



Notice of a public meeting of

Decision Session - Executive Member for Finance, Performance, Major Projects, Human Rights, Equality and Inclusion

To: Councillor Lomas

Date: Thursday, 12 December 2024

Time: 10.00 am

Venue: West Offices - Station Rise, York YO1 6GA

AGENDA

Notice to Members – Post Decision 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 19 December 2024**.

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

Written representations in respect of items on this agenda should be submitted to Democratic Services by **5:00pm on Tuesday 10 December 2024**.

1. Apologies for Absence

To receive and note apologies for absence.

2. Declarations of Interest (Pages 1 - 2)

At this point in the meeting, Members and co-opted members are asked to declare any disclosable pecuniary interest, or other registerable interest, they might have in respect of business on this agenda, if they have not already done so in advance on the Register of Interests. The disclosure must include the nature of the interest.

An interest must also be disclosed in the meeting when it becomes apparent to the member during the meeting.

[Please see attached sheet for further guidance for Members].

3. Minutes (Pages 3 - 6)

To approve and sign the minutes of the Finance, Performance, Major Projects, Human Right, Equalities and Inclusion Executive Member Decision Session held on 19 September 2024.

4. Public Participation

At this point in the meeting members of the public who have registered to speak can do so. Members of the public may speak on agenda items or on matters within the remit of the committee. Please note that our registration deadlines have changed to 2 working days before the meeting. The deadline for registering at this meeting is at **5.00pm on Tuesday 10 December 2024.**

To register to speak please visit www.york.gov.uk/AttendCouncilMeetings to fill out an online registration form. If you have any questions about the registration form or the meeting please contact the Democracy Officer for the meeting whose details can be found at the foot of the agenda.

Webcasting of Public Meetings

Please note that, subject to available resources, this public meeting will be webcast including any registered public speakers who have given their permission. The public meeting can be viewed on demand at www.york.gov.uk/webcasts.

During coronavirus, we've made some changes to how we're running council meetings. See our coronavirus updates (www.york.gov.uk/COVIDDemocracy) for more information on meetings and decisions.

**5. Applications for Community Right to Bid under (Pages 7 - 70)
the Localism Act 2011**

This report details applications to list the following properties as Assets of Community Value (ACV) for consideration by the Council:

- a) New Earswick Swimming Pool, Hawthorne Terrace, New Earswick, York. An application has been received from the Friends of New Earswick Pool.
- b) The Victoria Vaults Public House, 47-49 Nunnery Lane, York. An application has been received from the Campaign for Real Ale Ltd (York Branch).

6. Urgent Business

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

Democratic Services Officer

Angela Bielby

Contact Details:

Telephone – (01904) 552599

Email – a.bielby@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.

Alternative formats

To request reasonable adjustments or to provide this document in an alternative language or format such as large print, braille, audio, Easy Read or BSL, you can:



Email us at: cycaccessteam@york.gov.uk



Call us: **01904 551550** and customer services will pass your request onto the Access Team.



Video Interpreter

Use our BSL Video Relay Service:
www.york.gov.uk/BSLInterpretingService

Select 'Switchboard' from the menu.



We can also translate into the following languages:

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 میا کی جاسکتی ہیں۔ (Urdu)

This page is intentionally left blank

Declarations of Interest – guidance for Members

- (1) Members must consider their interests, and act according to the following:

Type of Interest	You must
Disclosable Pecuniary Interests	Disclose the interest, not participate in the discussion or vote, and leave the meeting <u>unless</u> you have a dispensation.
Other Registrable Interests (Directly Related) OR Non-Registrable Interests (Directly Related)	Disclose the interest; speak on the item <u>only if</u> the public are also allowed to speak, but otherwise not participate in the discussion or vote, and leave the meeting <u>unless</u> you have a dispensation.
Other Registrable Interests (Affects) OR Non-Registrable Interests (Affects)	Disclose the interest; remain in the meeting, participate and vote <u>unless</u> the matter affects the financial interest or well-being: (a) to a greater extent than it affects the financial interest or well-being of a majority of inhabitants of the affected ward; and (b) a reasonable member of the public knowing all the facts would believe that it would affect your view of the wider public interest. In which case, speak on the item <u>only if</u> the public are also allowed to speak, but otherwise do not participate in the discussion or vote, and leave the meeting <u>unless</u> you have a dispensation.

- (2) Disclosable pecuniary interests relate to the Member concerned or their spouse/partner.
- (3) Members in arrears of Council Tax by more than two months must not vote in decisions on, or which might affect, budget calculations, and must disclose at the meeting that this restriction applies to them. A failure to comply with these requirements is a criminal offence under section 106 of the Local Government Finance Act 1992.

This page is intentionally left blank

City of York Council

Committee Minutes

Meeting	Decision Session - Executive Member for Finance, Performance, Major Projects, Human Rights, Equality and Inclusion (in consultation with the Executive Member for Children, Young People and Education (for agenda item 4 Welfare Benefits and Financial Inclusion Outturn Report 2023/24)
Date	19 September 2024
Present	Councillors Lomas Executive Member for Finance, Performance, Major Projects, Human Rights, Equality and Inclusion) and Webb (Executive Member for Children, Young People and Education)
Officers in Attendance	David Walker – Head of Customer and Exchequer Services Susan Wood – Welfare Benefits and Strategic Partnership Manager Tim Bradley – Asset Manager, Property Services

25. Declarations of Interest (10:00)

The Executive Members were asked to declare, at this point in the meeting, any personal interests, not included on the Register of Interests, or any prejudicial or disclosable pecuniary interests that they might have had in respect of business on the agenda. None were declared.

26. Minutes (10:00)

Resolved: That the minutes of the Decision Session of the Executive Member for Finance, Performance, Major Projects, and Equalities held on 25 April 2024 be approved and signed by the Executive Member as a correct record.

27. Public Participation (10:00)

It was reported that there had been no registrations to speak at the meeting under the Council's Public Participation Scheme.

**28. Welfare Benefits and Financial Inclusion Outturn Report
2023/24 (10:01)**

The Executive Members considered a report that detailed 2023/24 Financial Inclusion/Welfare Benefits outturn. The Director of Housing and Communities outlined the report. The Head of Customer and Exchequer Services explained the support available to residents. The Executive Member for Children, Young People and Education thanked all staff doing working in communities and schools. He noted that the current scheme for holiday food was designed to last until Christmas and questioned what would happen next. The Executive Member for Finance, Performance, Major Projects, Human Rights, Equality and Inclusion thanked those involved for their work, especially over the last year adding that it that people still could not afford basics of heating and eating at present.

The Welfare Benefits Manager noted that it had been identified that circa 470 pensioners missing out on pension credit through the Low Income Family Tracker (LIFT) software. 150 of these had been contacted through application for ASC and the welfare team had to the other 320. It was estimated that around another 1200 households in the city could be eligible to claim pension credit but that we could not identify them as only DWP held this data. The Head of Customer and Exchequer Services noted that many pensioners had lost their winter fuel allowance and the council was trying to identify people through the Department for Work and Pensions data. Once those numbers were known, the council would look to allocate money from the Household Support Fund and fuel vouchers. Following consideration of the report, the Executive Members then;

Resolved: That;

1. The details of the report with regard to providing support to residents during the ongoing cost of living crisis is noted.
2. The capping of the monthly spend from YFAS and reduction in individual awards to ensure the council can continue to provide emergency support to the end of the 2024/25 financial year is noted.
3. Any decision-making relating to any extended or new Household Support Fund requirements is delegated to the Director of Finance.

Reason: To ensure councillors, residents and stakeholder groups are aware of the ongoing financial inclusion activity across the city. The use of associated funding including cost of living support and their impacts.

29. Application for Community Right to Bid under the Localism Act 2011 (10:21)

The Executive Member considered a report detailing applications to renew the listing of the following properties as Assets of Community Value (ACV) for the Golden Ball Public House, the Blue Bell Public House and Hurst Hall Community Centre, Border Road, Strensall Camp. The Asset Manager detailed the report noting that no objections had been received. The Executive Member then;

Resolved: That approval be given to the renewal of the listing of:

- (i) The Golden Ball, 2 Cromwell Road, York;
- (ii) The Blue Bell Public House, 53 Fossgate, York; and
- (iii) Hurst Hall Community Centre, Border Road, Strensall Camp, York.

as Assets of Community Value (ACV) for the reasons outlined within the 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.

