

# North Yorkshire Council

10 July 2024

## Assessment of Assets of Community Value Nomination *NYCACV0045 The Jefferson Arms*

### Report to the Assistant Chief Executive Local Engagement

#### 1.0 PURPOSE OF REPORT

- 1.1 To determine whether The Jeffersons Arms should be placed on the Council's List of Assets of Community Value (ACVs)

#### 2.0 SUMMARY

- 2.1 The nomination covers The Jeffersons Arms Thorganby. The recommendation is that the Assistant Chief Executive Local Engagement:
- (i) Determines that the nomination for The Jeffersons Arms 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

#### 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](#).
- 3.2 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.
- 3.3 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.

3.4 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.

3.5 This report ensures that the Council considers the nomination for the Crown Inn Roecliffe as required by the Act.

#### 4.0 **NOMINATION CONSIDERATION**

- **Description of asset**

4.1 The Jefferson Arms is located in the village of Thorganby a small village and civil parish in North Yorkshire, England. It is situated 3 miles from the village of Wheldrake. The village is on the west bank of the river Derwent and is across the river from the Lower Derwent National Nature Reserve. In the 2001 census, the parish had 241 residents, increasing by the 2011 census to 330, latest estimates are that the population has risen 350.

4.2 The Jefferson Arms is located on the Main Street and the building itself dates back to the 18<sup>th</sup> century.

4.3 The nomination form states that it is the only community building in the village apart from the village hall and “formed the social hub of the village for many years”.

4.4 It is agreed by the Nominating Group and owner that the Jefferson Arms has been closed since early October 2022, a period of 1 year and 9 months.

4.5 The owner has confirmed that the property has been put up for sale and rent.

#### **b) Nomination**

4.6 The valid nomination from Thorganby Parish Council to list the Jefferson Arms as an Asset of Community Value was received on 16 May 2024 and in accordance with the Assets of Community Value (England) Regulations 2012 a decision is required by 11 July 2024.

4.7 Ownership information was also confirmed.

4.8 In the original nomination there were two residential identified on the site plan and it has been confirmed with the nominating group that these properties do not form part of the nomination to be considered.

#### **c) Owner Comments**

4.9 The owner provided information about the trading history for the Jefferson Arms. He had bought the property in 2010 and jointly renovated the property. It is stated that the trading history has been poor with periods of closure since 2010 until final closure in 2022, all tenants have been unable to trade successfully and at least one has been declared bankrupt.

4.10 The owner confirms that the Parish Council were offered the pub to rent or buy the Jefferson Arms after its closure and “At no time since have they ever approached me to explore these possibilities”. It is stated that “the nomination form contains no expression of interest to attempt to buy or rent the property either. I have received no interest from anyone else

wanting to buy or rent the property for use as a pub. Not really surprising when you look at its trading history”.

### c) Community Value Consideration

- 4.11 In terms of making a decision on this matter the nomination together with any additional information received within the agreed timescale has been used to assess if the property/land listed meets the definition of community value as detailed in the Localism Act 2011. There is no current actual use of the nominated land/property as it has been closed for a period of years. The assessment process is therefore to determine if the two conditions in Section 88(2) have been met.

