

North Yorkshire Council

21 March 2025

Assessment of Asset of Community Value Nomination *NYCACV0057 Forrester Arms Hotel, Kilburn, York, YO61 4AH*

Report to the Head of Localities

1. PURPOSE OF REPORT

1.1 To determine whether Forrester Arms Hotel, Kilburn, York, YO61 4AH should be placed on the Council's List of Assets of Community Value (ACVs) under the Localism Act 2011, following a nomination from Kilburn Parish Council, a qualifying nominator, validated on 29 January 2025.

2. SUMMARY

2.1 The nomination is for Forrester Arms Hotel, Kilburn. The recommendation is that the Head of Localities:

- (i) Determines that the nomination for Forrester Arms Hotel, Kilburn (NYCACV0057) 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. 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, an ACV is subject to a protected period (moratorium) during which a community interest group bid for the asset. 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 at the end of the moratorium period.

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 Forrester Arms Hotel, Kilburn, York, YO61 4AH as required by the Act.

4. NOMINATION CONSIDERATION

a) Description of asset

4.1 The parish of Kilburn includes high Kilburn and Low Kilburn. According to the Kilburn Parish Council website, there are fewer than one hundred dwellings in the civil parish and it has approximately 175 electors.

4.2 The nomination is for Forrester Arms Hotel, a public house with rooms, which sits in the heart of Kilburn, at the foot of Sutton Bank and the White Horse. Kilburn is a picturesque and historic village. Information available indicated that the nominated site had eight ensuite bedrooms for guests, it had outside seating and served food seven days a week.

4.3 The nominated site has previously been listed by Hambleton District Council as an Asset of Community Value (Reference CRB 19/3). It was listed on 13 August 2019 and removed from the list on 12 August 2024.

4.4 The nominated pub is within the North York Moors National Park. The nominated asset is next door to the Mouseman furniture visitor centre company and a village square with benches and war memorial.

4.5 It was not possible to confirm the opening times for the business. There was no website and the phone number available on the internet was not accepting calls. The site visit was planned at a lunchtime when, based on the opening times listed online, it would have been open, however the public house was closed when a site visit was undertaken. Local knowledge indicated that there had recently been a change of management at the pub and opening times were inconsistent, this may have been seasonal and/or to do with the recent change in management.

b) Nomination and Validation

4.6 The nomination to list Forrester Arms Hotel, Kilburn as an Asset of Community Value was received on 23 January 2025 and validated on 29 January 2025. A copy of the nomination form is attached at **APPENDIX A** and in accordance with the Assets of Community Value (England) Regulations 2012 a decision is required by 21 March 2025.

4.7 The nomination on behalf of Kilburn Parish Council was accepted on the basis of the nominating group qualifying as a Parish Council under Section 89 (2)(b) of the Localism Act 2011.

4.8 It was established that the property was owned by LEASED AND TENANTED PUBS 2 LIMITED. This was confirmed through a Land Registry search (Title Number NYK84556).

4.9 It was not possible to establish information about current occupiers or management.

c) Site Visit

4.10 A site visit was undertaken on 17 February 2025, with the following observations made:

- The nominated site provided level access over cobbles.
- Car parking was available directly in front of the building and there were electric vehicle charging points located to the side of the building.
- Externally the building looked well-kept with plenty of outdoor seating to the front of the building. There was also a decked area with seats at the side of the building.
- It was not possible to access the inside of the site during the site visit, the external inspection indicated that rooms were available and inside tables were set and looked ready for diners.
- During the site visit there was no visible evidence, such as signage or posters which demonstrated current or recent community use.
- Within the local area there was a church, Mouseman furniture visitor centre and showroom. The showroom appeared to be popular with customers.
- There was a phone box opposite the pub which had been repurposed and held supplies for the parish council and local community such as litter picking items and a defibrillator.
- To the front of the building, over the carpark was a sign for a bus stop.
- Slightly further down the road was the Kilburn Institute which appeared to be well maintained and well-used.
- Within the grounds of the carpark there were two notice boards holding various information such as Parish Council meeting agenda and minutes, activities in the local area, including a calendar of regular and varied events and activities that were scheduled to take place at Kilburn Institute.
- During the visit there were five people over two groups that potentially looked interested in visiting the pub, this was at lunchtime, however the building was not open to customers.
- Anecdotal comments from the local community during the visit suggested that there had recently been a change of management at Forrester Arms Hotel and it had not been open as often, however this could have been a seasonal decision, with other local attractions operating limited winter opening times. It was noted that people visiting the village often ask if/when the pub will open.

d) 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 nominated meets the definition of community value as detailed in the Localism Act 2011 (Section 88).