Cllr Lomas, Chair

[The meeting started at 10.00 am and finished at 10.24 am].

This page is intentionally left blank



Meeting:	Decision Session – Executive Member for Finance, Performance, Major Projects and Equalities
Meeting date:	12/12/2024
Report of:	Director of Finance
Portfolio of:	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 applications to list the following properties as Assets of Community Value (ACV) for consideration by the Council.
 - a) New Earswick Swimming Pool, Hawthorne Terrace, New Earswick, York. An application has been received from the Friends of New Earswick Pool.
 - b) The Victoria Vaults Public House, 47-49 Nunnery Lane, York. An application has been received from the Campaign for Real Ale Ltd (York Branch).
2. The applications have 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 recommendations to:

Approve the listing of:

- (i) New Earswick Swimming Pool, Hawthorne Terrace, New Earswick, York; and
- (ii) The Victoria Vaults Public House, 47-49 Nunnery Lane, York;

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. New Earswick Swimming Pool was previously entered on the Council's list of ACV property on 9th April 2018 following an earlier ACV nomination received on 19th January 2018. Pursuant to Section 87(3) of the Localism Act 2011 land/property must be removed from the ACV list after 5 years from date of listing. This application is a request to re-add New Earswick Swimming Pool onto the Council's AVC list (for a further period of 5 years).
8. The Victoria Vaults has not been listed previously.
9. The purpose behind these provisions 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.

10. 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. 88(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. 88(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.
11. 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

12. 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 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).

The Community Ownership Fund

13. The Community Ownership Fund is a £150 million fund over 4 years to support community groups across England, Wales and Northern Ireland to take ownership of assets which are at risk of being lost to the community. The Fund is administered by the Government. Whilst there is no guarantee of success, this Fund is a potential source of financial assistance for community groups which could assist them in raising the necessary funding to buy the asset, in the event that it became available.

New Earswick Swimming Pool, Hawthorne Terrace, New Earswick.

14. The freehold of New Earswick Pool is owned by the Joseph Rowntree Housing Trust. The nomination is being made by the Friends of New Earswick Pool. 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. The Friends of New Earswick Pool are considered as an eligible body. In accordance with the regulations, the freehold owner of the property and the occupiers of the property have been informed that the application has been made. They have been invited to make representations regarding the nomination.
15. The Friends of New Earswick Pool state in the nomination form that the pool was built in 1967, partly funded by village residents. The pool serves the community by being hired out to a wide variety of groups. New Earswick Swimming Club have used the pool since it opened. The pool is also used by groups who cannot access public baths, including the disabled, the elderly, schools for children with behavioural difficulties. We are advised that the pool is open 7 days a week and is operating at 95% capacity, with a footfall of around 1,300 per week. 80% of users come from within a five-mile radius of the pool, although some come from as far as Leeds and Thirsk. The "Friends" advise that the pool is extremely well used and is an important asset to the local community.
16. No representations have been received from the owner regarding the renewal of the listing.

17. Full details of the application are provided in the nomination form attached in Annex 1.
18. Based upon the information provided, it is recommended that the property's listing as an Asset of Community Value is renewed.

The Victoria Vaults Public House, 47-49 Nunnery Lane, York

19. The freehold of The Victoria Vaults is owned by Appleton Estates Limited. The nomination is being made by the Campaign for Real Ale Ltd (CAMRA) (York Branch). 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. CAMRA (York Branch) is considered to be an eligible body. In accordance with the regulations, the freehold owner of the property, and the occupier, have been informed in writing that the application has been made. They have been invited to make representations regarding the nomination.
20. CAMRA state in the nomination form that the Victoria Vaults is a community-based grass roots music venue trading in a thriving area of York known as Bishophill, located 5 minutes from the centre of York, opposite the city walls, and not far from the railway station. The pub is not part of a chain and is an ideal size to accommodate young and upcoming bands, holding enough to make the venue viable whilst not being too big for smaller bands.
21. CAMRA advise, that the Victoria Vaults is at the heart of York's vibrant and diverse music scene, appealing to different social groups. CAMRA advise that its significant contribution to the cultural life of the city has been acknowledged locally and nationally. CAMRA also advise that the pub has historically received grants from the Cultural Recovery Fund and City of York Council, as a crucial part of the local economy and a commitment to live music venues.

22. CAMRA advise that the current owners' plans for the Victoria Vaults include disposal of the property, not as a music venue. The owners have commissioned plans showing how the site can be redeveloped as three individual townhouses, subject to planning, with the site having been marketed as a Freehold for Sale with an 'excellent medium term redevelopment opportunity'. CAMRA advise that the Victoria Vaults should be protected thus as an Asset of Community Value.
23. CAMRA summarise the reasons why the Victoria Vaults should be listed as an asset of community value as follows;
 - Cultural – musical heritage, showcasing local talent, and a community hub.
 - Economic benefits – local jobs, tourism and enhancing the local economy.
 - Social value – safe and welcoming environment, strengthening community bonds, and preservation of the local character of the area.
24. Full details of the application are provided in the nomination form attached in Annex 2.
25. The solicitors acting for the property owner advise that the property was acquired by the current owner in 2013 and let as a free house. It operated as a pub with occasional live music. A new tenant took over in 2017, who concentrated on making it a live music venue. The rent was reduced to assist the tenant and grants were received from the government during Covid. They further advise that the current tenant took over in 2022, but by mid-2023 he asked to surrender his lease as he was losing too much money. The current tenant has compiled a list of the pub's trading to show that a small music venue in York is unsustainable (attached at annex 3). They advise that there are over 40 live music venues in York showing that there is an oversupply (list attached in annex 3).
26. The owners have also advised that they subsequently instructed an agent to market the freehold interest in the property subject to the lease or vacant possession. Despite extensive marketing no offers were received on this basis (list attached in annex 3). In the last two months an unconditional offer with vacant possession was received. This offer was accepted, and contracts have now been exchanged. They advise that the tenant has surrendered their

lease and that with no offers received from music venue or pub operators during the extensive marketing, the continued use as a music venue is unrealistic, advising that too many other opportunities exist close by.

27. The solicitor acting for the prospective new owner has also submitted a letter disputing the nomination. They have confirmed that their client has exchanged contracts with the existing owner and are therefore contractually bound to complete. They advise that they would not have showed interest in the property if they had known it was listed as an ACV or under consideration as an ACV. They advise that should the property be listed they will be applying to the upper tribunal for compensation in respect of VAT on their purchase.
28. The purchasers believe the application should be rejected on the following grounds;
29. They advise that the Victoria Vaults has been struggling financially for some time and it is not realistic to think that there can be a non-ancillary use which will further the social well-being or social interests of the local community. They advise that it has changed ownership many times since 2000 and further it is evident that everyone who has tried to run it, has struggled. Despite funding from grants and the local authority there has not been enough support from the local people, they say. They advise that the Facebook page has numerous posts confirming cancellation of events due to low ticket sales. They advise that there is no indication from the application as to whether those individuals listed would support a bid for the pub, and that they would use the property for something else that would benefit the locality, given that there is no demand for a pub. They advise that the purchasers are intending to provide housing for those within the locality, where there is rising homelessness and a shortage of housing.
30. The prospective purchaser has also made the following comments against the applicants claimed economic benefits.
 - Job creation – the previous tenants were struggling to keep the business running and surrendered their lease. The continuance would have resulted in redundancies and possible bankruptcy.

- Property value – The property was falling into disrepair. If left it would dilapidate and affect surrounding property values.
- Tourist attraction and Preservation of Local Character – they are hoping to keep the external parts of the building to maintain character, whilst splitting internally.
- Community building – the development of further houses will increase the size of the community.
- Social value – See annex to the letter for the number of pubs that are a stone's throw away.

31. Full details of the objections are attached in Annex 3 and 4.
32. There is significant precedent set elsewhere in the country from other authorities who have accepted pubs onto the ACV lists, even where they are currently run as commercial businesses. There are currently 13 pubs listed by the Council as ACVs.
33. Based on the information provided and that the property historically traded as a public house in close proximity to Bishopthorpe Road and the city centre, it is recommended that the property is listed as an Asset of Community Value.

Consultation Analysis

34. As required by the Assets of Community Value Regulations, the owners and occupiers of the properties have been consulted regarding the applications.
35. The results are contained in the background information on the individual properties.