**CONDITION ONE** - *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.*

#### 1. Recent Past

- 4.12 In order to be listed the nomination must demonstrate that there is a time in the recent past when an actual use of the nominated asset furthered the social wellbeing or interests of the local community. There is no statutory definition or guidance regarding the term ‘recent past’ and it is deliberately loose regarding the specific five-year timescale in the second condition. The official guidance is that ‘if there have been uses of the land for purposes such as use by the Ministry of Defence for live ammunition practice the period could be ten to twenty years. Some authorities have set their own timescales including three- or five-year periods preceding nominations. It seems clear that there is no specific period beyond which it is definite that it is not included in the ‘recent past’ and again it is for each authority to determine.
- 4.13 When considering the closure of public houses, periods of six years (River Arms in Cheeseborne), five years (the Kings Head in Diss) and five and a half years (the Cricketers Rest in Norwich) have been considered to be outside the recent past. There are some also examples where the recent past has been in excess of six years, in **Hawthorn Leisure v Chiltern DC** the Kings Head in Great Missenden had been a pub since the nineteenth century and the unchallenged evidence of the publicans from 2000 to 2007 established that during that period the pub qualified as an ACV. Judge Lane held that given the long history of the Kings Head as a pub the use during that period ending in 2007 occurred in the recent past, this period ended over seven years before the nomination. It seems clear, however, that there is no specific period beyond which it is definite that it is not included in the recent past and this will be dependent on the circumstances in each nomination.
- 4.14 In **Crostone v Amber Valley** Judge Lane stated that the assessment of recent past will depend on all the circumstances in a particular case and that “the expression is a relative concept”. He stated that in that regard the length of time the Black Swan had been a public house was relevant (the period was nearly two hundred years). The implication is that the longer the period of use furthering a community benefit the longer the period which will constitute the recent past.
- 4.15 In **Worthy Developments v Forest of Dean DC**, the judge stated that when considering ‘recent past’ it could not have been intended to import the five-year period from the future condition when Parliament had failed to set out a precise period for the condition.
- 4.16 There is also no equivalent consideration of ‘recent past’ in planning determination

therefore no appropriate comparable evidence as part of any Planning Application decisions.

4.17 North Yorkshire Council has not determined a specific timescale to apply when considering the recent past and each nomination is assessed individually. As stated previously there is no agreed criteria for 'recent past' determination, however, there are a number of relevant factors that could be taken into account when determining what constitutes the recent past and these are listed below. Assessments of these factors is appropriate for the nomination for The Jefferson Arms so that the facts can be established:

- (1). The length of the period of community use of the nominated asset in the past
- (2). The type of asset involved.
- (3). The nature of the community use of the nominated asset
- (4). The degree of connection between the asset and the community
- (5). Whether the asset has been out of use for a period prior to the nomination.

**(1). The length of the period of community use of the nominated asset in the past**

4.18 There is no indication from the information in the nomination form about the length of time that the Jefferson Arms has been in use other than it "formed the social hub of the village for many years". It also states that "the pub has always been a venue for friends and residents to meet for drink and food and to socialise and create a village heartbeat".

4.19 Other references from supporting statements include:

- "It is located on the Main Street in the centre of the village of Thorganby and has been the cornerstone of the local community since the late 19th century."
- "The pub has been the heart of the village community for many years (over 100 years we believe)."
- "The Jefferson Arms has historically served as the primary gathering place for village residents, hosting events, meetings, and social activities. It has fostered a sense of community and belonging".

4.20 The owner does not make reference to the length of time that the Jefferson Arms has been in use.

4.21 The pub has therefore potentially been in use since the 19<sup>th</sup> century or over 100 years.

**(2). The type of asset involved – Public House**

4.22 The nominating group and the owner identify that The Jefferson arms is a public house. The fact that a nominated asset is a public house does not in itself satisfy the community use criteria. It is the consideration of a number of factors identified in the report that fulfil the assessment of community use.

**(3). The nature of the community use of the nominated asset**

4.23 This assessment takes into account the uses identified in the nomination as community use, these are also considered in section 2 regarding ancillary use. The nomination states that "it is the only community building in the village apart from the village hall and "formed

the social hub of the village for many years”.

