

North Yorkshire Council

28 February 2024

Assessment of Assets of Community Value Nomination The Cask Public House NYCACV0036

Report of The Assistant Chief Executive Legal and Democratic Services

1.0 PURPOSE OF REPORT

- 1.1 To determine whether The Cask, Cambridge Terrace, Scarborough YO11 2LQ should be placed on the Council's List of Assets of Community Value (ACVs)

2.0 SUMMARY

- 2.1 This nomination is in respect of The Cask, Cambridge Terrace, Scarborough, YO11 2LQ, nominated by The Cask (Scarborough) Community Group on 9th January 2024. It is recommended that The Cask be added to the Council's list of Assets of Community Value.

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 Cask as required by the Act.

4.0 DETAILED PRESENTATION OF THE SUBSTANTIVE ISSUE

The nomination relates to The Cask, Cambridge Terrace, Scarborough, YO11 2LQ. A Nomination was received by the Council on 9th January 2024 and was submitted by The Cask (Scarborough) Community Group. The property is a Public House and is in the freehold ownership of Red Star Pub Company (WRIII) Limited and is leased to an individual.

Comments have been received from the Ward Councillor **Cllr Rich Maw Weaponess and Ramshill Division** submitting emails in support of the community use of The Cask which he has received from local residents and users of The Cask, the Jazz Club, the Musicians Union.

Assessment

A building or other land is of community value if, in the Council's opinion, an actual current use of the building or land, that is not an ancillary use, furthers the social wellbeing or social interests of the local community, and it is realistic to think that there can continue to be non-ancillary use of the building or land, which will further, (whether or not in the same way), the social wellbeing or social interests of the local community.

Under section 89 the Council can only include land in its list of assets of community value in response to a community nomination or where permitted by regulations. A community nomination in England can only be made by either a parish council in respect of land within its area or by a voluntary or community body with a local connection. Where a valid community nomination is made the Council must consider it and must accept the nomination if the land is within its area and is of community value.

- The Cask lies within the administrative area of North Yorkshire Council
- The Cask (Scarborough) Community Group is eligible under section 89(2)(b) (i) to make a community nomination in respect of the Property
- The community nomination made by The Cask (Scarborough) Community Group includes the matters required under regulation 6 of the Assets of Community Value (England) Regulations 2012
- The Cask does not fall within a description of land which may not be listed as specified in Schedule 1 of the Assets of Community Value (England) Regulations 2012 (the Regulations)

Localism Act 2011 Section 88 current use:

The Act requires 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, the Nomination makes the following submissions;

- The Cask Inn has been a public House since the 1970s and caters for locals and holiday makers including the bikers that visit Olivers Mount Race Tack.
- It has been the home of Scarborough Jazz Club for over 17 years and is widely acclaimed as a top venue for artists both from the UK and abroad. The venue also provides for other genres and has been the stepping stone for many successful local groups. It has hosted blues club, rock nights, drum and bass, DJ nights with Tunnel club reunions, local bands utilise the space for practice. It hosts Northern Soul nights once a month. It is home to the Funky Music Choir and they rehearse weekly at the Cask and also hold events at the venue.
- The pub also supports and sponsors local sports groups such as the Scarborough Hockey club who have long been associated with The Cask.

- The Cask Nomination describes the Cask as providing a warm space for people experiencing loneliness. Staff at the Cask have been able to alert when individuals have not been seen and averted tragedy.
- The Cask nomination also describes the Cask as an important part of many people's lives as a haven and a place to make social friendship groups. Along with regular weekly quiz nights, many groups use the pub for meetings such as book clubs, cake club, local political group meetings.
- The Nomination also describes The Cask as a meeting place for locals providing an important social hub. The Nomination states '*everyone is welcome. Losing this important venue would rip the heart out of the South Cliff and it's residents*'
- The Nomination submits that the above uses will continue and suggests that the Community Group would further growth of the music and social events at The Cask.
- The Cask (Scarborough) Community Group have commissioned a Questionnaire amongst local residents seeking to establish current and future use of The Cask. The results demonstrate a range of current and future community uses of The Cask.

Based on the above submission it is concluded that the actual current use of The Cask, that is not an ancillary use, furthers the social wellbeing or social interests of the local community as it is used by a number of Clubs and Groups for social, recreational and cultural interests. It is realistic to think that there can continue to be non-ancillary use of The Cask which will further (whether or not in the same way) the social wellbeing or social interests of the local community.

5.0 CONSULTATION UNDERTAKEN AND RESPONSES

- **Ward Councillor Cllr Rich Maw Weaponess and Ramshill Division.** Comments have been received from the Ward Councillor submitting emails in support of the community use of The Cask which he has received from local residents and users of The Cask, the Jazz Club, the Musicians Union.
- **Freehold Owner** – no comments received
- **Leasehold Owner** – no comments received

6.0 ALTERNATIVE OPTIONS CONSIDERED

None. Not to consider the nomination for The Cask 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

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

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.
- 9.2 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).
- 9.3 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).

10.0 EQUALITIES IMPLICATIONS

- There are no equalities implications.

11.0 CLIMATE CHANGE IMPLICATIONS

- There are no climate change implications.

12.0 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.

13.0 REASONS FOR RECOMMENDATIONS

- 13.1 The evidence demonstrates that the nomination for The Cask meets the definition of community value as detailed in the Localism Act 2011.

14.0 RECOMMENDATION(S)

It is recommended that the Assistant Chief Executive Local Engagement:

- (i) Determines that the nomination for The Cask 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

APPENDICES:

Appendix A – Plan showing The Cask

BACKGROUND DOCUMENTS:

The ACV Nomination
Land Registry Title Information.
Correspondence from User Groups and Supporters of the Cask.
Questionnaire results.

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PLEASE ALSO NOTE THAT IF ANY REPORTS / APPENDICES INCLUDE SIGNATURES THESE MUST BE REMOVED / DELETED PRIOR TO SENDING REPORTS / APPENDICES TO DEMOCRATIC SERVICES. Appendices should include an Equality Impact Assessment and a Climate Impact Assessment where appropriate