Options Analysis and Evidential Basis

36. The applications to list, New Earswick Swimming Pool, and the Victoria Vaults Public House, as Assets of Community Value, can either be accepted or rejected. There are no other options, as it is considered that sufficient information has been provided to make a decision.

37. If the decision is to approve the ACV nomination applications, then the owners of the properties have 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 J.R. claim to the High Court).

Organisational Impact and Implications

38.

- **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). We have not experienced any claims over the last 5 years but there is a possibility of a claim in respect of the Victoria Vaults application.
- **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** – The completion of data protection impact assessment (DPIA) screening questions evidenced there would be no processing of personal data, special categories of personal data or criminal offence data processed, so there is no requirement to complete a DPIA.

- **Communications** - None
- **Economy** - None
- **Specialist Implications Officers** - None

Risks and Mitigations

39. There are no significant risks to these applications.

Wards Impacted

40. Huntington & New Earswick, and Micklegate.

Contact Details

For further information please contact the authors of this Decision Report.

Author

Name:	Graham Hogben
Job Title:	Property Surveyor
Service Area:	Asset and Property Management
Telephone:	01905 554463
Report approved:	Yes
Date:	2 nd December 2024

Co-author

Name:	Nick Collins
Job Title:	Head of Property Services
Service Area:	Property Services
Telephone:	01904 552167
Report approved:	Yes
Date:	2 nd December 2024

Co-author

Name:	Debbie Mitchell
Job Title:	Director of Finance
Service Area:	Corporate Finance
Telephone:	01904 554161
Report approved:	Yes
Date:	2 nd December 2024

Annexes

- Annex 1 – New Earswick Swimming Pool, Hawthorne Terrace, New Earswick, York – Application to add to the list of assets of community value.
- Annex 2 – The Victoria Vaults Public House, 47-49 Nunnery Lane, York – Application to add to the list of assets of community value.
- Annex 3 – Current owner’s objection to the application.
- Annex 4 – Prospective owner’s objection to the application.
- Annex 5 – 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

Annex 1



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 www.york.gov.uk/assetsofcommunityvalue or alternatively call 01904 553360.

Section 1

About the property to be nominated

Name of Property:	New Earswick Swimming Pool
Address of Property:	Hawthorne Terrace, New Earswick
Postcode:	YO32 4AQ

Property Owner's Name:	Joseph Rowntree Housing Trust
Address:	The Garth, White Rose Avenue, New Earswick
Postcode:	YO32 4TZ
Telephone Number:	<input type="text"/>
Current Occupier's Name:	Friends of New Earswick Pool

Section 2

About your community organisation

Name of Organisation:	Friends of New Earswick Swimming Pool
Title:	Mr
First Name:	<input type="text"/>
Surname:	<input type="text"/>
Position in Organisation:	Chair of Trustees
Email Address:	<input type="text"/>
Address:	<input type="text"/>
Postcode:	<input type="text"/>
Telephone Number:	<input type="text"/>

Organisation type:

Click in field for options

not-for-profit company.Charity No. 1188111

Organisation size

How many members do you have?

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.

The swimming pool was opened in 1967 and funded in part by village residents. The pool serves the community by hiring the pool to a wide variety of hire groups. These include New Earswick Swimming Club who have used the pool since its opening, teaching groups for babies to teenagers, local schools and sessions open to the public. We also make a point of hiring the pool to groups who find it difficult to use public baths, these include a disabled group, a local retirement home, a school for children with behavioural difficulties, a local Muslim ladies group when men are banned from the building and a Muslim mens group. The pool is open seven days a week for nearly 75 hours pw and is operating at about 95% capacity with a footfall of about 1,300 users per week. About 80% of users live within a five mile radius of the pool although users also come from as far afield as Leeds and Thirsk. The pool is very well used and is an important asset to the community. We have also recently been granted planning permission for major improvements and repairs to the building to bring it to modern standards. It was previously registered as an Asset of Community Value which has lapsed and this is a resubmission

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.

The boundary of the property is the set by the exterior wall of the building as shown in the attached plan. A plan of the pool and surrounding area is also included.

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:

[Signature]

Dated:

24/10/2024

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

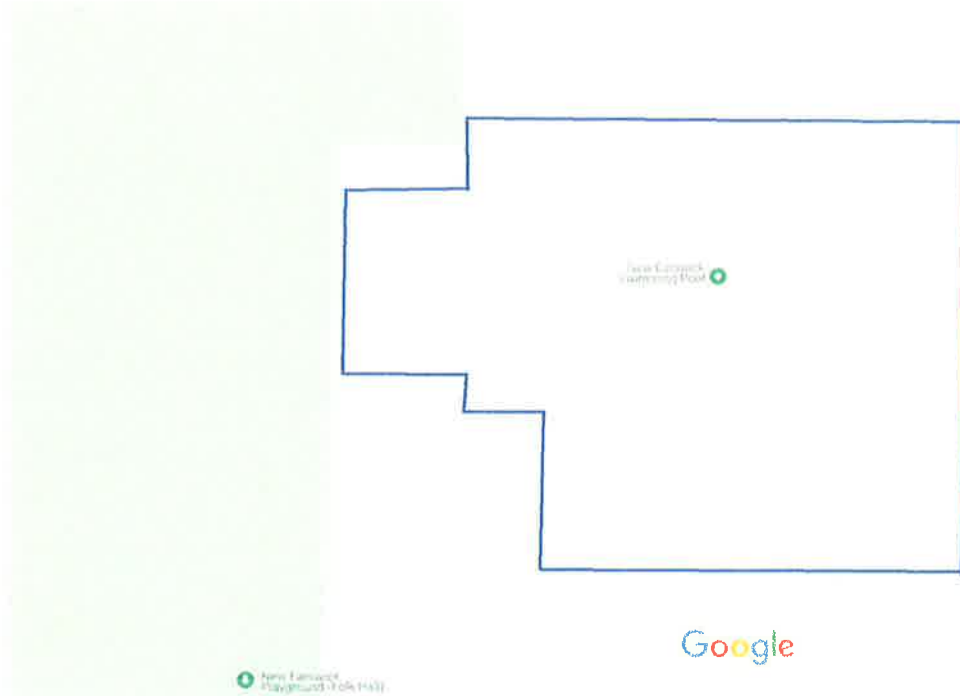
Asset and Property Management
City of York Council
West Offices
Station Rise
York
YO1 6GA

Google Maps



20/10/2024, 21:17

Google Maps



Map data ©2024 Google 5 m

Constitution of a Charitable Incorporated Organisation whose only voting members are its charity trustees ('Foundation' model constitution)

Date of constitution (last amended): 17th January 2020

1. Name

The name of the Charitable Incorporated Organisation ("the CIO") is Friends of New Earswick Swimming Pool

2. National location of principal office

The CIO must have a principal office in England or Wales. The principal office of the CIO is in England.

3. Object[s]

The object[s] of the CIO are:

- The promotion of community participation in healthy recreation in particular by the provision, maintenance and development of facilities for swimming
- The advancement of the amateur sport in York for the public benefit by the provision, maintenance and development of facilities for the participation in the sport of swimming
- For the public benefit to promote the physical education of young people in York by the provision, maintenance and development of facilities for swimming lessons

Nothing in this constitution shall authorise an application of the property of the CIO for the purposes which are not charitable in accordance with [section 7 of the Charities and Trustee Investment (Scotland) Act 2005] and [section 2 of the Charities Act (Northern Ireland) 2008]

4. Powers

The CIO has power to do anything which is calculated to further its object[s] or is conducive or incidental to doing so. In particular, the CIO has power to:

- (1) borrow money and to charge the whole or any part of its property as security for the repayment of the money borrowed. The CIO must comply as appropriate with sections 124 and 125 of the Charities Act 2011, if it wishes to mortgage land;
- (2) buy, take on lease or in exchange, hire or otherwise acquire any property and to maintain and equip it for use;
- (3) sell, lease or otherwise dispose of all or any part of the property belonging to the CIO. In exercising this power, the CIO must comply as appropriate with sections 117 and 119-123 of the Charities Act 2011;
- (4) employ and remunerate such staff as are necessary for carrying out the work of the CIO. The CIO may employ or remunerate a charity trustee only to the extent that it is permitted to do so by clause 6 (Benefits and payments to charity trustees and connected persons) and provided it complies with the conditions of that clause;
- (5) deposit or invest funds, employ a professional fund-manager, and arrange for the investments or other property of the CIO to be held in the name of a nominee, in the same manner and subject to the same conditions as the trustees of a trust are permitted to do by the Trustee Act 2000.