4.12 Section 88(1):

“A building or other land in a local authority’s area is land of community value if in the opinion of the authority-

- a) 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,
- b) it is realistic to think that there can continue to be a non-ancillary use of the building or land which will further the social wellbeing or social interests of the local community, although the use does not have to be the same.”

4.14 Section 88(2):

“A building or other land in a local authority's area that is not land of community value as a result of subsection (1) is land of community value if in the opinion of the local authority—

- 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, and
- 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.

4.15 There are many examples of pubs having community use and assets have been listed on this basis by local authorities. Each nomination is, however, assessed individually and it is for local authorities to determine whether each one meets the definition of community value as detailed in the Localism Act 2011.

5 CONSULTATION UNDERTAKEN AND RESPONSES

5.1 The following consultees were notified of the nomination:

- North York Moors National Park Authority
- Local Land Charges
- NYC Environmental Protection
- NYC Community Safety and CCTV
- NYC Food, Farming and Health & Safety

- NYC Licensing
- NYC Localities (Communities Team)
- Local Councillor

NORTH YORK MOORS NATIONAL PARK AUTHORITY PLANNING

5.2 The North York Moors National Park Authority Planning Service were consulted and made the following comments:

The following table lists planning history/constraints relating to Forrester Arms Hotel, Kilburn, description of the development, the decision, and dates:

Application reference	Development description	Decision	Date
20780016	Window alterations to east elevation	Approved with conditions	01/03/1978
20780016a	Side extension to create additional kitchen stores space with bedrooms above	Withdrawn	
20780016b	Kitchen and stores extension to public house/hotel	Approved with conditions	06/01/1982
20780016c	Siting of residential caravan for staff	Refused	10/09/1985
20780016d	Site for caravan for staff use	Refused	07/02/1986
20780016e	Extensions and alterations to existing hotel to form more bedrooms and larger kitchen	Approved with conditions	21/11/1986
20780016f	Change of use of two private bedrooms into two letting bedrooms	Approved with conditions	28/01/1992
NYM/2007/0291/AD	Erection of 5 no. non-illuminated signs	Granted with conditions	06/06/2007
NYM/2019/0593/FL	Construction of single storey rear extension and insertion of 2 no. windows to west elevation together with refurbishment works including replacement pitched roof to north wing, replacement flat roof to rear service areas and alterations to existing fenestration	Approved with conditions	15/11/2019
NYM/2020/0160/AD	Advertisement consent for the display of 1 no. fascia sign (illuminated), 1 no. hanging sign, 1 no. gable sign, 2 no. amenity boards and 1 no. chalkboard (non-illuminated)	Granted with conditions	29/04/2020

The building is within the High & Low Kilburn Conservation Area which is subject to an [Article 4 Direction](#) (removing certain permitted development rights).

The building is not a Listed Building.

Existing use

Based on the planning history for the site, the Authority considers the lawful use as a public house.

North York Moors National Park Authority Local Plan policies

The land is not subject to any land allocation or designation in the Local Plan e.g. allocated for an alternative use or protected as a community space however any planning applications for change of use will be assessed against Strategic Policy L which resists the loss of community facilities (including public houses) unless it can be demonstrated that the use is no longer viable

LOCAL LAND CHARGES

5.3 A search for Local Land Charges was undertaken and the following information was obtained:

- There were eight local land charges all relating to planning applications at Forrester Arms Hotel

NYC ENVIRONMENTAL PROTECTION

5.4 The Environmental Protection service were consulted and confirmed there were no concerns from an Environmental Protection position.

NYC COMMUNITY SAFETY AND CCTV

5.5 The Community Safety and CCTV service were consulted and confirmed there were no comments from a Community Safety and CCTV perspective.

NYC FOOD, FARMING AND HEALTH & SAFETY

5.6 The Food, Farming and Health & Safety service were consulted, and no comments were received.

NYC LICENSING

5.7 The Licensing service were consulted and made the following comments:

- Confirmed there was a license in place for late night refreshment and the retail sale of alcohol on and off the premise
- The licence holder was currently Forresters Kiburn LTD further details of the licence could be found online: [Register](#)

NYC COMMUNITIES TEAM

5.8 The Localities service were consulted and had no feedback about the nomination.

LOCAL COUNCILLOR

5.9 The Local Councillor was consulted, and no comments were received.

6 ASSESSMENT INFORMATION

6.1 In assessing the community value of Forrester Arms Hotel, Kilburn all information received has been considered.

a) Section 88(1) Condition One - 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.

