

# North Yorkshire Council

## Assessment of Assets of Community Value Nomination

The Old Post Office/Village Shop, Morrisons, Main Street, North Duffield  
Ref: NYC/ACV00026

Report of Rachel Joyce, Assistant Chief Executive – Local Engagement

13 December 2023

### 1.0 PURPOSE OF REPORT

- 1.1 To determine whether The Old Post Office/Village Shop, (Morrisons), Main Street, North Duffield should be placed on the Council's List of Assets of Community Value (ACVs)

### 2.0 SUMMARY

- 2.1 To consider a nomination for listing of The Old Post Office/Village Shop, Morrisons (formerly McColl's), Main Street, North Duffield as an asset of community value under the Localism Act 2011, following a valid nomination form received on the 1 November 2023 from North Duffield Parish Council.

### 3.0 BACKGROUND

- 3.1 [The Localism Act 2011](#) requires the Council to consider all valid nominations for properties and/or land to be placed on the List of Assets of Community Value. This is also known as the 'community right to bid.' Land or property considered of community value can be nominated by a voluntary or community body that complies with [regulation 5](#)

When a listed asset comes up for sale a community interest group can trigger a delay (moratorium) in any sale process. The purpose is to create a "window of opportunity" to secure funding and bid for the property on the open market. The owner is not obliged to accept a bid from a community interest group and can sell to whomever they choose.

The Assets of Community Value (England) Regulations 2012 provide a mechanism for the owner of land listed as an ACV to request an internal review and also appeal to the first-tier tribunal against the listing. Although first-tier tribunal decisions are not binding precedents any appeal decisions provide judicial guidance to the operation of the legislation. The guidance provided by these decisions is becoming increasingly useful to local authorities in the assessment of Assets of Community Value nominations.

Private owners may claim compensation from the Council for loss and expenses incurred through their property being listed. More details are provided in the 2012 Regulations.

This report ensures that the Council considers the nomination for The Old Post Office/Village Shop, Morrisons (formerly McColl's) Main Street, North Duffield as required by the Act.

## 4.0 DETAILED PRESENTATION OF THE SUBSTANTIVE ISSUE

The Old Post Office/Village Shop, Main Street, Wheldrake, North Duffield is currently leased by Morrisons (McColls) Stores. The Parish Council and Parish Councillor's for the area have resolved that they would like to register the village shop as a community asset so that the Parish Council as well as residents may have the option of buying it if it were ever put up for sale. It has been a village asset for many years and the original listing was granted for a period of five years in 2018 by the then authority Selby District Council expiring on the 1 November 2023.

The village shop is a vital community asset as the nearest other shop/post office is over 4 miles away and the nearest town (Selby) is 13 miles away. As a designated post office, the shop is used by both residents of the village and its surrounding villages. It also sells a variety of produce including newspapers, magazines, cigarettes, wines & spirits, confectionary, cards, and grocery items. It is open 7 days a week, 6am until 9pm Monday to Saturday and 7am until 9pm on a Sunday. The Parish Council and residents believe the shop is an important community asset and would not want to lose it. The property is currently run by the same retail group and managing personnel as it has been for a number of years.

The nomination was received from North Duffield Parish Council on 1 November 2023.

Notification of the nomination was made to the owners on the 2 November and last known tenants of the property in line with the 21-day consultation period. Following expiry of this period on the 23 November, no comments or objections have been received.

Consultation was made with the current leaseholders of the property on the 2 November 2023. A response was received on the 5 December outside the 21-day consultation period, however they have no objections.

### ***Localism Act 2011 Section 88 if current use:***

- (a) an actual current use of the building or other land that is not an ancillary use furthers the social wellbeing or social interests of the local community,

and;

- (b) it is realistic to think that there can continue to be non-ancillary use of the building or other land which will further (whether or not in the same way) the social wellbeing or social interests of the local community.

**Evidence:** The Premises have been run as a post office and village shop for several years. The former authority, Selby District Council had considered it as an asset of community value in November 2018 for a period of five years ending on the 1 November 2023.

