

**Notice of a public
Decision Session - Leader (incorporating Finance and
Performance)**

To: Councillor Steward

Date: Wednesday, 22 July 2015

Time: 5.00 pm

Venue: The King John Room (GO59) - West Offices

AGENDA

Notice to Members – Calling In:

Members are reminded that, should they wish to call in any item* on this agenda, notice must be given to Democratic Services by:

4.00pm on Friday 24 July 2015 if an item is called in after a decision has been taken.

*With the exception of matters that have been subject of a previous call in, require Full Council approval or are urgent which are not subject to the call in provisions. Any called in items will be considered by the Corporate and Scrutiny Management Policy and Scrutiny Committee.

Written representations in respect of items on this agenda should be submitted to Democratic Services by **5.00pm on Monday 20 July 2015.**

1. **Declarations of Interest**

At this point in the meeting, the Leader is asked to declare:

- Any personal interests not included on the Register of Interests
- Any prejudicial interests or
- Any disclosable pecuniary interests

which he might have in respect of business on this agenda.

2. **Minutes** (Pages 1 - 4)

To approve and sign the minutes of the Decision Session held on 29 June 2015.

3. **Public Participation**

At this point in the meeting members of the public who have registered their wish to speak regarding an item on the agenda or an issue within the Leader's remit can do so. The deadline for registering is **5:00 pm on Tuesday 21 July 2015**.

Filming, Recording or Webcasting Meetings

Please note this meeting may be filmed and webcast and that includes any registered public speakers, who have given their permission. This broadcast can be viewed at <http://www.york.gov.uk/webcasts>.

Residents are welcome to photograph, film or record Councillors and Officers at all meetings open to the press and public. This includes the use of social media reporting, i.e. tweeting. Anyone wishing to film, record or take photos at any public meeting should contact the Democracy Officer (whose contact details are at the foot of this agenda) in advance of the meeting.

The Council's protocol on Webcasting, Filming & Recording of Meetings ensures that these practices are carried out in a manner both respectful to the conduct of the meeting and all those present. It can be viewed at https://www.york.gov.uk/downloads/file/6453/protocol_for_webcasting_filming_and_recording_council_meetingspdf

4. Application for Community Right to Bid (Pages 5 - 20) under Localism Act 2011 - The Punch Bowl

This report presents an application from the Friends of the Punch Bowl to list the Punch Bowl, 134 Lowther Street, York as an Asset of Community Value (ACV).

5. Urgent Business

Any other business which the Leader considers urgent under the Local Government Act 1972.

Democracy Officer:

Name: Jayne Carr

Contact Details:

Telephone – (01904) 552030

Email – jayne.carr@york.gov.uk

For more information about any of the following please contact the Democratic Services Officer responsible for servicing this meeting:

- Registering to speak
- Business of the meeting
- Any special arrangements
- Copies of reports and
- For receiving reports in other formats

Contact details are set out above.

This information can be provided in your own language.

我們也用您們的語言提供這個信息 (Cantonese)

এই তথ্য আপনার নিজের ভাষায় দেয়া যেতে পারে। (Bengali)

Ta informacja może być dostarczona w twoim własnym języku. (Polish)

Bu bilgiyi kendi dilinizde almanız mümkündür. (Turkish)

یہ معلومات آپ کی اپنی زبان (بولی) میں بھی مہیا کی جاسکتی ہیں۔ (Urdu)

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City of York Council

Committee Minutes

Meeting	Decision Session - Leader (incorporating Finance and Performance)
Date	29 June 2015
Present	Councillor Steward

1. **Declarations of Interest**

The Executive Leader was asked to declare any personal interests not included on the Register of Interests, any prejudicial interests or any disclosable pecuniary interests that he may have in the business on the agenda. None were declared.

2. **Minutes**

Resolved: That the minutes of the Decision Session held on 19 March 2015 be approved and signed as a correct record.

3. **Public Participation**

It was reported that there had been one registration to speak at the meeting under the Council's Public Participation Scheme.

Mr Andy Johnson spoke in respect of agenda item 4 (Applications for Community Right to Bid under the Localism Act) in support of the bid from the Clementhorpe Community Association. He drew attention to sections of the Localism Act and stated that the requirement for the property to have been used by the local community in the recent past had been met. Mr Johnson also stated there had not been sufficient community consultation regarding the pending sale of the building and gave examples of how other malt house had been utilised in other parts of the country.