(i) Actual current use that is not an ancillary use

6.2 The actual uses were specified in the nomination and were typical of a village pub. 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 (9 May 2014) and the test is whether the use is significant, which does not require it to be the predominant use.

6.3 The nomination states that Forrester Arms Hotel is Kilburn’s only pub and it is a vital asset in the village for fostering community spirit. The uses identified in the nomination are listed below:

- The site hosts regular meetings such as the village Book Club and meeting of the Kilburn Feast organisation committee.
- The site was used frequently by locals for general socialising, wedding receptions, wakes and other social gatherings.
- The site was heavily used by walkers and other tourists to the village.
- The eight bedrooms at the site were used by tourists and other visitors for which there is a high demand, especially during tourist season.

6.4 The nomination also identifies Forrester Arm Hotel as being one of just three public buildings in the village, in which village activities take place; St Mary’s Church and the Kilburn Institute are the other two buildings. It is noted in the nomination that the usage of Forrester Arms Hotel greatly exceeds that of the other two buildings.

- 6.5 Considering the information provided by the nominating group at paragraph 6.3 there was very little uses listed and no supporting evidence provided or available to demonstrate current or historic uses. Of the few uses listed two were linked to tourists and visitors, and one was linked to an annual event (Kilburn Feast).
- 6.6 Consultation with North York Moors National Park Authority confirmed its lawful use was a public house.
- 6.7 The site visit and attempts to contact the pub by telephone could not determine whether it was open for business. Notice boards near the nominated site displayed information about many current community activities taking place at the nearby Kilburn Institute. There were no events advertised as taking place at Forrester Arms Hotel.
- 6.8 The nomination provides some information about the uses of the site, however some of these were linked to tourists and the assessment criteria requires the benefit to be to the local community rather than visitors. There was no evidence about frequency and attendance of identified activities or that there were a variety of groups or demographics using it. The site visit did not produce evidence of any activities taking place at Forrester Arms Hotel, and it was not clear when public house was open. **There is therefore insufficient information provided to demonstrate significant actual use as a public house providing a community facility for meetings and cultural, social and recreational activities that are non-ancillary and therefore this criteria is not met.**

(ii) Furthering social wellbeing or social interests

- 6.7 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'.
- 6.8 In order to be listed as an ACV, the property must be actually used, or used in the recent past, for an activity furthering the social wellbeing or interests of the local community. There is a view that pubs are social settings in themselves and are places where people go to drink and socialise, conversely there are issues around the detrimental health and social impacts of alcohol. These factors are considered in the context of each individual pub nomination.
- 6.9 The nomination provides the following information linked to of furthering the social wellbeing and interests of the local community:
- The Forrester Ams Hotel, Kilburn provides a small range of social and community activities such as the Book Club and a venue to hold organisation committee meetings for the Kilburn feast which was held once a year.
 - It is noted that the book club was regular and that it was frequently used by locals for general socialising and gatherings.
 - No information was provided about how long the site has been used for

- The site is accessible which is positive for the “ageing population of Kilburn and the absence of local public transport.”
- 6.10 The nomination stated that regular meetings for the village book club and Kilburn Feast organisation committee were held at the Forrester Arms Hotel. These uses are valid examples of recreational and cultural activities, however the detail around frequency and attendance is missing from the nomination, and there was no supporting evidence.
- 6.11 Cultural uses have also been identified in the nomination such as wedding receptions and wakes. There was no evidence available to demonstrate the regularity or attendance of these activities.
- 6.12 The uses listed at para 6.9 provide limited examples of cultural and recreational interests. There was no indication in the nomination as to how many people use the site, for how long or demographics of people using it.
- 6.13 It is recognised in the ACV regime that “social interests” includes, in particular, cultural, recreational and sporting interests. The nomination identifies limited examples of social interest uses, including a book club and an organisation committee, it notes that it was the only pub in the village and is a vital asset but the information provided was generic and lacks evidence to support it. **The uses detailed are therefore not considered to further the social wellbeing or social interests of the local community and this criteria is therefore not met.**

(iii) Local Community

- 6.14 There is no definition or guidance as to what constitutes the ‘local community’. The judgement in Pullan v Leeds City Council (25 April 2016) was that, in relation to the Old Cock public house, the entire town of Otley was considered to be the local community.
- 6.15 In terms of local community there are some references in the nomination including:
- The village book club
 - Meetings of the Kilburn Feast organisation committee
 - Used by locals for general socialising, wedding receptions, wakes and other social gatherings
 - Is a vital asset in the village fostering community spirit
- 6.16 The nomination referenced uses by ‘tourists’ and ‘visitors’ on a number of occasions. The nomination stated “It is heavily used by walkers and other tourists to the village, including visitors to the Mouseman furniture company, Kilburn’s largest employer. It had eight bedrooms for tourists and other visitors, for which there is a high demand especially during the tourist season.” These uses do not relate to the local community cannot be taken into account in the assessment of an Asset of Community Value nomination.

