

North Yorkshire Council

16 January 2024

Assessment of Assets of Community Value Nomination *The White Swan Inn, Gilling West NYCACV0027*

Report of Rachel Joyce, Assistant Chief Executive Local Engagement

1.0 PURPOSE OF REPORT (MANDATORY)

1.1 To determine whether The White Swan Inn, Gilling West should be placed on the Council's List of Assets of Community Value (ACVs)

2.0 SUMMARY

- 2.1 The White Swan Inn in Gilling West, a small village to the north of Richmond, has been nominated as an Asset of Community Value by a group of 24 residents.
- 2.2 The Nominators case is that The White Swan has served *'the local and wider community for many years both as a public house and providing food to locals and visitors for over 200 years'*. The premises closed in September 2023 due to financial viability and the community argues that it has *'lost a valuable local asset and social meeting point'*.
- 2.3 In a statement provided by the owner and operator of The White Swan, a counter argument is put forward that at the time of closing there were only six households from the village who used the pub, three of which frequented less than monthly and that 95% of income came from sources beyond the village.
- 2.4 The nomination does not include any specific evidence that the premises were used regularly as a community meeting place or that groups such as local teams, lunch clubs etc, met there.
- 2.5 The village has another public house, The Angel, and a village hall.

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 White Swan Inn, Gilling West as required by the Act.

4.0 DETAILED PRESENTATION OF THE SUBSTANTIVE ISSUE

Description of asset

- 4.1 The nominated property is a public house, restaurant and tourist accommodation situated in the village of Gilling West in the former District of Richmondshire. It is one of two public houses in the village. The second, The Angel, offers food and drink. There is also a village hall providing space for community and social events.
- 4.2 According to a statement submitted by the owner, he purchased The White Swan Inn in 2013 following its bankruptcy and lengthy closure and invested in extensive refurbishments. Over the last decade, he operated a bar and restaurant business with additional accommodation. In November 2022, the property was listed for sale and in April 2023 the price reduced due to changing economic factors. Despite the reduction, no formal offers meeting the asking price have been received, although wo offers have been received at well below the asking price.
- 4.3 In September 2023 the bar and restaurant closed due to its financial non-viability and change in personal circumstances. Contributing factors included changing consumer behaviour post-COVID, increased costs - predominantly energy, reduced footfall, inflation, rising interest rates, elevated staffing costs, shifting drinking culture and consumer behaviour.

Nomination

- 4.4 The nomination was made by residents of the village and surrounding area – an unincorporated group with 24 signatories to the nomination.

Comments received

- 4.5 No comments were received from the ward member or parish council. The owner responded to the nomination providing a history of his ownership and operation of the premises.

Assessment

- 4.6 Evidence provided by the nominator is limited and is not specific in terms of the names of groups and how often they meet and how the premises is used by those groups. The use by the local community appears informal akin to the normal function of a public house which can be replicated at The Angel, the other pub in the village.
- 4.7 Although the premises are currently closed, it is for sale therefore no evidence exists to suggest that it could not reopen.

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,

Evidence

- 4.8 The owner closed the bar and restaurant in September 2023 but retained the tourist accommodation element. No actual community uses are specified by the nominator other than suggestions of ways the facility could generate more customers and a statement that *'Many residents, singletons, families and the elderly frequented the pub to socialise and get out of the house to chat with anyone in there at the time. It always provided a wonderful social hub to drink, eat and meet your fellow villagers and exchange news. This was particularly important for those that are no longer mobile and could, potentially feel more isolated with the closure. The community often came together in The White Swan at times of celebration and it was lovely to have somewhere within walking distance rather than travelling out of the village to get together.'*

Conclusion

- 4.9 The premises were used on an informal basis as a public house and restaurant but were no specific uses furthering 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

- 4.10 The premises were used on an informal basis as a public house and restaurant but were no specific uses furthering the social wellbeing or social interests of the local community.

Conclusion

- 4.11 The premises were used on an informal basis as a public house and restaurant but were no specific uses furthering the social wellbeing or social interests of the local community.

Localism Act 2011 Section 88 (2) If there is no current use:

- (a) There is a time in the recent past when an actual use of the building or other land that was not an ancillary use furthered the social wellbeing or interests of the local community.