4. Applications for Community Right to Bid under the Localism Act 2011

The Executive Leader considered a report that presented the following applications to be listed as Assets of Community Value (ACV):

- Melbourne Public House, 6 Cemetery Road, York (from Friends of Melbourne Public House)
- Holgate Allotments, Ashton Lane, Holgate (from Holgate Allotment Association)
- Clementhorpe Malt House, 19/21 Lower Darnborough Street, York (from Clementhorpe Community Association)

Officers outlined the applications. They explained the reasons why their recommendation was that the application in respect of the Clementhorpe Malt House not be approved, as it did not meet the required criteria including not having been used in a way which furthered the wellbeing or social interests of the community.

The Executive Leader stated that he supported the applications in respect of the Melbourne Public House and the Holgate Allotments as they met the criteria required. In respect of the Clementhorpe Malt House, he noted the strong feelings in the community regarding the property but was of the view that the necessary criteria had not been met to approve it as an Asset of Community Value as its previous usage had been for storage.

- Resolved:
- (i) That the application to list The Melbourne Public House, Cemetery Road as an Asset of Community Value be approved, as the criteria has been met for the reasons set out in the report.
 - (ii) That the application to list Holgate Allotments as an Asset of Community Value be approved, as the criteria has been met for the reasons set out in the report.
 - (iii) That the application to list the Clementhorpe Malthouse as an Asset of Community Value be rejected as the criteria have not been met for the reasons set out in the report.

Reason: To ensure the Council meets its legislative requirements of the Localism Act 2011 and promotes community access to community facilities.

5. Pioneer Business Park – Application to remove restrictive covenant

The Executive Leader considered a report that set out details of an application to lift the restrictive covenant of an office site on the Pioneer Business Park for low-cost residential development. The application was in accordance with the Asset Management Policy on lifting restrictive covenants on Clifton Moor and a capital receipt had been agreed in accordance with the policy.

The Executive Leader noted that two applications for the removal of restrictive covenants at the Pioneer Business Park had previously been approved and that this application would complement the existing development.

The Executive Leader stated that he approved the removal of the restrictive covenant and supported the innovative approach that was being taken.

Resolved: That the request to remove the restrictive covenant be approved in return for the capital sum of £122,250.

Reason: To enable the provision of apartments at reasonable cost in an area of surplus office accommodation.

Executive Leader

[The meeting started at 5.00 pm and finished at 5.15 pm].

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22nd July 2015

Leader (incorporating Finance and Performance) Decision Session

Report of the Assistant Director of Finance, Asset Management and Procurement

Application for Community Right to Bid under the Localism Act 2011

Summary

1. This report presents an application to list the Punch Bowl, 134 Lowther Street, York YO31 7ND from the Friends of the Punch Bowl as an Asset of Community Value (ACV), for consideration by the Council

Background

2. On 6th March 2014 Cabinet Member approved the proposals for the implementation of a process for the Community Right to Bid legislation to ensure the Council has a process in place for dealing with any applications and the establishment and maintenance of a list of Assets of Community Value. An application has recently been received under this legislation, for a decision by the Executive Leader.
3. The purpose behind these provisions is to ensure that property (land and building) assets which are currently used to the benefit of the local communities are not disposed of without the local community being given a fair opportunity to bid for these assets when they are put on the open market. This right is not simply to accommodate 'public assets' but also private assets, the test is whether such assets are viewed as 'assets of community value'. These assets therefore could be currently owned by the public, private or voluntary sector.
4. The definition of 'community value' is set out in the regulations and can be summarised as
 - The actual current use of the building/land furthers social well being or the social interests of the local community

- Realistically this use can continue for the next 5 years
 - There was a time in the recent past where actual use furthered these aims.
5. There is no exhaustive list of what is considered to be an asset of community value but cultural, recreational and sporting interests are included. Excluded specifically are residential type properties (such as hotels, housing in multiple occupation and residential caravan sites) and operational land of statutory undertakers.