**Conclusion:** The use as a community shop and post office has been continuous and it is reasonable to think the property will be host to a post office and village shop for the foreseeable future. It is realistic that if the retail group did not renew their lease, or if the land were sold, the post office/village shop would continue under the same directive.

## 5.0 CONSULTATION UNDERTAKEN AND RESPONSES

Community Safety: Nothing to note

Owner: No response received

Occupier: No response received

Leaseholder: Response received on the 5 December 2023, outside the 21day consultation period, however, there are no objections.

## **6.0 ALTERNATIVE OPTIONS CONSIDERED**

No alternate options considered.

- 6.1 To not consider the nomination for The Old Post Office/Village Shop, Morrisons, Main Street, North Duffield would not fulfil the Council's responsibilities required by the Localism Act 2011 and The Assets of Community Value (England) regulations 2012.

## **7.0 IMPACT ON OTHER SERVICES/ORGANISATIONS**

- 7.1 If successful the fact that land/property is listed as an Asset of Community Value may be taken into account as a material consideration for any future planning application.

## **8.0 FINANCIAL IMPLICATIONS**

- 8.1 If the decision is to list the property the owner can make a claim for compensation for which the Council is liable.

## **9.0 LEGAL IMPLICATIONS**

- 9.1 If the property/land is listed the council is required to apply to the Land Registry for entry of a restriction on the Land Register. This restriction will be in a form of wording in Schedule 4 to the Rules, as Form QQ. This is "No transfer or lease is to be registered without a certificate signed by a conveyancer that the transfer or lease did not contravene section 95(1) of the Localism Act 2011". An owner of previously unregistered listed land, who applies to the Land Registry for first registration (or a mortgagee who applies for first registration on behalf of the owner), is required at the same time to apply for a restriction against their own title. The local authority is also required to apply to the Land Registry for cancellation of the restriction when it removes an asset from its list.
- 10.2 If the property/land is listed and the owner/leaseholder wishes to dispose of it, he must notify the council. Once this has taken place an interim moratorium period (6 weeks) will apply where disposal of the property may not take place (except if sold to a community interest group which can take place at any time). If, before the end of the interim moratorium period the council receives a written request from a community interest group to be treated as a potential bidder then a full moratorium period applies. Disposal may then not take place within 6 months from the date the Council receives notification from the owner (except if sold to a community interest group).
- 10.3 When a listed asset is disposed of, and a new owner applies to the Land Registry to register change of ownership of a listed asset, they will therefore need to provide the Land Registry with a certificate from a conveyancer that the disposal (and any previous disposals if this is the first registration) did not contravene section 95(1) of the Localism Act (the moratorium requirements).

## **11.0 EQUALITIES IMPLICATIONS**

None Identified

## **12.0 CLIMATE CHANGE IMPLICATIONS**

None Identified

## **13.0 RISK MANAGEMENT IMPLICATIONS**

None Identified

## **14.0 COMMUNITY SAFETY IMPLICATIONS**

None Identified

## **15.0 CONCLUSIONS**

If unsuccessful all parties will be advised of the outcome of the decision, and the Council's reasoning for it. If successful, the owner will be informed of the decision review process and the nominating group will be advised that there is no provision within The Regulations (The Asset of Community Value (England) Regulations 2012) for them to seek a review of the Council's decision.

## **16.0 REASONS FOR RECOMMENDATIONS**

- 16.1 The evidence demonstrates that the nomination for The Old Post Office/Village Shop, Morrisons (McColls), Wheldrake, North Duffield meets the definition of community value as detailed in the Localism Act 2011.

## **21.0 RECOMMENDATION(S)**

It is recommended that the Assistant Chief Executive Local Engagement:

- (i) Determines that the nomination for The Old Post Office/Village Shop, Morrisons, North Duffield is successful and meets the definition of community value as detailed in the Localism Act 2011
- (ii) It should be placed on the North Yorkshire Council Assets of Community Value List of Successful Nominations

## **BACKGROUND DOCUMENTS:**

ACV Nomination/Application Form, Ref: NYC/ACV00026

HM Land Registry 1.1250 scaled plan NYK255319

North Duffield Parish Council Standing Order

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Date: 6 December 2023

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