4.24 The nomination and supporting statements provide the following additional information:

- “The pub has always been a venue for friends and residents to meet for drink and food and to socialise and create a village heartbeat”.
- “Social events such as quiz nights, themed evenings such as music events, race nights have always drawn the residents together.”
- “The Jefferson Arms has historically served as the primary gathering place for village residents, hosting events, meetings, and social activities. It has fostered a sense of community and belonging”.
- “Although it had no formal groups meeting there, whenever events were being planned in the village it’s the pub where the organisers met and ideas discussed for the village fete and other events such as the Jubilee Celebrations, the bonfire event on the playing field etc.”.
- “Me and my father ran the pub from 1992 to 1995 and the place was always busy. We were full every Sunday for lunch and most evenings, and we opened all day and people from the local community and outlying villages came in”.
- “New Years Eve parties, a lively atmosphere, excellent good value for money food”.
- “We have lived in the village for over 30 years, during which time the pub was the focal point and where we met many long-standing friends. Not only was it a social meeting place for the village residents, it also hosted many events- such as parties, weddings, christenings, and funerals”.
- “It has played a vital role as a place for people who live in Thorganby, and nearby, to congregate, make and maintain friendships, as well as providing a compelling reason for visitors to the area to stop and stay.”
- “It was more than just a pub; it was a place where we could come together, share experiences, and build lasting relationships. Its absence has left a void in our community, and we have lost an essential part of our social infrastructure”.
- “It has always remained a centre of the village community acting as a meeting place and an events venue”.
- “The Jefferson Arms has historically served as the primary gathering place for village residents, hosting events, meetings, and social activities. It has fostered a sense of community and belonging”.
- “The Jefferson Arms has been an integral part of our village's heritage for decades. It is not just a building but a symbol of our community’s identity and continuity”.
- “In those days the Jefferson Arms was what it was supposed to be: a friendly, accessible village pub and a centre of community life, in truth a cosy and welcoming venue in which to meet, chat and have a pint or two”.

4.25 The owner provides evidence about the trading history for the Jefferson Arms, and it was stated that the trading history has been poor with periods of closure since 2010 until final closure in 2022.

4.26 The information provides some evidence of community uses of the Jefferson Arms associated with a village public house facility; these uses are considered in section 2.

#### **(4). The degree of connection between the asset and the community**

4.27 The nomination states that “it is the only community building in the village apart from

the village hall and “formed the social hub of the village for many years” and that The Jefferson Arms has historically served as the primary gathering place for village residents, hosting events, meetings, and social activities. It has fostered a sense of community and belonging”.

4.28 There are 11 supporting statements from local residents and/or past residents of the village in support of the nomination. There are anecdotal references to uses as well as actual uses by residents of the village.

4.29 The owner states that the letter from the Chairman of the Parish Council (nominating group) clearly states 'Although it had no formal groups meeting there' which is key to proving a community link but actually confirms this was not the case. It is stated that this means that when arranging community events for the village, organisers met there, “no mention of how often, or proof this did occur is supplied” the owner also notes that the community events were not to be held at the pub but at other locations in the village. The owner stated that the real social hub was the village hall, which has a licensed bar and holds the village annual beer festival and a pop-up pub.

4.30 The information provides some evidence of links with the local community, in summary the following:

- The pub has always been a venue for friends and residents to meet for drink and food and to socialise and create a village heartbeat.
- The Jefferson Arms has historically served as the primary gathering place for village residents, hosting events, meetings, and social activities. It has fostered a sense of community and belonging.
- We have lived in the village for over 30 years, during which time the pub was the focal point and where we met many long-standing friends. Not only was it a social meeting place for the village residents, it also hosted many events- such as parties, weddings, christenings, and funerals.
- “The Jefferson Arms has historically served as the primary gathering place for village residents, hosting events, meetings, and social activities. It has fostered a sense of community and belonging”.
- “The Jefferson Arms has been an integral part of our village's heritage for decades. It is not just a building but a symbol of our community’s identity and continuity.

4.31 There is some information provided about links with the local community and the information is consistent with a village public house. There are a number no statements in support of the nomination from residents, with some general descriptions about actual community value such as “the pub has always been a venue for friends and residents to meet for drink and food and to socialise and create a village heartbeat”. The statements are fairly descriptive/generic and consistent with a village public house.

4.32 The owner states that the information about the Jefferson Arms confirms that no formal groups met there and that the actual venue for community use was the village hall that had a licensed bar.