The process

6. The regulations set out how potential assets can be listed which in brief is as follows:
- **Nomination** – this can be by a voluntary or community body with a local connection. Includes parish councils, neighbourhood forums, charities, community interest groups but excludes public or local authorities (except parish councils).
 - **Consideration** – the local authority have 8 weeks to make the decision which is decided by an ‘appropriate group’. The process adopted for CYC is an initial consideration by the Capital and Asset Board (CAB) which has cross-Council representation at a senior level (the Board is chaired by the Director of CBSS). A report is then written to the Executive Leader (incorporating Finance and Performance) who will then formally take the decision. If the nomination is successful the asset details are entered onto the ‘Community Value list’ – see below – and also the local land charges register. If unsuccessful then the details are entered onto an ‘unsuccessful nominations’ list for a period of 5 years to prevent repeat nominations. The owner can request a review of the decision which must be completed within 8 weeks and the owner can further appeal within 28 days of the review outcome to a Tribunal.
 - **The ‘Assets of Community Value’ List** – this needs to be published and reviewed regularly and must be accessible in electronic and paper format.
 - **Disposal of assets on the list** – if a building or piece of land which is on the list is going to be sold with vacant possession then the owner of the asset needs to give notice to the local authority. There is then a 6 week moratorium period for any community group to express interest in writing and if they do then a 6 month period for that group to prepare

its bid. After that period the owner can market the property and any bid from the community group will be considered with bids from other interested parties. There is no guarantee that the offer from the community group will be successful as the owner of the asset will dispose of the property in accordance with its own criteria for disposal. There are a number of exceptions contained within the legislation that mean that this moratorium period does not apply and the owner does not need to give notice of its intention to sell. This includes when there is a legally enforceable requirement, which pre-dates the listing, to sell to a specific party.

- **Compensation** – the presence of the land or building asset on the community value list may result in additional expenditure or a loss to the owner and therefore the owner can apply for compensation from the local authority. The figure is limited to costs or losses incurred only whilst the asset is on the list and could include such items as legal expenses for appeals, costs relating to the delay in the sale (such as maintenance, security, utility costs, loss of value). This compensation is determined by the local authority (it is suggested that this is carried out by the Capital Asset Board) and the owner can have the compensation reviewed within 8 weeks and appeal to a Tribunal if still not satisfied. It should be noted that compensation can only be claimed by private owners (no compensation for public authorities) and the government has not provided any funding for this compensation (or for any costs associated with any of these provisions). However this should not be a factor in determining any application for listing of a pub as an Asset of Community Value.

7. For a nominated property to be included on the Council's ACV register the Council must consider that the property falls within the statutory definition of 'land of community value' which is that either:
 - (i) A current principal use of the property furthers the social well-being or social interests of the local community and there is a realistic prospect of such use continuing

OR

 - (ii) A principal use of the property in the recent past has furthered the social well-being or social interests of the local community and there is a realistic prospect of such use commencing again within the next 5 years

If the nominated property falls within either (i) or (ii) and the nominators are a group entitled to submit the nomination then the local authority must list the asset as an ACV.

8. It should also be noted that changes to the General Permitted Development Order have been made with effect from the 6th April 2015, which means that where a pub is listed as an asset of community value a planning application is required for a change of use or demolition of the pub building. However this should not be a factor in determining any application for listing of a pub as an Asset of Community Value

The Punch Bowl, 134 Lowther Street, York YO31 7ND

9. The freehold of The Punch Bowl is owned by Enterprise Inns. The nomination is being made on the basis that The Punch Bowl makes 'a tangible contribution to the local community, providing a valuable venue for leisure and entertainment and fulfilling a social sustainability role. There are a number of groups who meet in the building and the pub hosts teams, such as dominos, darts, pool and a golf society. It appeals to a wide range of the community including pensioners, the vulnerable and students as well as families. A copy of the nomination form is included at Annex 1.
10. There is significant precedent set elsewhere in the country from other authorities who have accepted pubs onto the list even where they are currently run as commercial businesses.
11. This facility was granted an Article 4 direction in December 2014 by the Council and this application is made because this direction has expired. The Punch Bowl is also on York Open Planning Forum's 'Local list'.
12. If the decision is taken to include this application on the list of assets of community value, the owner has the right to request the Council to review its decision. The deadline is eight weeks from the date written notice of listing was given, or a longer period allowed by the authority in writing. The property will remain listed while the review is carried out. Enterprise have indicated that they will consider this review.
13. The application appears to meet the criteria for listing set out at paragraph 7 in that it is currently used for community amenities and the owners have not provided any evidence why these should not continue.