- 6.17 The nomination notes that “Alternative venues are some miles away and can be problematic for Kilburn’s ageing population and the absence of local public transport” and that Forrester Arms Hotel is the only venue open to the public seven days a week. The nomination also states that there are three public buildings in the village where activities take place, the nominated site, St Mary’s Church and Kilburn Institute. The site visit confirmed Kilburn Institute hosted many regular, varied events for the local community.
- 6.18 The nomination site refers to two organisations linked to Kilburn that use Forrester Arms Hotel, as well as use by locals for socialising and social gatherings and noted that was a vital asset in the village. The nomination and site visit confirmed alternative buildings were available locally, and Kilburn Institute was actively being used for hosting community events.
- 6.19 ***It is therefore reasonable to determine that the identification of the local community required by the legislation from the nomination and information available is Kilburn village and this criteria is therefore met. There were three public buildings in Kilburn village where activities take place.***

Section 88(1) Condition One - CONCLUSION

- 6.20 The current uses of the nominated site are difficult to evidence, little information was submitted with the nomination or available through research and visiting the site. The nominating group lists some generic uses linked to a public house in a village and two specific uses by local groups (a book club and an organisation committee). It was difficult to determine if and when the nominated site was open to the public. Overall, there was nothing substantive to demonstrate significant actual use as a public house providing a community facility for cultural, social and recreational activities that were non-ancillary.
- 6.21 Evidence that the nominated site furthers the social interests, wellbeing of the local community of Kilburn was very limited. The nomination identified limited examples of social interest uses, including a book club and an organisation committee, the book club may have met there frequently. The nomination notes it is the only pub and is a vital asset for the village, but the information provided was generic and lacked evidence to support it.
- 6.22 It is likely that the local community of Kilburn values the nominated site and some infrequent usages that further the social interests and wellbeing have been identified by the nominator. There was no substantial evidence of Forrester Arms Hotel being used to the benefit of the community particularly concerning frequency/regularity or attendance at events. Overall, there was not enough detail or evidence provided to show that community use was a non-ancillary use of the nominated site. Additional information could have included details of length of time uses have been taking place for and evidence from local groups (calendars of events, membership, frequency of use etc.).

- 6.23 **Based on the information available it is therefore reasonable to determine that there is not an actual current use of the building or land that is not an ancillary use that furthers the social wellbeing or social interests of the local community.**
- b) **Section 88(1) Condition Two - It is realistic to think that there can continue to be a non-ancillary use of the building or land which will further the social wellbeing or social interests of the local community, although the use does not have to be the same.**
- 6.24 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**).
- 6.25 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**). 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.
- 6.26 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”.
- 6.27 This condition requires the realistic assessment 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. It is the assessment of whether the current uses identified under condition one, can realistically continue, that is required. In the case of condition one for Forrester Arms Hotel, Kilburn it was not possible to determine that there was an actual non ancillary current use of the building or land that furthered the social wellbeing or social interests of the local community, and it would therefore follow that if no use was identified it cannot continue. However, the nomination and information available presented some factors related to future community uses and these will be considered.
- 6.28 In terms of future community use being one of a number of realistic options for the building, the following information has been considered:
- There was a recent unexpected and early change of leaser which had given rise to uncertainty and concern regarding the future of the pub.

- The nomination form stated that pub group who owned the building had publicly declared inclinations to dispose of poor-performing pubs.
- It was not possible to confirm management details or opening times for the nominated site and this impacted the likelihood of activities taking place there regularly.
- The nominating group stated that “If not its current ownership, the only option considered likely to preserve its vital community role would be that as a community-owned pub”.
- There was no evidence provided about the length of time the site had been used.
- The lawful use of the building was confirmed to be a public house and there were no current/pending planning applications for change of use.
- There were other viable options to hosts the activities locally (St Mary’s Church and Kilburn Institute).

