

<b>Meeting:</b>	Combined Executive Member Decision Session
<b>Meeting date:</b>	05/08/2025
<b>Report of:</b>	Director of Finance
<b>Portfolio of:</b>	Executive Member for Finance, Performance, Major Projects and Equalities

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

### **Subject of Report**

1. This report details an application to list the following property as Asset of Community Value (ACV) for consideration by the Council.
  - A. The Fox Inn 90 The Village, Stockton on the Forest, York, YO32 9UW. An application has been received by Campaign for Real Ale (York Branch).
2. The application has been received, for a decision by the Executive Member in the Council's statutory capacity as an Asset of Community Value (ACV) listing authority.

### **Benefits and Challenges**

3. This process is a statutory requirement. The process and the effects through the listing of an asset is set out in detail in this paper.

### **Policy Basis for Decision**

4. The process is a statutory requirement.

### **Financial Strategy Implications**

5. There are no financial strategy implications to this decision.

## Recommendation and Reasons

6. The Executive Member is asked to consider the officer recommendation(s) to:

Approve the listing of:

- (i) The Fox Inn 90 The Village, Stockton on Forest, York, YO32 9UW, as Assets of Community Value (ACV) for the reasons outlined within this report.

Reason:

To ensure the Council meets its legislative obligations (pursuant to the Localism Act 2011 and the Assets of Community Value (England) Regulations 2012) and promotes community access to community facilities.

## Background

7. The purpose behind the provisions regarding Assets of Community Value (ACV) in the Localism Act 2011 is to ensure that property (land and building) assets which are currently used for principal/non-ancillary use(s) which benefit the local communities are not disposed of without the local community being given an opportunity to bid for these assets when the owner wishes to dispose of the asset. 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.
8. Section 89(1)(a) sets out that land in the local authority's area may be listed on the ACV list only in response to a community nomination. Section 89(2)(b)(iii) of the Localism Act 2011 requires that the organisation nominating an asset to be an ACV is a person that is a voluntary or community body with a local connection to the asset nominated. Further, the legislation requires that the nominating organisation must include in the nomination form information about the asset nominated, in accordance with part 6 of the Assets of Community Value (England) Regulations 2012.

9. The definition of 'land of community value' is set out in section 88 of the Localism Act 2011. To be considered as an asset of community value the land or property must satisfy either of the following criteria:
- a. s88(1) an actual current non-ancillary use of the building or other land furthers the well-being or social interests of the community and whether it is realistic to think that there can continue to be non-ancillary use of the building or other land which will further (whether or not in the same way) the social well-being or social interests of the local community.
- OR
- b. s88(2) there is a time in the recent past when an actual non-ancillary use of the building or other land furthered the social well-being or social interests of the local community and it is realistic to think that there is a time within the next 5 years when there could be non-ancillary use (whether or not the same use as before) that would further the social well-being or social interests of the local community.
10. 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

11. The regulations set out how potential assets can be listed which in brief are as follows:
- **Nomination** – this can be by a voluntary or community body with a local connection. This includes parish councils, neighbourhood forums, charities, community interest groups but excludes public or local authorities (except parish councils).
  - **Consideration** – the local authority has 8 weeks to make the decision. Under the Council's procedures the Executive Member is the decision maker. If the nomination is successful, the asset details are entered onto the 'Community Value list' – see further details in the report – 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.

Neither the Localism Act nor the ACV Regulations give the nominating organisation any right to appeal a decision of the local authority that the nominated property is not an asset of community value/does not satisfy the necessary S.88 criteria referred to above.

- **Disposal of assets on the ACV list** – if a building or piece of land which is on the list is going to be disposed of (by way of either a freehold sale or granting of a lease for a Term of 25 years or more) 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. If they do, then a 6-month period (commencing from the date on which the Council had received notice of the owner's intention to dispose of the asset) is provided 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).