14. Implications

Financial – Compensation may be payable by the Council to the owner of any property which is listed. The figure is limited to costs or losses incurred only whilst the asset is on the list and could include such items as legal expenses for appeals, costs relating to the delay in the sale (such as maintenance, security, utility costs, loss of value).

Human Resources (HR) – none

Equalities, Crime and Disorder and IT - none

Legal – Organisations falling within any of the following categories are eligible to submit an ACV nomination relating to property within their local area:

- (i) a parish council
- (ii) a charity, non-profit making company or community interest company with a local connection to the nominated property
- (iii) an unincorporated association which has at least 21 members registered to vote in the local area

The organisation who have submitted the nominations covered by this report fall within the above criteria and are therefore entitled to submit their ACV nominations.

Paragraph 7 of the report contains the statutory definition of 'land of community value'. If the listing authority considers that a nominated property falls within that definition then it must include the property on its ACV register.

Property – All property issues included in the report

Other – none

Risk Management

15. There are no significant risks to this application.

Recommendations

16. The Executive Leader is asked to:

- a. Agree to the application to list The Punch Bowl Public House, Lowther Street as an Asset of Community Value as the criteria have been met for the reasons set out above.

Reason: To ensure the Council meets its legislative requirements of the Localism Act 2011 and promotes community access to community facilities.

Contact Details

Author:

Philip Callow
Head of Asset and Property
Management
Asset and Property Management
Tel No.553360

Chief Officer Responsible for the
report:
Tracey Carter
Title - AD Finance Property
Procurement

**Report
Approved**

Date 14 July 2015

Specialist Implications Officer(s)

Implication Legal
Name Andy Docherty
AD Governance and ICT
Tel No. 551004

All

Wards Affected: Guildhall

For further information please contact the author of the report

Annexes

Annex 1 – The Punch Bowl Public House, Lowther Street– Application to add to the List of community assets

Annex 2 – Current list of assets of community value



ASSETS OF COMMUNITY VALUE NOMINATION FORM

If you need assistance completing this form, then please refer to the guidance document which can be downloaded from the website shown below or alternatively call 01904 553360

www.york.gov.uk/assetsofcommunityvalue

Section 1

About the property to be nominated

Name of Property:	The Punch Bowl
Address of Property:	134 LOWTHER STREET, YORK
Postcode:	YO31 7ND

Property Owner's Name:	ENTERPRISE INNS PLC
Address:	3 Monkspath Road, Solihull, West Midlands
Postcode:	B90 4SJ
Telephone Number:	01217337700
Current Occupier's Name:	Janette Garrard (Leaseholder)

Section 2

About your community organisation

Name of Organisation:	FRIENDS OF THE PUNCH BOWL
Title:	MR
First Name:	NICK
Surname:	LOVE
Position in Organisation:	Organisation Representative
Email Address:	nl@nicklove.co.uk
Address:	134 LOWTHER STREET, YORK
Postcode:	YO31 7ND
Telephone Number:	7976555512

Organisation type:

Click in field for options

UNINCORPORATED COMMUNITY GROUP

Organisation size

How many members do you have?

30

Section 3**Supporting information for nomination**

Any information entered in this section only may be copied and passed onto the owner of the property you are nominating. Definition of an asset of community value can be found in the guidance document.

Why do you feel the property is an asset of community value? Please give as much information as possible.

Please see separate accompanying sheet: "Why The Punch Bowl is an Asset of Community Value"

Section 4**Boundary of Property**

What do you consider to be the boundary of the property? Please give as much detail/be as descriptive as possible. Please include a plan.

Please see separate accompanying Land Registry plan

Section 5**Attachment checklist**

- Copy of group constitution (if you are a constituted group)
- Name and home address of 21 members registered to vote in nomination area (if group is not constituted)
- Site boundary plan (if possible)

Section 6**Declaration**

I can confirm that to the best of my knowledge the information contained in this nomination form is complete and accurate.

Signed:



Dated: 31/05/2015

Please e-mail your completed form to property.services@york.gov.uk or post to:

Asset and Property Management
City of York Council
West Offices
Station Rise
York
YO1 6GA

Why The Punch Bowl is an Asset of Community Value

The Punch Bowl is making a tangible contribution to the local community, providing a valuable venue for leisure and entertainment and fulfilling a social sustainability role.