6.29 The nomination form, site visit and local knowledge indicated there had been a recent change in who was running the pub, this appeared to have impacted opening hours, which were not available. A visit to the site confirmed that the opening hours available through an internet search were inaccurate and it was not possible to contact the pub to confirm. Opening hours may have been influenced by the time of year, it was February and a quiet time of year where some local attractions were closed to visitors. No information was available about historic use of the pub and the length of time it had been used by people in the village of Kilburn.

6.30 The nomination form made a general statement about the pub group who owned the site declaring an inclination to dispose of poorly performing pubs, but there was no evidence to support this, or that the nominated site was or was not poorly performing. The nomination form stated that, “the future of commercially-owned country pubs is generally uncertain.”

6.31 Consultation with North York Moors National Park Authority’s Planning team confirmed the lawful use was as a public house and there were no current/pending planning applications.

6.32 The nomination made a brief, general statement about preserving the site through community ownership, “Community ownership at the right price, as with an increasing number country pubs, would be the best way of preserving this vital, community asset”. There were no suggestions of alternative community uses of the site included in the nomination.

Section 88(1) Condition Two - CONCLUSION

6.33 Assessment of condition one determined that there was not enough detail or evidence provided to show that community use was a non-ancillary use of the nominated site. When thinking about whether future community use as one of a number of realistic options for the building, the application suggested community ownership could preserve the community asset. Planning

information confirmed its lawful use was a public house with no historic or current change of use applications submitted. The nomination also noted that there were specific and general factors that contributed to uncertainty about the future viability of the site as a commercial entity.

6.34 Whilst it would not be unreasonable to believe that there could be future community use at the Forrester Arms Hotel, no actual current use that furthered the social wellbeing or social interests of the local community was evidenced relating to condition one. Although this report has allowed for some consideration of potential future use, including viability as a commercial venture and potential community ownership, it is not possible to determine that a use that was not evidenced could continue.

6.35 In summary, **an actual current use of the building that is not an ancillary use furthers the social wellbeing or social interests of the local community was not identified under condition one. Therefore, it is not possible to determine that a use not identified can continue.**

c) Consideration of Section 88(2)

6.35 In the Legislation, at Section 88 subsection (2), it states that a building or other land in a local authority's area that is not land of community value as a result of Section 88 subsection (1) is land of community value if in the opinion of the local authority—

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, and

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.

6.36 It is recognised that Forrester Arms Hotel was listed as an ACV by Hambleton District Council in 2019. This listing expired in 2024 and there has been no indication there has been a period of closure since then. Uses of the public house would therefore be current and continuing uses and a detailed assessment of these have been undertaken through consideration of the conditions in section 88(1).

6.38 Assessment of 88(1) has considered all information provided and available, no additional information has been provided that could satisfy the conditions under 88(2). In particular, no evidence was provided to support any other conclusion about recent past and the associated future use than that which was detailed under 88(1) in paragraphs 6.1 and 6.35.

6.39 ***There is no additional information to satisfy the criteria listed under 88(2) and therefore the conditions of 88(2) are not met.***

d) Conclusion

6.40 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

6.41 A valid nomination to register Forrester Arms Hotel, Kilburn as an Asset of Community Value was received for assessment. The assessment is whether the details within the nomination, together with any additional information received, satisfy the two criteria as detailed in the Localism Act 2011 Section 88 (1) and Section 88 (2) see below:

Section 88 (1) Condition One - *There is 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*

(See paragraphs 6.2-6.23)

6.42 The information provided does not demonstrate actual uses of Forrester Arms Hotel, Kilburn, that are non-ancillary, and further the social wellbeing or social interests of the local community. ***This Condition is therefore not met.***

Section 88 (1) Condition Two - *It is realistic to think that there can continue to be a non-ancillary use of the building or land which will further the social wellbeing or social interests of the local community, although the use does not have to be the same*

(See paragraphs 6.24-6.35)

6.43 An actual current use of the building that is not an ancillary use furthers the social wellbeing or social interests of the local community was not identified under condition one. It is therefore not possible to determine that a use not identified can continue. No alternative uses were suggested. ***This Condition is therefore not met.***

Section 88 (2) a building or other land in a local authority's area that is not land of community value as a result of Section 88 subsection (1) is land of community value if in the opinion of the local authority—

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, and

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.