5. Application of income and property

(1) The income and property of the CIO must be applied solely towards the promotion of the objects.
(a) A charity trustee is entitled to be reimbursed from the property of the CIO or may pay out of such property reasonable expenses properly incurred by him or her when acting on behalf of the CIO. (b) A charity trustee may benefit from trustee indemnity insurance cover purchased at the CIO's expense in accordance with, and subject to the conditions in, section 189 of the Charities Act 2011.

(2) None of the income or property of the CIO may be paid or transferred directly or indirectly by way of dividend, bonus or otherwise by way of profit to any member of the CIO.

(3) Nothing in this clause shall prevent a charity trustee or connected person receiving any benefit or payment which is authorised by Clause 6.

6. Benefits and payments to charity trustees and connected persons

(1) General provisions No charity trustee or connected person may:

(a) buy or receive any goods or services from the CIO on terms preferential to those applicable to members of the public;

(b) sell goods, services, or any interest in land to the CIO;

(c) be employed by, or receive any remuneration from, the CIO;

(d) receive any other financial benefit from the CIO;

unless the payment or benefit is permitted by sub-clause (2) of this clause or authorised by the court or the prior written consent of the Charity Commission ("the Commission") has been obtained. In this clause, a "financial benefit" means a benefit, direct or indirect, which is either money or has a monetary value.

(2) Scope and powers permitting trustees' or connected persons' benefits

(a) A charity trustee or connected person may receive a benefit from the CIO as a beneficiary of the CIO provided that a majority of the trustees do not benefit in this way.

(b) A charity trustee or connected person may enter into a contract for the supply of services, or of goods that are supplied in connection with the provision of services, to the CIO where that is permitted in accordance with, and subject to the conditions in, sections 185 to 188 of the Charities Act 2011.

(c) Subject to sub-clause (3) of this clause a charity trustee or connected person may provide the CIO with goods that are not supplied in connection with services provided to the CIO by the charity trustee or connected person.

(d) A charity trustee or connected person may receive interest on money lent to the CIO at a reasonable and proper rate which must be not more than the Bank of England bank rate (also known as the base rate).

(e) A charity trustee or connected person may receive rent for premises let by the trustee or connected person to the CIO. The amount of the rent and the other terms of the lease must be reasonable and proper. The charity trustee concerned must withdraw from any meeting at which such a proposal or the rent or other terms of the lease are under discussion.

(f) A charity trustee or connected person may take part in the normal trading and fundraising activities of the CIO on the same terms as members of the public

(3) Payment for supply of goods only – controls

The CIO and its charity trustees may only rely upon the authority provided by sub-clause (2)(c) of this clause if each of the following conditions is satisfied:

- (a) The amount or maximum amount of the payment for the goods is set out in a written agreement between the CIO and the charity trustee or connected person supplying the goods (“the supplier”).
- (b) The amount or maximum amount of the payment for the goods does not exceed what is reasonable in the circumstances for the supply of the goods in question
- (c) The other charity trustees are satisfied that it is in the best interests of the CIO to contract with the supplier rather than with someone who is not a charity trustee or connected person. In reaching that decision the charity trustees must balance the advantage of contracting with a charity trustee or connected person against the disadvantages of doing so.
- (d) The supplier is absent from the part of any meeting at which there is discussion of the proposal to enter into a contract or arrangement with him or her or it with regard to the supply of goods to the CIO.
- (e) The supplier does not vote on any such matter and is not to be counted when calculating whether a quorum of charity trustees is present at the meeting.
- (f) The reason for their decision is recorded by the charity trustees in the minute book.
- (g) A majority of the charity trustees then in office are not in receipt of remuneration or payments authorised by clause 6.

(4) In sub-clauses (2) and (3) of this clause:

- (a) “the CIO” includes any company in which the CIO:
 - (i) holds more than 50% of the shares; or
 - (ii) controls more than 50% of the voting rights attached to the shares; or
 - (iii) has the right to appoint one or more directors to the board of the company;
- (b) “connected person” includes any person within the definition set out in clause [30] (Interpretation);

7. Conflicts of interest and conflicts of loyalty

A charity trustee must:

- (1) declare the nature and extent of any interest, direct or indirect, which he or she has in a proposed transaction or arrangement with the CIO or in any transaction or arrangement entered into by the CIO which has not previously been declared; and
- (2) absent himself or herself from any discussions of the charity trustees in which it is possible that a conflict of interest will arise between his or her duty to act solely in the interests of the CIO and any personal interest (including but not limited to any financial interest)

Any charity trustee absenting himself or herself from any discussions in accordance with this clause must not vote or be counted as part of the quorum in any decision of the charity trustees on the matter.

8. Liability of members to contribute to the assets of the CIO if it is wound up

(1) If the CIO is wound up, each member of the CIO is liable to contribute to the assets of the CIO such amount (but not more than £[]) as may be required for payment of the debts and liabilities of the CIO contracted before that person ceases to be a member, for payment of the costs, charges and expenses of winding up, and for adjustment of the rights of the contributing members among themselves.

(2) In sub-clause (1) of this clause "member" includes any person who was a member of the CIO within 12 months before the commencement of the winding up.

(3) But subject to that, the members of the CIO have no liability to contribute to its assets if it is wound up, and accordingly have no personal responsibility for the settlement of its debts and liabilities beyond the amount that they are liable to contribute.

9. Charity trustees

(1) Functions and duties of charity trustees

The charity trustees shall manage the affairs of the CIO and may for that purpose exercise all the powers of the CIO. It is the duty of each charity trustee:

(a) to exercise his or her powers and to perform his or her functions in his or her capacity as a trustee of the CIO in the way he or she decides in good faith would be most likely to further the purposes of the CIO; and

(b) to exercise, in the performance of those functions, such care and skill as is reasonable in the circumstances having regard in particular to:

(i) any special knowledge or experience that he or she has or holds himself or herself out as having; and,

(ii) if he or she acts as a charity trustee of the CIO in the course of a business or profession, to any special knowledge or experience that it is reasonable to expect of a person acting in the course of that kind of business or profession.

(2) Eligibility for trusteeship

(a) Every charity trustee must be a natural person.

(b) No individual may be appointed as a charity trustee of the CIO:

- if he or she is under the age of 16 years; or
- if he or she would automatically cease to hold office under the provisions of clause [12(1)(e)].

(c) No one is entitled to act as a charity trustee whether on appointment or on any re-appointment until he or she has expressly acknowledged, in whatever way the charity trustees decide, his or her acceptance of the office of charity trustee. [

(d) At least one of the trustees of the CIO must be 18 years of age or over. If there is no trustee aged at least 18 years, the remaining trustees may only act to call a meeting of the charity trustees, or appoint a new charity trustee.

(3) Number of charity trustees

There must be at least [three] charity trustees. If the number falls below this minimum, the remaining trustee or trustees may act only to call a meeting of the charity trustees, or appoint a new charity trustee.

The maximum number of charity trustees is [12]. The charity trustees may not appoint any charity trustee if as a result the number of charity trustees would exceed the maximum.

(4) First charity trustees The first charity trustees are as follows:

-
-
-

10. Appointment of charity trustees

(1) Apart from the first charity trustees, every trustee must be appointed by a resolution passed at a properly convened meeting of the charity trustees.

(2) In selecting individuals for appointment as charity trustees, the charity trustees must have regard to the skills, knowledge and experience needed for the effective administration of the CIO.

11. Information for new charity trustees

The charity trustees will make available to each new charity trustee, on or before his or her first appointment:

- (a) a copy of the current version of this constitution; and
- (b) a copy of the CIO's latest Trustees' Annual Report and statement of accounts.

12. Retirement and removal of charity trustees

(1) A charity trustee ceases to hold office if he or she:

- (a) retires by notifying the CIO in writing (but only if enough charity trustees will remain in office when the notice of resignation takes effect to form a quorum for meetings);
- (b) is absent without the permission of the charity trustees from all their meetings held within a period of six months and the trustees resolve that his or her office be vacated;
- (c) dies;
- (d) in the written opinion, given to the company, of a registered medical practitioner treating that person, has become physically or mentally incapable of acting as a director and may remain so for more than three months;
- (e) is disqualified from acting as a charity trustee by virtue of sections 178-180 of the Charities Act 2011 (or any statutory re-enactment or modification of that provision).