Such was its importance to the local community, it was granted an immediate Article 4 Direction on 24th December 2014 by City of York Council. This has now elapsed, hence this ACV application which will grant it protection against development without a planning application first being submitted.

The Punch Bowl is also on the York Open Planning Forum's "Local List" - a community-created register of buildings and structures that are of importance and interest to local communities because of their historic or architectural interest.

The Punch Bowl is an excellent example of a community pub serving a wide customer demographic. It is able to appeal to many different social groups. This is not something that can be replicated in nearby facilities.

Patrons of The Punch Bowl have said that it is not just a case of there being equivalent facilities nearby - they value the unique atmosphere of this particular public house.

Pensioners: It is popular with an eclectic mixture of senior citizens for whom it is an escape from loneliness and living on their own. There is even a specially priced low cost Sunday Lunch (£4.50) aimed at attracting those with limited financial means into a relaxed social environment conducive to social interaction.

Families: It is a family friendly venue serving coffee and cold soft drinks and benefits from the availability of a pool table in a separate area away from the public bar.

Disabled clientele: It is the only public house with free entry in the immediate area (the clubs opposite charge for membership) that offers easy wheelchair access and this is popular with local people and their carers or friends who frequent the pub on a weekly basis. Neither The Castle Howard Ox nor Brigadier Gerard is wheelchair friendly.

Vulnerable clientele: There have been testimonies from several customers who say they find The Punch Bowl a place of refuge. It is somewhere that they feel safe and don't fear intimidation or prejudice as a result of their disability. One customer spoke of not fearing bumping into people because of his blindness and causing a disturbance due to lack of understanding. The Gravers specialist mental health residential service use The Punch Bowl as part of their individual recovery programme as they say that it is a safe environment for their residents that they can trust.

It provides facilities for Sports Teams

The pub has its own Darts team; Pool team; Dominoes Team and Golf Society. In addition it provides facilities for meetings and socials for teams from St John's University - specifically the football team and netball team. It has sponsored St Johns Rugby team in previous seasons. It has made a special difference in the integration of "town and gown" with students and Groves residents drinking and socialising side by side.

- Due to the high standard of darts facilities - inter-county darts competitions are being planned for the forthcoming season. The bowls club opposite use the pub for refreshment after their bowls sessions due to its proximity and large size.
- The large function rooms upstairs has been used for Karate instruction classes for local youths - providing them with a positive outlet and use of their time and combatting boredom and anti-social behaviour.
- The large function room upstairs is regularly used by University of St John student groups for society meetings and sports club social events with them publicly stating that this was the only external venue within a reasonable distance of the University that offered a room that could accommodate the numbers that turn up to these events - usually around 50 - 60 persons.

