CITY OF YORK COUNCIL

AGENDA SUPPLEMENT

Decision Session - Combined Executive Member Decision Session

To:	Councillors Douglas, Webb, Kent, Kilbane, Lomas, Merrett, Perrett and Steels-Walshaw
Date:	Tuesday, 11 August 2026
Time:	10.00 am
Venue:	West Offices, York

The Agenda for the above meeting was published on **Monday 3 August 2026.** The attached additional documents are now available for the following agenda item:

6. Application for Community Right to Bid under the Localism Act 2011 (Pages 3 - 8)

This supplement contains written representations from Cllr Kilbane and from the owner of the subject premises.

This agenda supplement was published on **Friday 7 August 2026.**

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From: Cllr. P. Kilbane
Sent: 04 August 2026 10:23
Subject: Written submission to Executive Member Decision Session 12th of August 2026

Dear Cllr Lomas

Application for Community Right to Bid under the Localism Act 2011

I am unable to attend your Executive Member Decision Session on the 11th of August 2026 regarding the above, due to annual leave. Therefore, I write in support of the application made by Campaign for Real Ale (York Branch) to list The Victoria Vaults, 47-49 Nunnery Lane, York, YO23 1AB as an Asset of Community Value (ACV)

The Victoria Vaults furthered the social interest and social wellbeing of the local community by being an active pub for 160 years and a live entertainment venue for most of this century. For the past decade it has been one of only two purpose-built pub music venues in the City Of York.

Since its closure I, in my role as Ward Councillor, have been in contact with four separate groups who have expressed an interest in running the Victoria Vaults as a live music and arts venue. It is therefore realistic to think that within five years the building can be brought back into a use that furthers the social interest and wellbeing of the local community.

The pressing need for the building to be listed as an ACV is heightened by the fact that, since its closure, I am informed that the owners have taken steps that will inhibit its use as a pub and live entertainment venue. I understand that this includes

- Removing the cellar and bar fittings
- Listing the upstairs of the building as a short-term holiday let. As far as I am aware there has not been planning permission granted for this change of use category.

Further evidence of the need to grant ACV status to the Victoria Vaults is that since I, in my capacity as Ward Councillor, objected to the loss of this community facility I have been subject to professional and personal accusations by the owners. This includes an unsubstantiated Standards Complaint made against me, and a family member being named in their public statements.

I have no Disclosable Pecuniary Interests in this matter but for transparency I draw your attention to my register of interests as I have Other Registrable Interests (Affects).

Yours sincerely

Cllr Pete Kilbane, Labour & Cooperative Councillor for Micklegate

Executive Member for Economy and Culture

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WRITTEN REPRESENTATIONS OF THE OWNER

Decision Session — Executive Member for Finance, Performance, Major Projects and Equalities
Tuesday 11 August 2026, 10:00 am, West Offices, York

Decision Report: Application for Community Right to Bid under the Localism Act 2011

The Victoria Vaults, 47–49 Nunnery Lane, York YO23 1AB

Submitted by The Vaults (York) Limited ("the owner") — 6 August 2026

1. The Executive Member is asked to reject this nomination. Eight months ago the Council itself determined that this property was no longer land of community value and removed it from the register. Nothing material has changed since. The report recommending approval omits that determination from its analysis, omits the Council's own commissioned marketing review, and states — incorrectly — that no representations have been received from the owner. And by the standard the Council itself advanced to the Planning Inspectorate on 28 July 2026, this nomination is defective.

The Council's own decision

2. On 27 November 2025, in the course of the owner's appeal against the previous listing, the Council determined that the property was no longer land of community value and removed it from the register. That is what the power it used means: removal under regulation 2(c)(ii) is available only where the authority, for whatever reason, "no longer considers the land to be land of community value".

3. The owner's appeal submissions raised the very matters set out in this document — the residential first floor, the unauthorised music use, the licensing constraints, the viability evidence. The Council never answered them: it filed no response at all — the Tribunal recorded on 3 October 2025 that none had been received — was then barred from the appeal on 13 November 2025, and removed the listing a fortnight later.