- 6.44 Assessment of 88(1) considered all information provided and available, within this there was no evidence to support any other conclusion about recent past and the associated future use than that which was detailed under 88(1) in paragraphs 6.1 and 6.35. ***There was no additional information to satisfy the criteria listed under 88(2) and therefore the conditions of 88(2) are not met.***

(See paragraphs 6.35-6.39)

- 6.45 The evidence demonstrates that the nomination does not meet the definition of community value as detailed in the Localism Act 2011. It is therefore recommended that Forrester Arms Hotel, Kilburn is not listed as an Asset of Community Value and it is placed on the North Yorkshire Council List of Unsuccessful Nominations.

7. ALTERNATIVE OPTIONS CONSIDERED

- 7.1 None. In considering the nomination for Forrester Arms Hotel, Kilburn, the Council's responsibilities required by the Localism Act 2011 and The Assets of Community Value (England) Regulations 2012, are discharged.

8. 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. FINANCIAL APPLICATIONS

- 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. LEGAL IMPLICATIONS

- 10.1 Following the decision, all parties will be advised of the outcome of the decision, and the council's reasoning for it.
- 10.2 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.

- 10.3 If the property/land is listed and the owner/leaseholder wishes to dispose of it, they 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).
- 10.4 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).
- 10.5 Where a nomination is unsuccessful, the nominated asset will be placed on the North Yorkshire Council Assets of Community Value List of Unsuccessful Nominations for a period of at least 5 years, together with reasons for not including the land in the authority's list of assets of community value.

11. EQUALITIES IMPLICATIONS

- 11.1 There are no equalities implications.

12. CLIMATE CHANGE IMPLICATIONS

- 12.1 There are no climate change implications.

13. CONCLUSIONS

- 13.1 The owner and other parties will be informed of the decision. 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.

14. REASONS FOR RECOMMENDATIONS

- 14.1 The evidence demonstrates that the nomination for Forrester Arms Hotel, Kilburn does not meet the definition of community value as detailed in the Localism Act 2011.

15. ANY ALTERNATIVE OPTIONS CONSIDERED AND REJECTED

- 15.1 None. In considering the nomination for Forrester Arms Hotel, Kilburn (NYCACV0057), the Council's responsibilities required by the Localism Act

2011 and The Assets of Community Value (England) Regulations 2012, are discharged.

16. RECOMMENDATIONS

It is recommended that the Head of Localities:

- (i) Determines that the nomination for Forrester Arms Hotels, Kilburn (NYCACV0057) 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 – Nomination form, additional information provided by the nominating group and site plan

BACKGROUND DOCUMENTS:

Localism Act 2011

The Assets of Community Value Regulations (England) 2012

Community Right to Bid: Non-statutory advice note for local authorities

Head of Localities

County Hall

Northallerton

21 March 2025

Report Author – Claire Wilson & Charlotte Large

Presenter of Report – Claire Wilson & Charlotte Large

Website/references:

<https://www.legislation.gov.uk/ukpga/2011/20/contents>

<https://www.legislation.gov.uk/ukxi/2012/2421/regulation/5/made>

<https://www.ons.gov.uk/visualisations/customprofiles/build/#E04007408>

<https://www.bbc.co.uk/news/articles/cn4vyvgn5zmo>

<https://www.kilburnparishcouncil.org.uk/>

<https://www.northyorkmoors.org.uk/planning/policy/local-plan/Local-Plan-NO-CROPS.pdf>

<https://www.northyorkmoors.org.uk/planning/building-conservation/conservation/areas/article-4-directions>

Community Right to Bid: Assets of Community Value

Nomination Form

(Office use only) ACV Ref: _____

Section 1: About your organisation

1A. Contact Details

Please provide basic contact details for your organisation

Name of the organisation	Kilburn Parish Council
Organisation postal address	Kilburn Village Institute, Kilburn, YORK, YO61 4AG
Organisation website	https://www.kilburnyorks.com/parish-council/parish-council-overview
Named contact for the organisation	██████████
Position of named contact within the organisation	Vice Chair
Telephone number for named contact	██████████
Email address for named contact	██

1B. Organisation type

Please place an 'X' in the middle column against the appropriate organisation type