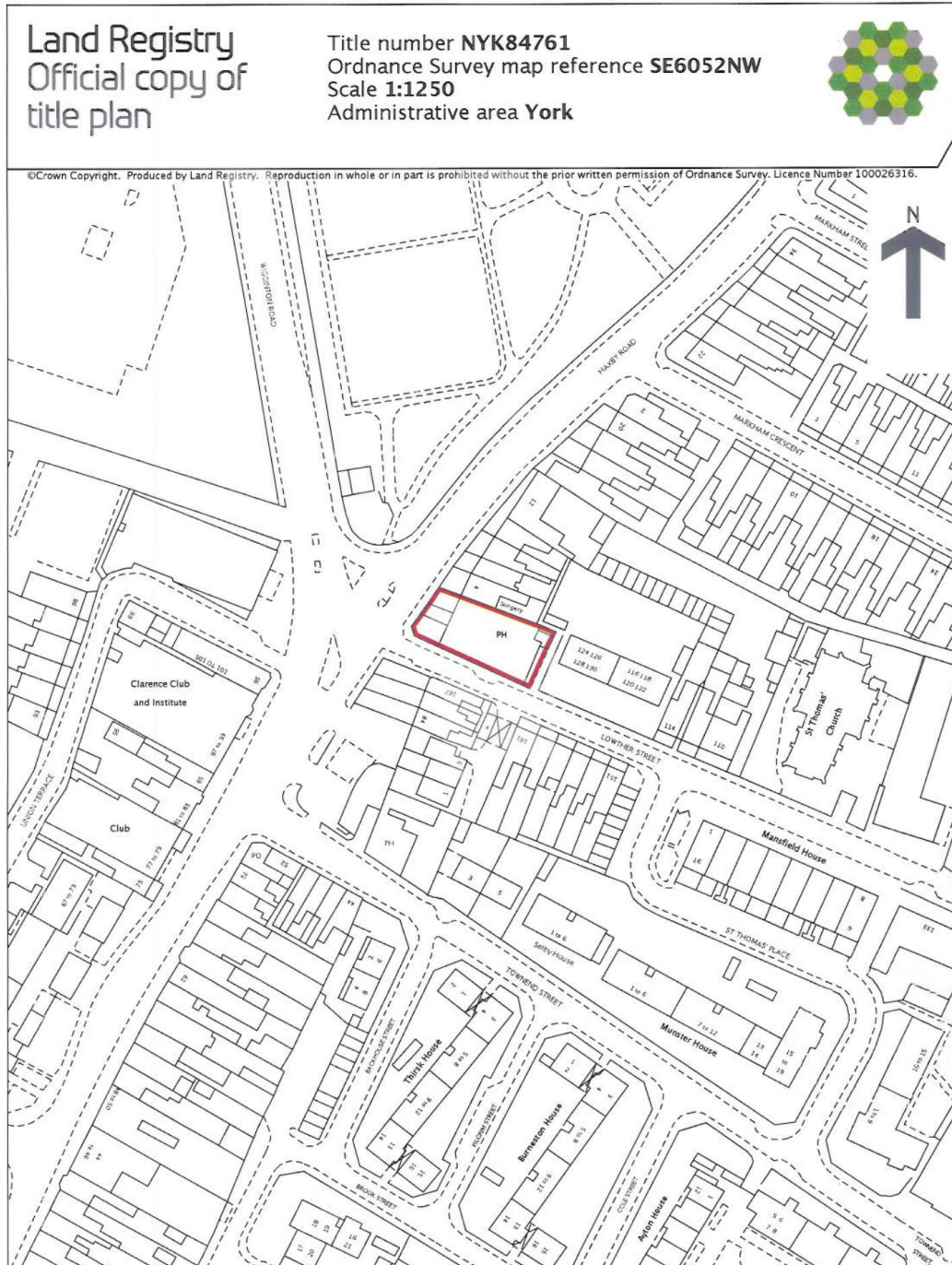
An asset for local charities - fundraising

The Punch Bowl holds monthly charity events and concentrates on 2 nominated charities: St Martins Hospice and McMillan Cancer. It has raised significant amounts of money for each charity and will continue to do so. It has recently established strong links with York Partially Sited group as well. They would all lose out financially with the demise of The Punch Bowl.

We the undersigned wish to nominate The Punch Bowl, Lowther Street, York, YO31 7ND to be listed as an Asset of Community Value by City of York Council.

NAME	ADDRESS	SIGNATURE
Steve Hoell		YO31 5HQ
LOUISE TOMMINS		YO31 9DT
BILL TOMMINS		YO31 9DT
S. LAWRENCE		YO31 9AB
LINDA TOMMINS		YO31 9DT
Janette Jones		YO31 7ND
S. GARRARD		YO31 7ND
NICK LOVE		✓
Amie Lawrence		YO31 9AY
Nick Jones		YO31 7NY
J.C. BARKHAM		YO31 7NY
Jemma Young		✓
Adam Snowball		✓
P. DUNN		✓
Paul Giller		✓
Joyce Giller		✓
CHRIS LANIGAN		YO31 7PY
R. FARRELL		YO31 9AB
Steve Jackson		YO31 7PT
M. HENDERSON		YO31 8YZ
P. M. ANDERSON		
G. STEWART		
S. GILLER		

The Punch Bowl is highlighted in red. This map is taken from the Article 4 Direction dated 24th December 2014.



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Current list of Assets of Community Value

1. The Golden Ball Public House, 2 Cromwell Road, York - approved March 2014.
2. The Fox Inn, 166 Holgate Road, York – approved July 2014
3. The Mitre Public House, Shipton Road, York – approved July 2014
4. The Winning Post Public House, 127-129 Bishopthorpe Road, York – approved November 2014
5. New Earswick and District Bowls Club, Huntington Road, York – approved November 2014.

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