

# North Yorkshire Council

27 March 2024

## Assessment of Assets of Community Value Nomination The Ivanhoe Public House NYCACV0037

### Report of The Assistant Chief Executive Legal and Democratic Services

#### 1.0 PURPOSE OF REPORT

- 1.1 To determine whether The Ivanhoe, Scalby Mills Road, Scarborough. YO12 6RW 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 Ivanhoe, Scalby Mills Road, Scarborough. YO12 6RW nominated by The Ivanhoe Community, Community Interest Company (C.I.C) on 14 February 2024. It is recommended that The Ivanhoe 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 Ivanhoe as required by the Act.

#### 4.0 DETAILED PRESENTATION OF THE SUBSTANTIVE ISSUE

The nomination relates to The Ivanhoe, Scalby Mills Road, Scarborough. YO12 6RW. A Nomination was received by the Council on 14 February 2024 and was submitted by The Ivanhoe Community C.I.C. The property is a Public House and Hotel and is in the freehold

ownership of Unique Pub Properties Limited and is leased to an occupier who currently runs The Ivanhoe.

The Ivanhoe has been previously listed as an Asset of Community Value but that listing has recently ended as the five year listing period has expired.

## **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 Ivanhoe lies within the administrative area of North Yorkshire Council
- The Ivanhoe Community (C.I.C) is eligible under section 89(2)( b) (i) to make a community nomination in respect of the Property
- The community nomination made by The Ivanhoe Community C.I.C includes the matters required under regulation 6 of the Assets of Community Value (England) Regulations 2012
- The Ivanhoe 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:***

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 Ivanhoe Hotel has been an asset of community value for many years as it has provided a welcoming, lively and enjoyable meeting place for friends, visitors and social groups. There are a number of community groups that have used the Ivanhoe as a base including a pool team, darts team and regular quiz events.
- The Ivanhoe is capable of hosting functions and over the years many events such as funerals, birthdays, and weddings have been held here. There were regular fund raising events for local charities including youth football teams and the YMCA. The Ivanhoe has hosted many live music events and provides casual access to a dart board and pool table outside organised team events. It has provided excellent facilities for children with an outdoor play area alongside an outdoor lawn seating area which is much loved and used by the local community.

- The Ivanhoe has a number of well-appointed holiday rooms which are of particular use to the local community when relatives visit the area not to mention when there are local events hosted at the Open Air Theatre, the North Cliff Golf Club and of course the Tour De Yorkshire cycle events. The well sized kitchen has helped the locality producing above average food offerings and is the only non-corporate venue providing home cooked food every day within the local community. There are other venues but these are all chains which rarely provide that homely quality the Ivanhoe can.
- With a large car park and easy disabled access, The Ivanhoe has been popular with the less mobile and visiting contractors alike, the latter being able to keep their trade vehicles off the public road. The car park as also hosted visiting events such as a local children's 'Play Bus'.
- The Ivanhoe has been a successful business in the past and with the correct management and financial base (freehold) can be a sustainable business. As a company The Ivanhoe Community C.I.C our aim is for The Ivanhoe to continue to operate as a valuable community asset so we are happy for new tenants to create a thriving business but we feel very strongly that it must remain as a public house and hotel so this is why we have taken the step of requesting nomination under the Localism Act. The strength of feeling in the local community can be gauged by the fact when we first had The Ivanhoe listed as an Asset Of Community Value we gained 44 members of the **THEN** Unincorporated Community Group known as 'The Ivanhoe Community'.
- We, as a community and C.I.C will bid to purchase The Ivanhoe should it become available freehold. We will then run the venue aiming for the success that we have seen prior to it having been closed due to high tenancy costs and of course Covid. It will remain a pub/hotel and under management of local people.

Based on the above submission it is concluded that the actual current use of The Ivanhoe, 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 Ivanhoe 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

- **Freehold Owner** – no comments received
- **Occupier** – no comments received

## 6.0 ALTERNATIVE OPTIONS CONSIDERED

None. Not to consider the nomination for The Ivanhoe 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 Ivanhoe 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 Ivanhoe 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 Ivanhoe

#### **BACKGROUND DOCUMENTS:**

The ACV Nomination

Land Registry Title Information.

The Ivanhoe Community CIC Articles of Association and Memorandum of Association.

Assistant Chief Executive Legal and Democratic Services

County Hall

Northallerton

Report Author – *Fiona Casson, Legal Services Manager (SCA)*

Presenter of Report – *Fiona Casson, Legal Services Manager*

***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***