#### **A. The eligibility of the nominating organisation and the nominated asset to be an ACV.**

12. The application nominating the nomination land ("The Fox Inn") was made by The Campaign for Real Ale – York Branch on 24<sup>th</sup> June 2025. When making the application, the applicant seeks to assert its status as a community body under section 89(2)(b)(iii) of the Localism Act 2011 ("The Act").

13. The Campaign for Real Ale – York Branch are an eligible body, as they are an incorporated body, whose activities are concerned with the Council's local area. They do not distribute any surplus/profits to their members and have at least 21 members who live in the local area. The application meets the qualifying test set out in section 89(1)(a) of the Act as an application made by way of a community nomination.

The application sets out that the freehold of The Fox Inn is owned by Fox & Forest Ltd, who purchased The Fox Inn on 16 June 2025. In accordance with the regulations, the freehold owners of the property, have been informed in writing that the application has been made. The freeholders have been invited to make representations regarding the nomination. The Council has also written to the previous owner, whose name is still on the title register pending registration of the new owner's details by the Land Registry.

14. The application provides a clear description and postcode of the land nominated on the first page of the form and has attached to it a map setting out the extent of the land. The nominated land does not come within the categories of land which may not be ACVs.
15. The applicant has provided their reasons for thinking that the Council should conclude that the land is of community value, at section 3 and in the Supplement section of the nomination form.
16. Legal Services have confirmed that a nomination must be considered by the Council, if the nominator is someone who meets the eligibility criteria specified in the relevant legislation, and if the nomination form includes the information specified in regulation 6 of the ACV Regulations 2012.

**B. Is the current or recent usage of the nominated land an actual and non-ancillary use, does the usage further social wellbeing or social interest, and is it realistic to think that there can continue to be non-ancillary use of the building which will further (whether or not in the same way) the social wellbeing or social interests of the local community.**

17. This application concerns the listing of The Fox Inn on the Council's ACV list. The past and current usage of the pub as a venue for community activities/events is set out below and indicates that the current and recent usage of the nominated land

is an actual and non-ancillary use pursuant to section 88(1) and section 88(2) of the Act.

18. CAMRA state in their application that The Fox Inn is currently closed but that negotiations were at an advanced stage with a local resident who intended to open the pub again for the benefit of the village.
19. The Fox Inn does now have a new owner Fox & Forest Ltd and they have advised that they fully support the ACV application and have no objections to The Fox being listed as an ACV.
20. A public meeting was arranged by the local community in April 2025 to discuss the future of the pub and community ownership with over 100 residents attending. CAMRA were invited to speak at the meeting and discussed the protection of an ACV. A number of residents backed the proposal and signed up as nominees.
21. When The Fox Inn was previously open CAMRA advise that it was a fully inclusive venue encouraging families and was dog friendly. The pub served food 5 days a week, with discounted meals for older diners and also offered a take-away service.
22. The Fox Inn hosted a weekly quiz attended by regulars and non-regulars and also put on occasional music events for villagers. The venue was a meeting place for Parent/Teacher Committee, the Village Hall Committee, the Women's Institute, fishing and cycling groups, a pétanque club and a venue for the Stockton Players Amateur Dramatic Society. There was a regular darts team and also regular dominoes evenings, Sky Sports to enable locals to gather and watch major sporting events.
23. It is advised that the pub had 3 letting rooms, bringing visitors into the village and using other local facilities.
24. Full details are provided in the nomination form in Annex 1, Reasons Why The Fox, Stockton on Forest is as Asset of Community Value in Annex 2, Register of Interested Members in

Annex 3, CAMRA York Branch Constitution in Annex 4, Comments from Fox & Forest Ltd in Annex 5.