Organisation Type	X	Registration number of charity/company (if applicable)
<p>Parish Councils</p> <p>This may be for an asset in its own area, or in the neighbouring Parish Council area</p>	X	
<p>Neighbouring Parish Councils</p> <p>If the Parish Council borders an un-parished area, then they may nominate an asset within the neighbouring District Council or Unitary Council.</p>		
<p>Un-incorporated groups</p> <p>Nominations can be accepted from any un-incorporated group with membership of at least 21 local people who appear on the electoral roll within the local authority, or a neighbouring local authority. This will for instance enable nomination by a local group formed to try to save an asset, but which has not yet reached the stage of acquiring a formal charitable or corporate structure.</p> <p>Please complete additional form in Appendix 1 if this applies to you.</p>		
<p>Neighbourhood Forums</p> <p>There can only be one neighbourhood forum for an area and the way they are set up is clearly defined by the Council as a planning authority. The procedure for becoming a neighbourhood forum is set out in Section 61F of the Town and Country Planning Act 1990.</p> <p>Please complete additional form in Appendix 1 if this applies to you.</p>		
<p>Community interest groups with a local connection</p> <p>These must have one or more of the following structures:</p> <ul style="list-style-type: none"> • A charity • A community interest company • A company limited by guarantee that is non-profit distributing • An Industrial and Provident Society that is non-profit distributing/Community Benefit Society <p>Please complete additional form in Appendix 1 if this applies to you.</p>		

1C. Local connection

Additionally, your organisation is required to have a local connection. This means that its activities are wholly or partly concerned with the administrative area of North Yorkshire or a neighbouring local authority. Please provide details about your organisation's local connection.

Details regarding local connection
<p>The asset is located within the parish of Kilburn and we are Kilburn Parish Council</p>

Finally, please provide, if available, a copy of your organisation's rules/constitution. Please indicate which documents you intend to provide below by placing an 'X' against the relevant document type.

Type of document	X
Memorandum and Articles of Association (for a company)	
Trust Deed (for a trust)	
Constitution and/or rules (for other organisations)	
Other Please see website	X

Section 2: About the asset

Section 2A: Basic details

Please provide basic details about the asset

Type of land/building (for example, pub, shop)	Our local pub
Name of the premises	Forresters Arms
Address of the premises	Forresters Arms, Kilburn, York, YO61 4AH

In addition to the above information, please attach a clear plan which identifies the land/buildings you wish to nominate with a line drawn around the boundary of the area you wish to nominate. This could be a Title Plan from Land Registry, or any other map which gives us enough detail to identify the site.

Section 2B: Ownership

Please provide details about the asset's ownership, if it is known to you

Name of the owner	Stonegate Group
Address of the owner	██
Contact details for the owner	████████████████████
Name of any other occupier	
Name of any other person with an interest in the premises	
Address of any other person with an interest in the premises	
Contact details for any other person with an interest in the premises	

Section 2C: The premises as an Asset of Community Value

Please explain why you feel the land/premises meets the definition of an Asset of Community Value. Provide as much information as possible. Please note, it is likely that these comments will be shared with the asset owner.

ACV Definition

A building or other land in a local authority's area is considered land of community value if, in the opinion of the authority:

- (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 a 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.

If there is no current use:

- (c) The definition is extended to land which has furthered the social wellbeing or social interests of the local community in the recent past, and which it is realistic to consider will do so again during the next five years.

How does the current main use of the building/land – or a use in the recent past – further the social interests or social well-being of the local community?

Additional information from email dates 26 January:

The Forresters Arms, Kilburn's only pub, is a vital asset in the village fostering community spirit.

The recent unexpected and early change of lessor has given rise to uncertainty and concern regarding the future of the pub.

It is one of just three public buildings in which village activities take place; St. Mary's Church, the Kilburn Institute and the Forresters Arms.

Its usage greatly exceeds that of the other two buildings, being open to the public seven days per week and hosting regular meetings such as the village Book Club and meetings of the Kilburn Feast organisation committee.

It is frequently used by locals for general socialising, wedding receptions, wakes and other social gatherings.

Alternative venues are some miles away and can be problematic for Kilburn's ageing population and the absence of local public transport.

It is heavily used by walkers and other tourists to the village, including visitors to the Mouseman furniture company, Kilburn's largest employer.

It has eight bedrooms for tourists and other visitors, for which there is a high demand, especially during the tourist season.

Whilst the recently refurbished Kilburn Institute could in a small way step in were the Forresters to close, the pub's closure would deprive villagers of the only public meeting place in Kilburn, open 7-days a week, to socialise with other villagers and their visitors to the village.

Original information submitted 23 January:

The Forresters Arms, our only village pub, is a vital asset in the village fostering community spirit.

The only other places where the community can meet is the Kilburn Village Institute (Kilburn's village hall, a charity) and the local church, the latter enjoying very limited usage.

Please explain how there can continue to be a main use of the building/land which will further the social interests or social wellbeing of the local community, whether or not this is in the same way as before.