**(5). Whether the asset has been out of use for a period prior to the nomination.**

4.33 The nomination identifies that The Jefferson Arms has been closed since October

2022, the property has therefore been out of use for 1 years and 9 months.

4.34 The owner has confirmed that the property has been put up for sale and rent.

### **Recent past conclusion**

4.35 As stated previously there is no specific period of time beyond which it is definite that it is not included in the recent past. The implication is that the longer the period of use furthering a community benefit then the longer the period which will constitute recent past. Each nomination is considered individually, and it is the evidence/facts in each case that a local authority will consider making its determination. There are a number of relevant factors that could be taken into account to enable the Council to reach a conclusion. These have been detailed above and the following is a summary of the conclusions from the consideration of these factors:

- The pub has potentially been in use since the 19th century or over 100 years.
- The Jefferson arms is a public house. The fact that a nominated asset is a public house does not in itself satisfy the community use criteria. It is the consideration of a number of factors identified in the report that fulfil the assessment of community use.
- The information provides some evidence of community uses of the Jefferson Arms associated with a village public house facility; these uses are considered in section 2.
- There is some information provided about links with the local community and the information is consistent with a village public house. The owner states that the information about the Jefferson Arms confirms that no formal groups met there and that the actual venue for community use was the village hall that had a licensed bar.
- The nomination identifies that The Jefferson Arms has been closed since October 2022, the property has therefore been out of use for 1 years and 9 months.

4.36 It has been stated that the Jefferson Arms has been a public house since the 19<sup>th</sup> century and that it has been closed for 1 years and 9 months. Community use during this period of time is considered in later sections, a long history could support a determination of 'recent past' and there are cases where seven years has been determined as being within the 'recent past'.

4.37 The nominating group identify that The Jefferson Arms is a public house. The fact that a nominated asset is a public house does not in itself satisfy the community use criteria and it is the consideration of a number of factors identified in the report that fulfil the assessment of community use.

4.38 The information about community use provides some evidence of the Jefferson Arms associated with a village public house. These uses are detailed in section 2 and paragraph 4.24 and include hosting events, meetings, and social activities, hosting events, meetings, social activities and New Years Eve parties. The owner, however, states that the information about the Jefferson Arms confirms that no formal groups met there and that the actual venue for community use was the village hall that had a licensed bar. There is, therefore, some evidence of uses of The Jefferson Arms associated with a community facility however the information is are fairly descriptive/generic and consistent with a village public house.

4.39 In assessing the degree of connection between the asset and the local community the nomination provides some evidence of links with the local community (See paragraph 4.30-

4.32). The information is, fairly generic and consistent with a village public house, however there are a number of supporting statements from residents or previous residents. There is therefore some evidence to demonstrate a connection with The Jefferson Arms and the local community.

- 4.40 In terms of determining 'recent past' the above demonstrates that The Jefferson Arms had some community uses, and this was potentially for a long period of time. There are statements about uses of The Jefferson Arms associated with a community facility however the information is fairly descriptive/generic and consistent with a village public house. There is some evidence to demonstrate a connection between the pub and the local community. ***The evidence is insufficient to demonstrate the nature of the community use and the 1 year and 9-month time period since closure is therefore not within the recent past and this criteria is not met.***