25. The Fox Inn has developed a community focus and, for the reasons set out above and further in the nomination form, the pub appears to have been using the land in a way which engages and strengthens community bonds, adding to the social value of the community. It is also the case that the users of The Fox Inn were predominantly.
26. It is realistic to think that in light of the past activities and social events that the pub offered to the community, there can continue to be non-ancillary use of the building or other land and that the club's usage of the land will further (whether or not in the same way the social wellbeing or social interests of the local community in the future; therefore the application meets the criteria of the legislation.
27. The application meets the criteria for listing. It is therefore recommended that The Fox Inn should be listed on the ACV register.

## **Consultation Analysis**

As required by the Assets of Community Value Regulations, the owners of the property have been consulted regarding the application and have been invited to make representations. No representations have been received from the registered owner regarding the listing. The new owners had confirmed that they supported the application to list The Fox Inn as an ACV (see Appendix 5).

## **Options Analysis and Evidential Basis**

28. The application to list The Fox Inn as an Asset of Community Value, can either be accepted or rejected. There are no other options, as it is considered that sufficient information has been provided for a decision to be made.
29. If the decision is to approve the ACV nomination application, then the owner of the property has a statutory right to request a review of that decision by submitting a review request to the Council within 8 weeks

of the decision date. (If the decision is to reject the ACV nomination application, the legislation does not give the nominating group any right to appeal that request, though they could potentially seek a Judicial Review of the decision by submitting a claim to the High Court.)

## Organisational Impact and Implications

30.

- **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
- **Legal** – Advice and comments have been sought from Legal Services and incorporated in this report.
- **Procurement** – None
- **Health and Wellbeing** – The added protection of an ACV around a physical activity facility which caters for some of our more vulnerable and poorer residents has health and wellbeing benefits which should be considered in decision making.
- **Environment and Climate action** – No direct environmental impacts but buildings of community value are key and underpin a sense of place
- **Affordability** – None
- **Equalities and Human Rights** – None
- **Data Protection and Privacy** – Data protection impact assessments (DPIAs) are an essential part of our accountability obligations and is a legal requirement for any type of processing under UK data protection and privacy legislation. Failure to carry out a DPIA when required may leave the council open to enforcement action, including monetary penalties or fines.
  - DPIAs helps us to assess and demonstrate how we comply with all our data protection obligations. It does not have to eradicate all risks but should help to minimise and determine whether the level of risk is acceptable in the circumstances, considering the benefits of what the council wants to achieve.
  - The DPIA screening questions identified that whilst there is processing of personal, it is not likely to result in a high risk



to the rights and freedoms of individuals. Therefore, a simple DPIA was completed which identified the data protections risks as well as the mitigations either in place or that need to be put in place, to minimise these identified risks such as redacting or withholding personal identifiable information from the public report where we do not have a lawful basis to publish it

- **Communications** – This is a routine statutory process. However, given the high level of community use and support for the venue, there may be public or stakeholder interest. Should this arise, communications will be able to support. Proactive messaging opportunities also exist to highlight the value of Assets of Community Value in sustaining vibrant neighbourhoods.
- **Economy** – None
- **Specialist Implications Officers** – None

## Risk Management

31. The freeholder may appeal against the Council's decision to list their property as an asset of community value. In the first instance the property owner should ask the council to review its decision. If the Council upholds its decision to list the owner may appeal to the First-Tier Tribunal. If the decision is to reject the ACV nomination application, the nominating organisation may seek a Judicial Review of the decision by submitting a claim to the High Court. In both cases this can be a long and costly procedure.

## Wards Impacted

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## Contact Details

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## Annexes

- Annex 1 – The Fox. 90 The Village, Stockton on Forest, York, YO32 9UW – Application to add to the list of assets of community value.
- Annex 2 – Reasons Why The Fox, Stockton on Forest is as Asset of Community Value
- Annex 3 – Register of Interested Members
- Annex 4 - CAMRA York Branch Constitution
- Annex 5 - Comments from Fox & Forest Ltd
- Annex 6- Current list of Assets of Community Value

Abbreviations used in the used in the report.

- ACV – Assets of Community Value
- DPIA – Data Protection Impact Assessment
- CAMRA – Campaign for Real Ale