The leaseholder of the pub has recently changed earlier than expected and its future may be uncertain taking account of the owners, Stonegate, and their publicly-declared inclination to dispose of poor-performing pubs. Added to this, the future of commercially-owned country pubs is generally uncertain.

Community ownership at the right price, as with an increasing number country pubs, would be the best way of preserving this vital, community asset.

If not currently used for the purposes listed above, is it realistic to think that within five years the building/land can be brought back into a use that furthers the social interests or wellbeing of the local community, whether or not in the same way as before?

If not its current ownership, the only option considered likely to preserve its vital community role would be that as a community-owned pub.

Section 3: Checklist and Declaration

In addition to the form, please confirm any attachments if provided.

Document	X
Copy of organisation's constitution/rules/other	
A clear plan defining the land/premises being nominated	

Finally, in order to confirm that the information contained within this nomination form is correct and complete and that the required documents are attached, an appropriate authorised officer must sign the below declaration.

We can accept electronic signatures.

Full name	[Redacted]
Signature	[Redacted]

Please return this form and any accompanying materials to the appropriate e-mail address below:

AssetsofCommunityValue.NYC@northyorks.gov.uk

Before completing this form, please check the guidance notes at the end of the document. If you require any assistance, please contact AssetsofCommunityValue.NYC@northyorks.gov.uk

Privacy notice

Please retain a copy of this form for your records and should your circumstances or contact details change then please let the appropriate contact officer know.

This information will be held in accordance with NYC Privacy Notices.

From: [REDACTED]
To: [Assets of Community Value NYC](#)
Subject: RE: Forresters Arms, Kilburn
Date: 26 January 2025 17:53:00
Attachments: [image001.png](#)
[image002.png](#)
[Forresters Arms Hotel RegisterPlan_NYK84556.pdf](#)

Hello Claire.

Thank you for your helpful feedback.
Please find attached HMLR Title Plan.

Please find below an amended Section 2C:

The Forresters Arms, Kilburn's only pub, is a vital asset in the village fostering community spirit.

The recent unexpected and early change of lessor has given rise to uncertainty and concern regarding the future of the pub.

It is one of just three public buildings in which village activities take place; St. Mary's Church, the Kilburn Institute and the Forresters Arms.

Its usage greatly exceeds that of the other two buildings, being open to the public seven days per week and hosting regular meetings such as the village Book Club and meetings of the Kilburn Feast organisation committee.

It is frequently used by locals for general socialising, wedding receptions, wakes and other social gatherings.

Alternative venues are some miles away and can be problematic for Kilburn's ageing population and the absence of local public transport.

It is heavily used by walkers and other tourists to the village, including visitors to the Mouseman furniture company, Kilburn's largest employer.

It has eight bedrooms for tourists and other visitors, for which there is a high demand, especially during the tourist season.

Whilst the recently refurbished Kilburn Institute could in a small way step in were the Forresters to close, the pub's closure would deprive villagers of the only public meeting place in Kilburn, open 7-days a week, to socialise with other villagers and their visitors to the village.

I hope this will allow you to validate the application.

Best Wishes,

[REDACTED]

[REDACTED]

[REDACTED]

H.M. LAND REGISTRY		TITLE NUMBER	
		NYK84556	
ORDNANCE SURVEY PLAN REFERENCE	SE 5179	SECTION B	Scale 1/1250 Enlarged from 1/2500
COUNTY NORTH YORKSHIRE	DISTRICT HAMBLETON	© Crown copyright 1988	



This is a copy of the title plan on 5 AUG 2019 at 19:20:02. This copy does not take account of any application made after that time even if still pending in HM Land Registry when this copy was issued.

This copy is not an 'Official Copy' of the title plan. An official copy of the title plan is admissible in evidence in a court to the same extent as the original. A person is entitled to be indemnified by the registrar if he or she suffers loss by reason of a mistake in an official copy. If you want to obtain an official copy, the HM Land Registry web site explains how to do this.

HM Land Registry endeavours to maintain high quality and scale accuracy of title plan images. The quality and accuracy of any print will depend on your printer, your computer and its print settings. This title plan shows the general position, not the exact line, of the boundaries. It may be subject to distortions in scale. Measurements scaled from this plan may not match measurements between the same points on the ground.

This title is dealt with by HM Land Registry, Durham Office.

Crown Copyright. Produced by HM Land Registry. Further reproduction in whole or in part is prohibited without the prior written permission of Ordnance Survey. Licence Number 100026316.