## 2. Actual use that is not an ancillary use

- 4.41 The term "ancillary use" is not defined in the Act, and it is left to each local authority to determine. In the context of assessment, the frequency, regularity and whether uses are still in place have been identified as factors for consideration. It was thought that this condition meant that the community use had to be the primary use of the asset, but this was dispelled by Judge Warren in **Firoka (Oxford United Stadium) Limited v Oxford City Council**, and the test is whether the use is significant, but does not require it to be the predominant use.
- 4.42 Evidence of actual use is detailed at paragraph 4.24. The evidence was in the form of statements and anecdotal references from the nominating group and residents/previous residents and included the following:
- The pub has always been a venue for friends and residents to meet for drink and food and to socialise and create a village heartbeat".
  - "Social events such as quiz nights, themed evenings such as music events, race nights have always drawn the residents together."
  - "The Jefferson Arms has historically served as the primary gathering place for village residents, hosting events, meetings, and social activities. It has fostered a sense of community and belonging".
  - "Although it had no formal groups meeting there, whenever events were being planned in the village".
  - "Me and my father ran the pub from 1992 to 1995 and the place was always busy. We were full every Sunday for lunch and most evenings".
  - "New Years Eve parties, a lively atmosphere, excellent good value for money food".
  - "Not only was it a social meeting place for the village residents, it also hosted many events- such as parties, weddings, christenings, and funerals".
  - "It has always remained a centre of the village community acting as a meeting place and an events venue".
  - "The Jefferson Arms has historically served as the primary gathering place for village residents, hosting events, meetings, and social activities".
  - "In those days the Jefferson Arms was what it was supposed to be: a friendly, accessible village pub and a centre of community life, in truth a cosy and welcoming venue in which to meet, chat and have a pint or two".
- 4.43 The information provided is fairly descriptive/generic and consistent with a village public house. There is some reference to annual or life events such as New Years Eve parties, parties, weddings and christenings however no further detail such as evidence of actual



groups meeting or frequency of use and numbers. The evidence provided about actual use is also detailed in the assessment at paragraphs 4.23-4.26. ***There is insufficient information provided to demonstrate actual use that is non-ancillary and therefore this criteria is not met.***

### **3. Furthering the social wellbeing or social interests of the local community**

4.44 There are no clear definitions provided in the legislation as to what constitutes 'social wellbeing/interests' except that social interests can include 'cultural, recreational and sporting interests. The nomination identified uses as detailed in previous sections (paragraphs 4.24 and 4.30), these include the following:

- "The pub has always been a venue for friends and residents to meet for drink and food and to socialise and create a village heartbeat".
- "Social events such as quiz nights, themed evenings such as music events, race nights have always drawn the residents together."
- "The Jefferson Arms has historically served as the primary gathering place for village residents, hosting events, meetings, and social activities. It has fostered a sense of community and belonging".
- "Although it had no formal groups meeting there, whenever events were being planned in the village it's the pub where the organisers met and ideas discussed for the village fete and other events such as the Jubilee Celebrations, the bonfire event on the playing field etc".
- "Me and my father ran the pub from 1992 to 1995 and the place was always busy. We were full every Sunday for lunch and most evenings, and we opened all day and people from the local community and outlying villages came in".
- "New Years Eve parties, a lively atmosphere, excellent good value for money food".
- "We have lived in the village for over 30 years, during which time the pub was the focal point and where we met many long-standing friends. Not only was it a social meeting place for the village residents, it also hosted many events- such as parties, weddings, christenings, and funerals".
- "It has played a vital role as a place for people who live in Thorganby, and nearby, to congregate, make and maintain friendships, as well as providing a compelling reason for visitors to the area to stop and stay."
- "It was more than just a pub; it was a place where we could come together, share experiences, and build lasting relationships. Its absence has left a void in our community, and we have lost an essential part of our social infrastructure".
- "It has always remained a centre of the village community acting as a meeting place and an events venue".
- "The Jefferson Arms has historically served as the primary gathering place for village residents, hosting events, meetings, and social activities. It has fostered a sense of community and belonging".
- "The Jefferson Arms has been an integral part of our village's heritage for decades. It is not just a building but a symbol of our community's identity and continuity".
- "In those days the Jefferson Arms was what it was supposed to be: a friendly, accessible village pub and a centre of community life, in truth a cosy and welcoming venue in which to meet, chat and have a pint or two".