(2) Any person retiring as a charity trustee is eligible for reappointment.

13. Taking of decisions by charity trustees

Any decision may be taken either:

- at a meeting of the charity trustees; or

- by resolution in writing [or electronic form] agreed by a majority of all of the charity trustees, which may comprise either a single document or several documents containing the text of the resolution in like form to which the majority of all of the charity trustees has signified their agreement. Such a resolution shall be effective provided that

- a copy of the proposed resolution has been sent, at or as near as reasonably practicable to the same time, to all of the charity trustees; and
- the majority of all of the charity trustees has signified agreement to the resolution in a document or documents which has or have been authenticated by their signature, by a statement of their identity accompanying the document or documents, or in such other manner as the charity trustees have previously resolved, and delivered to the CIO at its principal office or such other place as the trustees may resolve [within 28 days of the circulation date].

14. Delegation by charity trustees

(1) The charity trustees may delegate any of their powers or functions to a committee or committees, and, if they do, they shall determine the terms and conditions on which the delegation is made. The charity trustees may at any time alter those terms and conditions, or revoke the delegation.

(2) This power is in addition to the power of delegation in the General Regulations and any other power of delegation available to the charity trustees, but is subject to the following requirements:

- a) a committee may consist of two or more persons, but at least one member of each committee must be a charity trustee;
- b) the acts and proceedings of any committee must be brought to the attention of the charity trustees as a whole as soon as is reasonably practicable; and
- c) the charity trustees shall from time to time review the arrangements which they have made for the delegation of their powers.

15. Meetings of charity trustees

(1) Calling meetings

- a) Any charity trustee may call a meeting of the charity trustees.
- b) Subject to that, the charity trustees shall decide how their meetings are to be called, and what notice is required.

(2) Chairing of meetings

The charity trustees may appoint one of their number to chair their meetings and may at any time revoke such appointment. If no-one has been so appointed, or if the person appointed is unwilling to preside or is not present within 10 minutes after the time of the meeting, the charity trustees present may appoint one of their number to chair that meeting.

(3) Procedure at meetings

- a) No decision shall be taken at a meeting unless a quorum is present at the time when the decision is taken. The quorum is two charity trustees, or the number nearest to one third of the total number of charity trustees, whichever is greater, or such larger number as the charity trustees may decide from time to time. A charity trustee shall

not be counted in the quorum present when any decision is made about a matter upon which he or she is not entitled to vote

(b) Questions arising at a meeting shall be decided by a majority of those eligible to vote.

(c) In the case of an equality of votes, the person who chairs the meeting shall have a second or casting vote.

(4) Participation in meetings by electronic means

- a) A meeting may be held by suitable electronic means agreed by the charity trustees in which each participant may communicate with all the other participants.
- b) Any charity trustee participating at a meeting by suitable electronic means agreed by the charity trustees in which a participant or participants may communicate with all the other participants shall qualify as being present at the meeting.
- c) Meetings held by electronic means must comply with rules for meetings, including chairing and the taking of minutes.

16. Membership of the CIO

(1) The members of the CIO shall be its charity trustees for the time being. The only persons eligible to be members of the CIO are its charity trustees. Membership of the CIO cannot be transferred to anyone else.

(2) Any member and charity trustee who ceases to be a charity trustee automatically ceases to be a member of the CIO.

17. Informal or associate (non-voting) membership

(1) The charity trustees may create associate or other classes of non-voting membership, and may determine the rights and obligations of any such members (including payment of membership fees), and the conditions for admission to, and termination of membership of any such class of members.

(2) Other references in this constitution to "members" and "membership" do not apply to non-voting members, and non-voting members do not qualify as members for any purpose under the Charities Acts, General Regulations or Dissolution Regulations.

18. Decisions which must be made by the members of the CIO

(1) Any decision to:

- a) amend the constitution of the CIO;
- b) amalgamate the CIO with, or transfer its undertaking to, one or more other CIOs, in accordance with the Charities Act 2011; or
- c) wind up or dissolve the CIO (including transferring its business to any other charity) must be made by a resolution of the members of the CIO (rather than a resolution of the charity trustees).

(2) Decisions of the members may be made either:

- a) by resolution at a general meeting; or
- b) (b) by resolution in writing, in accordance with sub-clause (4) of this clause.

(3) Any decision specified in sub-clause (1) of this clause must be made in accordance with the provisions of clause [28] (amendment of constitution), clause [29] (Voluntary winding up or dissolution), or the provisions of the Charities Act 2011, the General Regulations or the Dissolution Regulations as applicable. Those provisions require the resolution to be agreed by a 75% majority of those members voting at a general meeting, or agreed by all members in writing.

(4) Except where a resolution in writing must be agreed by all the members, such a resolution may be agreed by a simple majority of all the members who are entitled to vote on it. Such a resolution shall be effective provided that:

(a) a copy of the proposed resolution has been sent to all the members eligible to vote; and

(b) the required majority of members has signified its agreement to the resolution in a document or documents which are received at the principal office within the period of 28 days beginning with the circulation date. The document signifying a member's agreement must be authenticated by their signature, by a statement of their identity accompanying the document, or in such other manner as the CIO has specified. The resolution in writing may comprise several copies to which one or more members has signified their agreement. Eligibility to vote on the resolution is limited to members who are members of the CIO on the date when the proposal is first circulated.

19. General meetings of members

(1) Calling of general meetings of members The charity trustees may designate any of their meetings as a general meeting of the members of the CIO. The purpose of such a meeting is to discharge any business which must by law be discharged by a resolution of the members of the CIO as specified in clause [18] (Decisions which must be made by the members of the CIO).

(2) Notice of general meetings of members

(a) The minimum period of notice required to hold a general meeting of the members of the CIO is [14] days.

(b) Except where a specified period of notice is strictly required by another clause in this constitution, by the Charities Act 2011 or by the General Regulations, a general meeting may be called by shorter notice if it is so agreed by a majority of the members of the CIO.

(c) Proof that an envelope containing a notice was properly addressed, prepaid and posted; or that an electronic form of notice was properly addressed and sent, shall be conclusive evidence that the notice was given. Notice shall be deemed to be given 48 hours after it was posted or sent.

(3) Procedure at general meetings of members The provisions in clause 15 (2)-(4) governing the chairing of meetings, procedure at meetings and participation in meetings by electronic means apply to any general meeting of the members, with all references to trustees to be taken as references to members.

20. Saving provisions

(1) Subject to sub-clause (2) of this clause, all decisions of the charity trustees, or of a committee of charity trustees, shall be valid notwithstanding the participation in any vote of a charity trustee:

- who was disqualified from holding office;
- who had previously retired or who had been obliged by the constitution to vacate office;
- who was not entitled to vote on the matter, whether by reason of a conflict of interest or otherwise; if, without the vote of that charity trustee and that charity trustee being counted in the quorum, the decision has been made by a majority of the charity trustees at a quorate meeting.

(2) Sub-clause (1) of this clause does not permit a charity trustee to keep any benefit that may be conferred upon him or her by a resolution of the charity trustees or of a committee of charity trustees if, but for sub-clause (1), the resolution would have been void, or if the charity trustee has not complied with clause 7 (Conflicts of interest).

21. Execution of documents

- (1) The CIO shall execute documents either by signature or by affixing its seal (if it has one)
- (2) A document is validly executed by signature if it is signed by at least two of the charity trustees.
- (3) If the CIO has a seal:
 - (a) it must comply with the provisions of the General Regulations; and
 - (b) the seal must only be used by the authority of the charity trustees or of a committee of charity trustees duly authorised by the charity trustees. The charity trustees may determine who shall sign any document to which the seal is affixed and unless otherwise so determined it shall be signed by two charity trustees.

22. Use of electronic communications

- (1) General The CIO will comply with the requirements of the Communications Provisions in the General Regulations and in particular:
 - (a) the requirement to provide within 21 days to any member on request a hard copy of any document or information sent to the member otherwise than in hard copy form;
 - (b) any requirements to provide information to the Commission in a particular form or manner.

23. Keeping of Registers

The CIO must comply with its obligations under the General Regulations in relation to the keeping of, and provision of access to, a (combined) register of its members and charity trustees.

24. Minutes

The charity trustees must keep minutes of all:

- (1) appointments of officers made by the charity trustees;
- (2) proceedings at general meetings of the CIO;
- (3) meetings of the charity trustees and committees of charity trustees including:
 - the names of the trustees present at the meeting;

- the decisions made at the meetings; and
- where appropriate the reasons for the decisions

(4) decisions made by the charity trustees otherwise than in meetings.