4. Since then, the only new material offered in support is two emails of contingent interest and the reassertion of the nominator's case — its third nomination in twenty months. The question for the Executive Member is what has changed since the Council's own decision. On the papers, nothing has. Even the Council review that upheld the first listing, in March 2025, ended by saying "only time will tell". Time has told.

No offers; no funded route

5. The freehold was openly marketed from late June 2023 until its sale in November 2024. The ground-floor leasehold has been marketed by Barry Crux & Co at £25,000 per annum since August 2025 and is available today. The nominator's own document concedes the result: there has been "no interest in the leasehold at £25,000 rent per annum", and there is "a lack of offers for the building" (Appendix 2).

6. The Council's planning officer reached the same conclusion: community support "has not translated into occupier demand, through an actual offer" (officer report, application 25/01793/FUL, paragraph 5.23); the same report records that over three months to November 2025 "five parties had expressed interest but not moved forward to place an offer" (paragraph 5.18). The Council's own commissioned reviewer likewise concluded that the marketing was sufficient to have elicited an offer had viable interest existed. The leasehold campaign has produced 21 direct enquiries and five viewings, and no offer. In the freehold campaign, Ossett Breweries, the owners of The Three Legged Mare and the Co-

Chair of the York Music Venue Network all enquired; none made an offer. The claim that viewings are refused is unattributed hearsay, contradicted by the agents' records.

7. The nominator has promised purchasers before. Its questionnaire to the First-tier Tribunal, signed by its Pub Protection Officer on 30 July 2025, claimed witnesses "willing to form a consortium to purchase the venue should it come back on the market – or in one case to purchase it to add to a portfolio of existing music venues". A year later, neither has made an offer for the freehold or the leasehold. The Music Venues Trust, now presented as the most significant interested party, has provided nothing: no letter, no offer, no funding proposal.

8. The two supporting emails offer, at most, to consider an offer "should the building return to the market". Both authors contemplate living in the accommodation above: they are would-be residential occupiers, not operators. The nominator's own exemplars of community operation include the Golden Ball, 150 metres away; neither it nor any other community operator has ever made an offer for these premises. The condition its supporters say they are waiting for has already happened once: the freehold was on the open market for over a year, to November 2024 — before any listing or planning dispute existed to blame — and none of them bought it.

9. The authorities the nominator cites establish only that viability is not determinative. The test remains whether resumed community use is realistic, not hoped for, and recent First-tier Tribunal decisions on this very question — Kingston Apartments, Forestscape, Sandhu and Dairygen, collected with citations in the owner's objection (Appendix 6) — reject contingent, unfunded support of exactly this kind. That is also the Council's own standard. Its planning case officer, addressing reported interest in these premises, wrote: "I do not think I can consider these as viable interests until an offer is put to the agents and is either accepted or declined" (planning file, application 25/01690/FUL). No offer has ever been put.

The model relied on is unlawful

10. The nomination's model is a live-music venue hosting over 150 gigs a year (report, paragraph 22) at an occupancy of around 140 (report, paragraph 28(d)). Condition 8 of Premises Licence CYC-009072 caps occupancy at 90, including staff and performers. The live-music use never had planning permission and no certificate of lawfulness exists. A future use that cannot lawfully operate at the scale relied on is not a realistic future use (TV Harrison CIC v Leeds City Council [2022] EWHC 130 (Admin)). At lawful capacity the model fails arithmetically: the previous operator's figures, provided to the Council, put break-even at about 75 paying customers a night at £20 a head — actual spend had fallen to around £10.