4.45 When considering those matters that could be taken into account when assessing social benefit there is some evidence provided. These are summarised above and are fairly descriptive/generic and consistent with a village public house. There are some references in the form of statements about community/social value, however there are

limited references to recreational or sporting interests. ***There is insufficient evidence to demonstrate that the uses detailed further the social wellbeing or social interests of the local community and this criteria is therefore not met.***

#### 4. Local Community

4.46 A nominated asset must further the social wellbeing or social interests of the local community. There is no definition in the Act or Regulations of a local community other than for those groups who are able to nominate so it is for the authority to determine 'local community' for each nomination. The Jefferson Arms is a facility in the village of Thorganby and the nomination makes the following selected references:

- "The Jefferson Arms formed the social hub of the village for many years."
- "As the cornersone of the village community"

4.47 ***The nomination identifies the local community as the village of Thorganby and this criteria is therefore met.***

**Condition two - 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.**

##### 1. The "realistic to think" test.

4.48 The test does not require the likely future use of the relevant building to be determined but rather to determine whether future community use is one of a number of realistic options for the building (**Patel v London Borough of Hackney and Worthy Developments v Forest of Dean DC**).

4.49 The test is also not whether such future use is wholly unrealistic but whether it is realistic to think that there could be a relevant non-ancillary use in the next five years (Judge Lane at Para. 26 in **General Conference of the New Church v Bristol CC** supra. 12 February 2015). In addition, "what is realistic may admit a number of possibilities none of which needs to be the most likely outcome" (**Evenden Estates v Brighton and Hove City Council**)

4.50 It is common for nominations not to have a business plan put forward by those supporting the listing and judges have not regarded this as significant when considering whether future community use in the next five years is a realistic prospect. The First Tier Tribunal has also made clear that it is important not to concentrate too closely on "hardheaded commercial or financial analysis". Owners of pubs or other businesses that have failed often argue that it is not realistic to think that the same business can operate in the future as "it is not financially viable". These arguments often fail as account should also be taken of recognised community effort, **Worthy Developments Ltd v Forest of Dean District Council** "It is important however, not to confuse commercial viability with what altruism and community effort can achieve."

4.51 It has been established that the threshold to satisfy the "realistic to think" test is low. The First Tier Tribunal in **King v Chiltern District Council** commented that "the test is not a demanding one. "Parliament has chosen to set the bar low".

4.52 When considering the "realistic to think" test, future community use in the next five years must be a realistic option and one amongst a number of possibilities none of which

needs to be the most likely outcome. The test is not a demanding one as “Parliament has chosen to set the bar low” and there is no requirement to have a Business Plan as part of the nomination.

## 2. Nomination Evidence

- 4.53 The nominating group state that “the village of Thorganby needs a social centre for people to meet. The building is conveniently located and could be used for a variety of hospitality purposes or even as a local shop for key essential items as proved to be the case during the Covid lockdown”.
- 4.54 There is no information provided about potential purchase by the nominating group or evidence of an active community group that may want to purchase the property. There are numerous comments about the high sale price of the property, the method of marketing and the potential intentions of the owner to convert to residential use. The nomination does state that in the right hands “The Jefferson Arms could be turned into a thriving pub serving the local community “. There are, however, concerns that the building is being run down.
- 4.55 The owner provides information about the financial history of the Jefferson Arms highlighting how unsuccessful previous tenants have been. There are also comments about the motivation of the nominating group and statements of support. It is also stated that the Parish Council were directly offered the opportunity to purchase the property or to rent 18 months ago and did not contact the owner to discuss and/or explore options.
- 4.56 It should be noted that any comments about the motivation of the owner or nominating group are not part of the Assets of Community Value assessment criteria.
- 4.57 It is agreed by the owner and nominating group that the property has been put up for sale. The owner states that it is also available to rent as a public house.
- 4.58 When considering the “realistic to think” test, as stated previously, future community use in the next five years must be a realistic option and one amongst a number of possibilities none of which needs to be the most likely outcome. The test is not a demanding one as “Parliament has chosen to set the bar low” and there is no requirement to have a Business Plan as part of the nomination.
- 4.59 The nomination provides information that the property is for sale or rent. It has been advertised as a public house and the nominating group (the Parish Council) is supportive of the sale of the property, however, are concerned about the potential of the building being run down. Due to the fact that the property is up for sale and could be sold as a public house with the nominating group in support then ***it is therefore realistic to think that future community use in the next five years is a realistic option.***
- 4.60 In summary it is reasonable to conclude that due to the reasons provided at paragraphs 4.53-4.59 ***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. This condition is therefore met.***