25. Accounting records, accounts, annual reports and returns, register maintenance

(1) The charity trustees must comply with the requirements of the Charities Act 2011 with regard to the keeping of accounting records, to the preparation and scrutiny of statements of account, and to the preparation of annual reports and returns. The statements of account, reports and returns must be sent to the Charity Commission, regardless of the income of the CIO, within 10 months of the financial year end.

(2) The charity trustees must comply with their obligation to inform the Commission within 28 days of any change in the particulars of the CIO entered on the Central Register of Charities.

26. Rules

The charity trustees may from time to time make such reasonable and proper rules or byelaws as they may deem necessary or expedient for the proper conduct and management of the CIO, but such rules or bye laws must not be inconsistent with any provision of this constitution. Copies of any such rules or bye laws currently in force must be made available to any member of the CIO on request.

27. Disputes

If a dispute arises between members of the CIO about the validity or propriety of anything done by the members under this constitution, and the dispute cannot be resolved by agreement, the parties to the dispute must first try in good faith to settle the dispute by mediation before resorting to litigation.

28. Amendment of constitution

As provided by sections 224-227 of the Charities Act 2011:

(1) This constitution can only be amended:

(a) by resolution agreed in writing by all members of the CIO; or (b) by a resolution passed by a 75% majority of those voting at a general meeting of the members of the CIO called in accordance with clause 19 (General meetings of members).

(2) Any alteration of clause 3 (Objects), clause [29] (Voluntary winding up or dissolution), this clause, or of any provision where the alteration would provide authorisation for any benefit to be obtained by charity trustees or members of the CIO or persons connected with them, requires the prior written consent of the Charity Commission.

(3) No amendment that is inconsistent with the provisions of the Charities Act 2011 or the General Regulations shall be valid.

(4) A copy of every resolution amending the constitution, together with a copy of the CIO's constitution as amended must be sent to the Commission by the end of the period of 15 days beginning with the date of passing of the resolution, and the amendment does not take effect until it has been recorded in the Register of Charities.

29. Voluntary winding up or dissolution

(1) As provided by the Dissolution Regulations, the CIO may be dissolved by resolution of its members. Any decision by the members to wind up or dissolve the CIO can only be made:

(a) at a general meeting of the members of the CIO called in accordance with clause 19 (General meetings of members), of which not less than 14 days' notice has been given to those eligible to attend and vote:

(i) by a resolution passed by a 75% majority of those voting, or

(ii) by a resolution passed by decision taken without a vote and without any expression of dissent in response to the question put to the general meeting; or

(b) by a resolution agreed in writing by all members of the CIO.

(2) Subject to the payment of all the CIO's debts:

(a) Any resolution for the winding up of the CIO, or for the dissolution of the CIO without winding up, may contain a provision directing how any remaining assets of the CIO shall be applied.

(b) If the resolution does not contain such a provision, the charity trustees must decide how any remaining assets of the CIO shall be applied.

(c) In either case the remaining assets must be applied for charitable purposes the same as or similar to those of the CIO.

(3) The CIO must observe the requirements of the Dissolution Regulations in applying to the Commission for the CIO to be removed from the Register of Charities, and in particular:

(a) the charity trustees must send with their application to the Commission:

(i) a copy of the resolution passed by the members of the CIO;

(ii) a declaration by the charity trustees that any debts and other liabilities of the CIO have been settled or otherwise provided for in full; and

(iii) a statement by the charity trustees setting out the way in which any property of the CIO has been or is to be applied prior to its dissolution in accordance with this constitution;

(b) the charity trustees must ensure that a copy of the application is sent within seven days to every member and employee of the CIO, and to any charity trustee of the CIO who was not privy to the application.

(4) If the CIO is to be wound up or dissolved in any other circumstances, the provisions of the Dissolution Regulations must be followed.

30. Interpretation In this constitution:

"connected person" means:

a) a child, parent, grandchild, grandparent, brother or sister of the charity trustee;

- b) the spouse or civil partner of the charity trustee or of any person falling within sub-clause (a) above;
- c) a person carrying on business in partnership with the charity trustee or with any person falling within subclause (a) or (b) above;
- d) an institution which is controlled –
 - i. by the charity trustee or any connected person falling within sub-clause (a), (b), or (c) above; or
 - ii. by two or more persons falling within sub-clause (d)(i), when taken together
- e) a body corporate in which –
 - (i) the charity trustee or any connected person falling within sub-clauses (a) to (c) has a substantial interest; or
 - (ii) two or more persons falling within sub-clause (e)(i) who, when taken together, have a substantial interest. Section 118 of the Charities Act 2011 apply for the purposes of interpreting the terms used in this constitution.

“General Regulations” means the Charitable Incorporated Organisations (General) Regulations 2012. “Dissolution Regulations” means the Charitable Incorporated Organisations (Insolvency and Dissolution) Regulations 2012. The “Communications Provisions” means the Communications Provisions in [Part 9, Chapter 4] of the General Regulations. “charity trustee” means a charity trustee of the CIO. A “poll” means a counted vote or ballot, usually (but not necessarily) in writing.

Appendix

The following provisions do not form part of the ‘Foundation’ model constitution but are available as options under clauses 19 (General meetings of members) and 22 (Use of electronic communications).

For CIOs intending to include these powers in their constitutions, we recommend that you use the following wording. Notes on these clauses are included with the explanatory notes accompanying the clauses in the model.

General meetings of members

(4) Proxy voting

(a) Any member of the CIO may appoint another person as a proxy to exercise all or any of that member’s rights to attend, speak and vote at a general meeting of the CIO. Proxies must be appointed by a notice in writing (a “proxy notice”) which:

- (i) states the name and address of the member appointing the proxy;
- (ii) identifies the person appointed to be that member’s proxy and the general meeting in relation to which that person is appointed;
- (iii) is signed by or on behalf of the member appointing the proxy, or is authenticated in such manner as the CIO may determine; and
- (iv) is delivered to the CIO in accordance with the constitution and any instructions contained in the notice of the general meeting to which they relate.

(b) The CIO may require proxy notices to be delivered in a particular form, and may specify different forms for different purposes.

(c) Proxy notices may (but do not have to) specify how the proxy appointed under them is to vote (or that the proxy is to abstain from voting) on one or more resolutions.

(d) Unless a proxy notice indicates otherwise, it must be treated as:

(i) allowing the person appointed under it as a proxy discretion as to how to vote on any ancillary or procedural resolutions put to the meeting; and

(ii) appointing that person as a proxy in relation to any adjournment of the general meeting to which it relates as well as the meeting itself. Notes 27

(e) A member who is entitled to attend, speak or vote (either on a show of hands or on a poll) at a general meeting remains so entitled in respect of that meeting or any adjournment of it, even though a valid proxy notice has been delivered to the CIO by or on behalf of that member.

(f) An appointment under a proxy notice may be revoked by delivering to the CIO a notice in writing given by or on behalf of the member by whom or on whose behalf the proxy notice was given.

(g) A notice revoking a proxy appointment only takes effect if it is delivered before the start of the meeting or adjourned meeting to which it relates.

(h) If a proxy notice is not signed or authenticated by the member appointing the proxy, it must be accompanied by written evidence that the person who signed or authenticated it on that member's behalf had authority to do so.

(5) Postal Voting

(a) The CIO may, if the charity trustees so decide, allow the members to vote by post or electronic mail ("email") to elect charity trustees or to make a decision on any matter that is being decided at a general meeting of the members.

(b) The charity trustees must appoint at least two persons independent of the CIO to serve as scrutineers to supervise the conduct of the postal/email ballot and the counting of votes.

(c) If postal and/or email voting is to be allowed on a matter, the CIO must send to members of the CIO not less than [21] days before the deadline for receipt of votes cast in this way:

(i) a notice by email, if the member has agreed to receive notices in this way under clause [2 2] (Use of electronic communications), including an explanation of the purpose of the vote and the voting procedure to be followed by the member, and a voting form capable of being returned by email or post to the CIO, containing details of the resolution being put to a vote, or of the candidates for election, as applicable;

(ii) a notice by post to all other members, including a written explanation of the purpose of the postal vote and the voting procedure to be followed by the member; and a postal voting form containing details of the resolution being put to a vote, or of the candidates for election, as applicable.