Evidence

- 4.12 The main use of the property is as a public house, restaurant and accommodation. This is clear from the nomination form, information from the owner and other sources, and has not been disputed by the Owner. No specific community uses are described by the nominator other than suggestions of ways the facility could generate more customers and a statement that *'Many residents, singletons, families and the elderly frequented the pub to socialise and get out of the house to chat with anyone in there at the time. It always provided a wonderful social hub to drink, eat and meet your fellow villagers and exchange news. This was particularly important for those that are no longer mobile and could, potentially feel more isolated with the closure. The community often came together in The White Swan at times of celebration and it was lovely to have somewhere within walking distance rather than travelling out of the village to get together.'*

- 4.13 The owners statement sets out that *'In the 10 years I have owned and operated the property, it has never been well supported by the village residents or local community. Especially during and post covid, the majority of trade is from the wider Richmondshire Area. At the time of closing there were only 6 village house-holds who used the pub. 3 of which frequented less than monthly. I would estimate over 95% of income is sourced external to the village'*.

Conclusion

- 4.14 The premises were used on an informal basis as a public house and restaurant but were no specific uses furthering the social wellbeing or social interests of the local community which are not available at other venues in the village.

- (b) It is realistic to think that there is a time in the next five years when there could be non-ancillary use of the building or other land that would further (whether or not in the same way as before) the social wellbeing or social interests of the local community.

Evidence

- 4.15 No evidence has been presented by the nominating body to suggest that any plan exists to reopen and rejuvenate trade at the premises which would further the social wellbeing or social interests of the local community.

Conclusion

- 4.16 No evidence has been presented by the nominating body to suggest that any plan exists to reopen and rejuvenate trade at the premises which would further the social wellbeing or social interests of the local community which are not available at other venues in the village.

5.0 CONSULTATION UNDERTAKEN AND RESPONSES

- Planning – the premises are subject to applications for change of use and regularisation of works undertaken.
- Ward Member – no response
- Parish Council – no response
- Owner – provided a response, extracts of which are contained within the main body of the report. The owners statement is attached at Appendix B.

6.0 CONTRIBUTION TO COUNCIL PRIORITIES

- 6.1 Assets of Community Value crosscut the themes within the Council Plan 2023 – 2027 including Place and Environment, Economy, Health and Wellbeing, and People.

7.0 ALTERNATIVE OPTIONS CONSIDERED

- 7.1 None. Not to consider the nomination for The White Swan Inn, Gilling West would not fulfil the Council's responsibilities required by the Localism Act 2011 and The Assets of Community Value (England) Regulations 2012.

8.0 IMPACT ON OTHER SERVICES/ORGANISATIONS

- 8.1 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.

9.0 FINANCIAL IMPLICATION

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

10.0 LEGAL IMPLICATIONS

- 10.1 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

- 11.1 Consideration has been given to make the decisions fairly and take into account the 'protected characteristics' of age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
- 11.2 If the nomination is unsuccessful then suitable alternative facilities are available at two other venues in the village.

12.0 CLIMATE CHANGE IMPLICATIONS

- none

13.0 PERFORMANCE IMPLICATIONS

- none

14.0 POLICY IMPLICATIONS

- none

15.0 RISK MANAGEMENT IMPLICATIONS

- none

16.0 HUMAN RESOURCES IMPLICATIONS

- none

17.0 ICT IMPLICATIONS

- none

18.0 COMMUNITY SAFETY IMPLICATIONS

- none

19.0 CONCLUSIONS

- The nomination has not provided sufficient or specific evidence to meet the tests of listing under the Localism Act.
- 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.

20.0 REASONS FOR RECOMMENDATIONS

20.1 The evidence demonstrates that the nomination for The White Swan, Gilling West, does not meet 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 White Swan Inn, Gilling West is unsuccessful and does not meet 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 Unsuccessful Nominations

APPENDICES:

Appendix A – The Nomination

BACKGROUND DOCUMENTS:

Assistant Chief Executive Local Engagement
County Hall
Northallerton
16 January 2024

Report Author – *Mark Robson, Principal Policy Officer (Richmondshire Office)*
Presenter of Report – *Mark Robson, Principal Policy Officer (Richmondshire Office)*