### d) Conclusion

4.61 The aim of Part 5 Chapter 3 of the Localism Act and the Assets of Community Value Regulations is to encourage community- focused, local-led action to save and take over assets which are significant to them. The scheme is intended to give communities the opportunity to identify assets of community value and have them listed and, when they are put up for sale, have more time to raise finance and prepare a bid for them. These assets could include the Village shop, community centre or pub but assessment is based on the evidence submitted and it is for the local authority to determine each nomination.

4.62 When assessing the community value of pubs there is a view that they are social settings in themselves and are places that 'further the social wellbeing or social interests' of those who visit. This, however, should be considered in the context of each nomination and the assessment of the community value of the particular property as required by the Act and Regulations.

4.63 There is no current actual use of the Jefferson Arms it has been closed for over a year the assessment process was therefore to determine if the two conditions in Section 88(2) were met:

**Condition one - *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.***

**(See paragraphs 4.12-4.40)**

4.64 In terms of determining 'recent past' the above demonstrates that The Jefferson Arms had some community uses, and this was potentially for a long period of time. There are statements about uses of The Jefferson Arms associated with a community facility however the information is fairly descriptive/generic and consistent with a village public house. There is some evidence to demonstrate a connection between the pub and the local community. ***The evidence is insufficient to demonstrate the nature of the community use and the 1 year and 9-month time period since closure is therefore not within the recent past and this criteria is not met.***

4.65 The information provided is fairly descriptive/generic and consistent with a village public house. There is some reference to annual or life events such as New Years Eve parties, parties, weddings and christenings however no further detail such as evidence of actual groups meeting or frequency of use and numbers. The evidence provided about actual use is also detailed in the assessment at paragraphs 4.23-4.26. ***There is insufficient information provided to demonstrate actual use that is non-ancillary and therefore this criteria is not met.***

4.66 When considering those matters that could be taken into account when assessing social benefit there is some evidence provided. These are summarised above and are fairly descriptive/generic and consistent with a village public house. There are some references in the form of statements about community/social value, however there are limited references to recreational or sporting interests. ***There is insufficient evidence to demonstrate that the uses detailed further the social wellbeing or social interests of the local community and this criteria is therefore not met.***

4.67 ***The nomination identifies the local community as the village of Thorganby and this criteria is therefore met.***

4.68 In summary the nomination does not satisfy Condition One.

**Condition two - 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.**

**(See paragraphs 4.53-4.60)**

- 4.69 In summary it is reasonable to conclude that due to the reasons provided at paragraphs 4.53-4.59 ***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. This condition is therefore met.***

## **5.0 CONSULTATION UNDERTAKEN AND RESPONSES**

- 5.1 Included in report detail.

## **6.0 ALTERNATIVE OPTIONS CONSIDERED**

- 6.1 None. Not to consider the nomination for the Jefferson Arms 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.

- 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**

- 10.1 There are no Equalities implications.

## **11.0 CLIMATE CHANGE IMPLICATIONS**

- 11.1 There are no climate change implications.

## **12.0 CONCLUSIONS**

- 12.1 If unsuccessful all parties will be advised of the outcome of the decision, and the Council's reasoning for it. 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 Jeffersons Arms does not meet 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:

- (iii) Determines that the nomination for the Jefferson Arms is unsuccessful and does not meet the definition of community value as detailed in the Localism Act 2011
- (iv) It should be placed on the North Yorkshire Council Assets of Community Value List of Unsuccessful Nominations

## **APPENDICES:**

## **BACKGROUND DOCUMENTS:**

*Localism Act 2011*

*The Assets of Community Value Regulations (England) 2012*

Assistant Chief Executive Local Engagement  
County Hall

Northallerton  
*11 July 2024*

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