(d) The voting procedure must require all forms returned by post to be in an envelope with the member's name and signature, and nothing else, on the outside, inside another envelope addressed to 'The Scrutineers for [name of CIO]', at the CIO's principal office or such other postal address as is specified in the voting procedure.

(e) The voting procedure for votes cast by email must require the member's name to be at the top of the email, and the email must be authenticated in the manner specified in the voting procedure.

(f) Email votes must be returned to an email address used only for this purpose and must be accessed only by a scrutineer.

(g) The voting procedure must specify the closing date and time for receipt of votes, and must state that any votes received after the closing date or not complying with the voting procedure will be invalid and not be counted.

(h) The scrutineers must make a list of names of members casting valid votes, and a separate list of members casting votes which were invalid. These lists must be provided to a charity trustee or other person overseeing admission to, and voting at, the general meeting. A member who has cast a valid postal or email vote must not vote at the meeting, and must not be counted in the quorum for any part of the meeting on which he, she or it has already cast a valid vote. A member who has cast an invalid vote by post or email is allowed to vote at the meeting and counts towards the quorum.

(i) For postal votes, the scrutineers must retain the internal envelopes (with the member's name and signature). For email votes, the scrutineers must cut off and retain any part of the email that includes the member's name. In each case, a scrutineer must record on this evidence of the member's name that the vote has been counted, or if the vote has been declared invalid, the reason for such declaration.

(j) Votes cast by post or email must be counted by all the scrutineers before the meeting at which the vote is to be taken. The scrutineers must provide to the person chairing the meeting written confirmation of the number of valid votes received by post and email and the number of votes received which were invalid.

(k) The scrutineers must not disclose the result of the postal/email ballot until after votes taken by hand or by poll at the meeting, or by poll after the meeting, have been counted. Only at this point shall the scrutineers declare the result of the valid votes received, and these votes shall be included in the declaration of the result of the vote.

(l) Following the final declaration of the result of the vote, the scrutineers must provide to a charity trustee or other authorised person bundles containing the evidence of members submitting valid postal votes; evidence of members submitting valid email votes; evidence of invalid votes; the valid votes; and the invalid votes.

(m) Any dispute about the conduct of a postal or email ballot must be referred initially to a panel set up by the charity trustees, to consist of two trustees and two persons independent of the CIO. If the dispute cannot be satisfactorily resolved by the panel, it must be referred to the Electoral Reform Services. Use of electronic communications

(2) To the CIO Any member or charity trustee of the CIO may communicate electronically with the CIO to an address specified by the CIO for the purpose, so long as the communication is authenticated in a manner which is satisfactory to the CIO.

(3) By the CIO

(a) Any member or charity trustee of the CIO, by providing the CIO with his or her email address or similar, is taken to have agreed to receive communications from the CIO in electronic form at that address, unless the member has indicated to the CIO his or her unwillingness to receive such communications in that form.

(b) The charity trustees may, subject to compliance with any legal requirements, by means of publication on its website:

(i) provide the members with the notice referred to in clause 19(2) (Notice of general meetings);

(ii) give charity trustees notice of their meetings in accordance with clause 15(1) (Calling meetings); [and Notes 30

(iii) submit any proposal to the members or charity trustees for decision by written resolution or postal vote in accordance with the CIO's powers under clause 18 (Members' decisions), 18(4) (Decisions taken by resolution in writing), or [[the provisions for postal voting]

(c) The charity trustees must –

(i) take reasonable steps to ensure that members and charity trustees are promptly notified of the publication of any such notice or proposal; and

(ii) send any such notice or proposal in hard copy form to any member or charity trustee who has not consented to receive communications in electronic form.

This page is intentionally left blank

Annex 2



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 www.york.gov.uk/assetsofcommunityvalue or alternatively call 01904 553360.

Section 1

About the property to be nominated

Name of Property:	The Victoria Vaults
Address of Property:	47 - 49 Nunnery Lane, York
Postcode:	YO23 1AB

Property Owner's Name:	Appleton Estates Limited ((Co. Regn. No. 03083571)
Address:	<input type="text"/>
Postcode:	<input type="text"/>
Telephone Number:	<input type="text"/>
Current Occupier's Name:	<input type="text"/>

Section 2

About your community organisation

Name of Organisation:	Campaign For Real Ale Limited (York Branch)
Title:	<input type="text"/>
First Name:	<input type="text"/>
Surname:	<input type="text"/>
Position in Organisation:	Pub Protection Officer
Email Address:	<input type="text"/>
Address:	<input type="text"/>
Postcode:	<input type="text"/>
Telephone Number:	<input type="text"/>

Organisation type:

Click in field for options

COMPANY LIMITED BY GUARANTEE

Organisation size

How many members do you have?

1152

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.

See separate accompanying document: Why The Victoria Vaults 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.

Plan included as part of the accompanying document plus sales brochure with a floor 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: 18/10/24

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 Victoria Vaults is an Asset of Community Value

The Victoria Vaults (aka York Vaults) is community based music venue trading in a thriving area of York known as Bishophill.

It is widely known to musicians and concert goers as a grassroots music venue located 5 minutes from the centre of York, opposite the historic city walls and a brief walk away from the railway station.

It is not part of a pub chain but is a completely independent venue dedicated to providing a platform for new and upcoming musical artists. It is an ideal size for bands to play – holding enough people to make gigs financially viable but not too large that smaller bands may not be able to fill it.

Having gone through an extensive refurbishment which changed the floorplan to be more gig-friendly, it is at the heart of York's vibrant and diverse music scene providing the best live experience an independent venue can offer, with up and coming bands, great sound, friendly staff, and quality drinks. The pub appeals to different social groups by offering an alternative to other amenities in the area that appeal to other demographics and tastes. It hosts over 150 gigs a year encompassing a diverse range of musical genres.

Its significance to the cultural life of the city has been acknowledged both nationally and locally.

The government and Arts Council England gave it huge validation when they awarded it £92,244 from the Cultural Recovery Fund.

Additionally the City of York Council awarded it a grant of £16,000 saying that the grant "supports City of York Council's standpoint that a thriving, vibrant, diverse and responsibly managed early-evening, evening and night-time offer is a crucial part of the city's economy. It also places emphasis on the council's commitment to live music venues in the city, recognising them as an integral part of York's economy."

The current owners have made no secret that their plans for the Victoria Vaults include its disposal and no long term future as a music venue. It is marketed as "Freehold For Sale" (offers over £440,000) but the owners have added that there is an "excellent medium term redevelopment opportunity, subject to planning" which is specifically designed to attract developers and they have taken it a step further in commissioning plans to show the redevelopment of the entire building, subject to full planning permission, to form 3 individual residential townhouses. The proposed residential conversion plans are available upon request.

There are numerous examples in York of lost community venues that have fallen prey to developers who care little for the social and cultural benefits such institutions bring to local neighbourhoods and The Victoria Vaults should be protected from going the same way.

The reasons why The Victoria Vaults should be made an Asset of Community Value can be summarised thus:

Cultural Significance

Musical Heritage: The Victoria Vaults has a long history of hosting live music, contributing to the city's cultural heritage.

Local Talent: It provides a platform for local musicians to showcase their talents and develop their careers.

Community Hub: It serves as a gathering place for people of all ages and backgrounds, fostering a sense of community.

Economic Benefits

Job Creation: It supports local jobs in the music industry, hospitality, and retail sectors.

Tourism Attraction: Certain higher profile bands it puts on attracts musical tourists to the city, boosting the local economy.

Property Values: The presence of a music pub can positively impact property values in the surrounding area by up to 10% according to research and can certainly enhance the area's attractiveness as a place to live with a rich and varied cultural offering – such as the nearby Bishy Rd and Bishophill areas.

Social Value

Safe Space: The Victoria Vaults is known for providing a safe and welcoming environment for people to socialise and enjoy live music.