Condition and cost

11. The report repeats the nominator's claim that the premises are "physically intact" (paragraph 25). They are stripped and vacant, and an independent appraisal on the Council's own planning file puts reinstatement at approximately £250,000. The report refers to neither that appraisal nor the commissioned review. The previous operator ceased trading despite public support exceeding £108,000 (report, paragraph 23). At least six operators have tried and failed in the last decade — evidence the nominator itself acknowledged to the Tribunal. York has more than forty live-music venues; the market is not short of them.

The first floor cannot be listed

12. The first floor is a self-contained, separately rated three-bedroom residence with its own access; the report itself records the point at paragraph 28(c). The nomination includes it deliberately — "for the whole property and not just the downstairs area" — because the nominator believes it "should be solely used for a live-in manager" (Appendix 2). Schedule 1 to the Assets of Community Value (England) Regulations 2012 excludes residential premises from listing; the exclusion turns on what the premises are, not on the nominator's preference. A private home furthers no community wellbeing; it is where someone lives. Whatever view is taken of the ground floor, the first floor cannot lawfully be included.

A defective nomination — on the Council's own standard

13. On 28 July 2026 the Council told the Planning Inspectorate that the previous listing was removed because "it is understood that the nomination received was defective" (its response to the appellant's costs application, paragraph 3.52). The Council has never identified that defect: not in the removal letter, not to the Tribunal, not in this report — which does not mention it at all. And on any view of what "defective" means, this nomination nominates land the law excludes (paragraph 12 above).

14. The Council cannot have it both ways. If a defective nomination could not sustain the previous listing, a defective nomination cannot found this one. If defects do not matter, then its stated ground for the November 2025 removal — that it no longer considered the land to be of community value — stands at full weight. On either footing the nomination fails.

The report

15. Paragraph 33 states: "No representations have been received from the registered owner regarding the listing." That is untrue, and the same report disproves it: the owner's representations are summarised at paragraph 28 and appended at Appendix 6. The owner is The Vaults (York) Limited, with which the Council has corresponded as owner throughout — including on the 27 November 2025 removal and in its response of 25 March 2025 to the owner's compensation claim.

16. The report contains no assessment of the statutory test. The statute required two questions to be answered: whether the nominated land includes premises that cannot be listed, and whether it is realistic to think that qualifying community use can resume within five years, weighing the matters set out above. The report answers neither — paragraph 17 asserts the first in a single sentence without analysis, and never reaches the second. It recites the nominator's claims (paragraphs 20 to 27), summarises the owner's objection (paragraph 28), and recommends approval without engaging with either; paragraph 20 even asserts a "current" qualifying use of premises that paragraph 21 records as closed and not trading. In the Council's own vocabulary, the report itself is defective.

17. Paragraph 13 misstates the history: the first appeal ended with the Council barred and the listing removed, and the January 2026 nomination was withdrawn — as the Asset Manager has confirmed in writing — because it was not determined within the statutory timescale. Paragraph 26 records The Music Venues Trust as a purchasing party without any evidence from it. Paragraph 36 describes this pub as "a physical activity facility which caters for some of our more vulnerable and poorer residents" — text evidently carried over from a report about a different property.

Recommendation 7(ii)

18. Recommendation 7(ii) asks the Executive Member to approve, now, arrangements for a renewal nomination that could not arise before 2031, in respect of a listing that has not been made. It is premature and should be declined.

Conclusion

19. The Council decided on 27 November 2025 that this property was no longer of community value. Since then: no offer, no funded proposal, no lawful operating model, a nomination defective on the Council's own stated standard, and a reinstatement cost of approximately £250,000 that no one has offered to meet. The owner's objection of 2 April 2026 (Appendix 6) applies equally to this nomination. The nomination should be rejected.

20. If, contrary to these representations, the property is listed, the first floor must in any event be excluded, and the owner reserves its rights, including review under section 92 of the Localism Act 2011 and compensation under regulation 14 of the 2012 Regulations.

21. The owner asks that this document be placed before the Executive Member in full and published with the session papers.

Nabeel Hanif
Director, for and on behalf of The Vaults (York) Limited
6 August 2026