designated heritage assets, including buildings...*

And the rationale that follows (**my emphasis**):

- 4.33.5 *Proposals that will have an impact on any heritage asset, **whether designated or not**, should be accompanied by an assessment of the significance of the heritage asset and how that significance will be affected by the proposed development.*
- 4.33.6 *The district contains an extensive wealth of heritage assets. These all represent a finite, non-renewable resource that is a significant asset in terms of quality of life and local distinctiveness. The historic environment makes a strong contribution to the attractiveness of the area for tourism and business as well as being a driving force in conservation led regeneration. There needs to be a strong emphasis on the protection and enhancement of these sensitive environments.*
- 4.33.7 *This policy includes safeguards to make sure that the **character** and appearance of heritage assets is protected.*

### **Contravention of Local Plan Policies**

It is quite clear that this change of use would be in contravention of the adopted Local Plan in several areas:

1. ***It has not been demonstrated that there is no longer a need for the facility or suitable and accessible alternatives exist*** - Policy COM1

Others have set out in their objections why the Hive cannot be considered a suitable alternative. Although occasionally overlapping, their offer to the community is entirely different. One acid test for the council to consider in this regard, is how they would be treated if both were to apply for Rural Rates Relief.

2. ***It has not been demonstrated that it is no longer economically viable to provide the facility*** - Policy COM1

The applicant has failed to provide any financial viability assessment for the pub. It is clear from the available public evidence that retirement is the reason for the closure. Retirement is not the same as not being financially viable. 8 months after the forced closure of the pub by the Covid pandemic, the statement of affairs from the liquidation clearly shows that any creditors arose from the liquidation, not through continuing with a business that was not profitable. There was no financial distress, and the published accounts show underlying profitability and the ability to meet non-core costs of close to 30% of turnover.

3. ***It has not been demonstrated that the site has been unsuccessfully marketed for sale in its current use*** - Policy COM1

The applicant has provided no marketing report, or any detail, from the period of marketing that was interrupted by the Covid pandemic. Marketing post-Covid has been as a house, which unsurprisingly leads to interest from viewers being on the basis that property is just a house. The council should require that the property is marketed for sale in its current use for a period of at least 12 months, with a report on marketing activity coming back to the council for independent verification and assessment.

4. ***The loss of the site would have an unacceptable impact on the quality and quantity of employment land and premises in the area*** – Policy EC2

In a village like Nenthead, six jobs is not an insignificant number. That is the number sustained in the years prior to the current owner's retirement. It is clear therefore, that the change of use would have an unacceptable impact on the quantity of employment premises in the Key Hub of Nenthead.

5. ***The benefits arising from the new use for the locality do not outweigh the disadvantages caused by the loss of an employment site*** – Policy EC2

The extension of an existing living area, at the expense of a key community and tourist facility, and the last public house in the village known to have been in existence for over 200 years, does not outweigh the loss of an employment site proven to host six jobs for a sustained period, and capable of more.

6. ***It has not been shown that the continued use of the site for employment use is no longer viable*** – Policy EC2

See 2, above.

7. ***There is no proposal to protect or enhance the significance and setting of this non-designated heritage asset*** – Policy ENV10

The Miners Arms is an original village pub, the last remaining. It has been the heart of the village for generations. It has enough heritage significance to merit identification as non-designated heritage asset.

'Significance' in terms of heritage-related planning policy is defined in the Glossary of the National Planning Policy Framework as the value of a heritage asset to this and future generations because of its heritage interest. Significance derives not only from a heritage asset's physical presence, but also from its setting.

The National Planning Policy Framework definition further states that in the planning context heritage interest may be archaeological, architectural, artistic or historic – and it is the latter that is of interest here.

Planning guidance tells us that historic interest can be interpreted "*as an interest in past lives and events. Heritage assets with historic interest not only provide a material record of our nation's history, but can also provide meaning for communities derived from their collective experience of a place and can symbolise wider values such as faith and cultural identity.*"

It goes on to say that "*Heritage assets may be affected by direct physical change or by change in their setting. Being able to properly assess the nature, extent and importance of the significance of a heritage asset, and the contribution of its setting, is very important to understanding the potential impact and acceptability of development proposals*".

It is clear that in order to be able to assess the heritage impact of these proposals, the council should seek a report that properly assesses the significance of the pub as a heritage asset given its use, its setting and its history.

Heritage is not just about *places*, but about how *people use places*. Approving this change of use will lead to the irrevocable loss of a public house that has sat at the heart of Nenthead for generations, one that gives a nod to the village's industrial heritage and keeps the present rooted in the past.

Through temporary closure, it is obvious even to those of us outside the village that the loss of the pub has been detrimental to village life. The campaign to reopen the pub has shown not only the best of the village but has also captured the hearts and minds of people across the country who have already been in the same position previously, or fear that it's just around the corner for their own village.

Westmorland and Furness Council has but one chance to get this right. Approval of this change of use means the loss of not just the last pub in the village, but of a huge chunk of Nenthead's history that can never be regained.

It means the loss of a strategic tourist attraction that brings wide local economic benefit much greater than a village pub looked at in isolation. It means the loss of a community asset that could again be the beating heart of a thriving community. It means the loss of an employment site that cannot be considered insignificant in the local context.

The applicant has not done what is required by the council, as a minimum, to effect this change of use and it should therefore be rejected. I trust that officers will reach the same conclusion, and that councillors will support them in that decision.

Yours faithfully,



Mark Jenkinson

Former Member of Parliament

cc. Mr Markus Campbell-Savours MP, Member of Parliament for Penrith and Solway  
Sam Plum, Chief Executive Westmorland and Furness Council  
Councillor Mary Robinson, Westmorland and Furness Council  
Councillor Michael Hanley, Westmorland and Furness Council  
Councillor Patricia Bell, Westmorland and Furness Council  
Councillor Hilary Carrick, Westmorland and Furness Council  
Councillor Colin Atkinson, Westmorland and Furness Council  
Alston Moor Parish Council  
Alan Welsh, Chairman Solway CAMRA