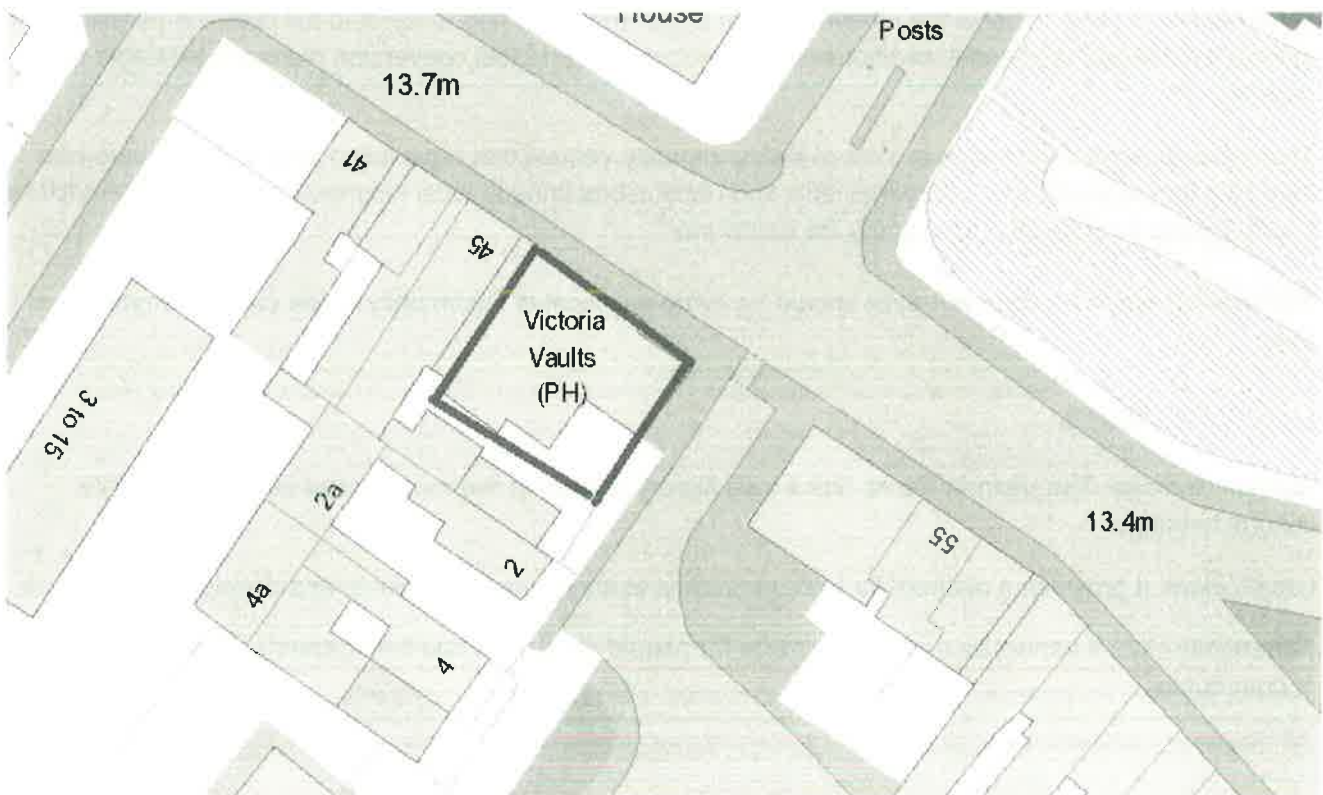
Community Building: It helps to strengthen community bonds and prevent social isolation.

Preservation of Local Character: The Victoria Vaults dates back to 1857 as a public house and brewhouse and was rebuilt circa 1935 in its current form. Places such as this are integral to the character and identity of a city such as York. Its loss would erode our heritage.

In Summary

The Victoria Vaults is a valuable asset that enhances the cultural life of York and the social wellbeing and interests of the local community, that they want to protect and cherish - not just for current patrons, but as a venue with the right management, that will serve future generations.

VICTORIA VAULTS INDICTIVE BOUNDARY – including external small enclosed beer garden.



FREEHOLD FOR SALE

THE VICTORIA VAULTS



**47 - 49 NUNNERY LANE
YORK
NORTH YORKSHIRE
YO23 1AB**

- Available with the benefit of an existing tenancy until 30th June 2025 or with full vacant position upon completion.
- Located midway between Bishopthorpe Road (Bishy Road) and Micklegate Bar directly opposite the City walls and Bishophill residential district of the city.
- Currently used as a live music venue
- Full 7 days a week license
- Excellent medium term redevelopment opportunity, subject to planning, with low capital value of circa £145 per Sq Ft / £13.47 per SqM on a GIA basis.

LOCATION AND SITUATION

The subject property is situated with frontage to the South side of Nunnery Lane and occupies an end of terrace position at its junction with St Benedict Road, directly opposite the historic city walls of York and less than half a mile due West of York city centre. Nunnery Lane forms part of the York inner city ring road with the subject property sitting virtually midway between the established retail & leisure destinations of Bishopthorpe Road and Micklegate.

DESCRIPTION

The subject premises comprise a substantial 2 storey end terrace building which trades as "The Victoria Vaults" Public House.

Constructed we would estimate at or around the 1930s the premises are of brickwork wall elevations extending to 2 storeys in height, with a parapet roof detail, surmounted by a hipped and pitched slate covered roof, with windows being softwood timber style with a mixture of casement and sash openers complete with feature banding detail to the brickwork wall elevations and low level painted feature courses in addition to further single and 2 storey rear additions.

Access to the public house can be achieved via 3 separate doors to the Nunnery Lane frontage or via a door to the rear, the latter which via a lobby provides access to the lounge bar to the right-hand side and a public bar to the left hand side, with the ground floor also accommodating male and female wc facilities and storage ancillary accommodation. The bars are fitted to a basic standard appropriate for use, with a mixture of solid concrete and suspended timber floors with carpet overlay, a mixture of carpet and sheet vinyl overlay, plastered and wall papered wall surfaces and plastered ceilings and surface mounted spot lighting. Both trading areas benefit from fully fitted timber bars and parameter seating and tables and chairs, gas central heating, supplemented by real fires, with the standard of fitment evidenced on the photographs attached to the rear of this report section.

Further the property benefits from a basement which occupies the majority of the footprint of the building and incorporates a wet cellar and a number of storage rooms with reasonable floor to ceiling height, together with direct barrel shute from pavement level.

The first floor residential accommodation is accessed via a straight flight timber staircase from the rear lobby, with this accommodation providing for a substantial 3 bedroomed, 2 bathroom flat, complete with private roof terrace.

Internally the residential accommodation has been fitted to provide for a suspended timber floor with carpet overlay in the majority, plastered and decorated wall and ceiling surfaces, gas central heating and fitted kitchen and bathrooms.

Externally the property has direct frontage to Nunnery Lane, with return frontage to St Benedict Road which provides a point of vehicular access with parking for a number of motor vehicles and tarmac surfaced, thereafter via private gates access into the rear courtyard which provides for further public seating.

ACCOMMODATION

	Use	Area Sq M	Area Sq Ft
Ground Floor	Bar Lounge	49.52	533
Public House	Public Bar	44.50	479
	Entrance Lobby	-	-
	Gents WC	-	-
	Ladies WC	-	-
	Store	-	-
Basement	Wet Cellar	15.39	166
	Various Stores	46.40	500
Sub Total		155.81	1,678

	Use	Area M
First Floor	Living Room	5.35 x 5.36
Residential	Kitchen	3.34 x 2.87
	Pantry	2.14 x 1.37
	Office	2.00 x 1.65
	House Bathroom	-
	Separate WC	-
	Use	Area M
First Floor	Bedroom 1	4.87 x 2.97
Residential	Bedroom 2	2.82 x 3.75
	Bedroom 3	5.40 x 3.40
	En-suite Bathroom	-
External	Outside Terrace	-
Sub Total		105 Sq M / 1,130 Sq Ft
TOTAL		260.81 Sq M / 2,808 Sq Ft

SERVICES

Main water, electricity & gas

TENURE

Freehold

TENANCY

The entire building is currently let on a full repairing and insuring lease for a term of years to expire 30 June 2025 at a current passing rent of £17,500 per annum exclusive. A copy of existing lease is available upon request.

PRICE

Offers are sought in excess of £440,000 either with the benefit of the existing tenancy or with full vacant possession upon completion of the purchase.

REDEVELOPMENT OPPORTUNITY

The current owners have prepared plans to show the redevelopment of the entire building, subject to full planning permission, to form 3 individual residential townhouses. The proposed residential conversion plans are available upon request.

BUSINESS RATES

In accordance with the Valuation Office web site the premises have a current rateable value of £2,300 as of 1st April 2023.

EPC

The premises have an energy performance rating of 62 C. A full copy of the Energy Performance Certificate is available upon request.

VAT

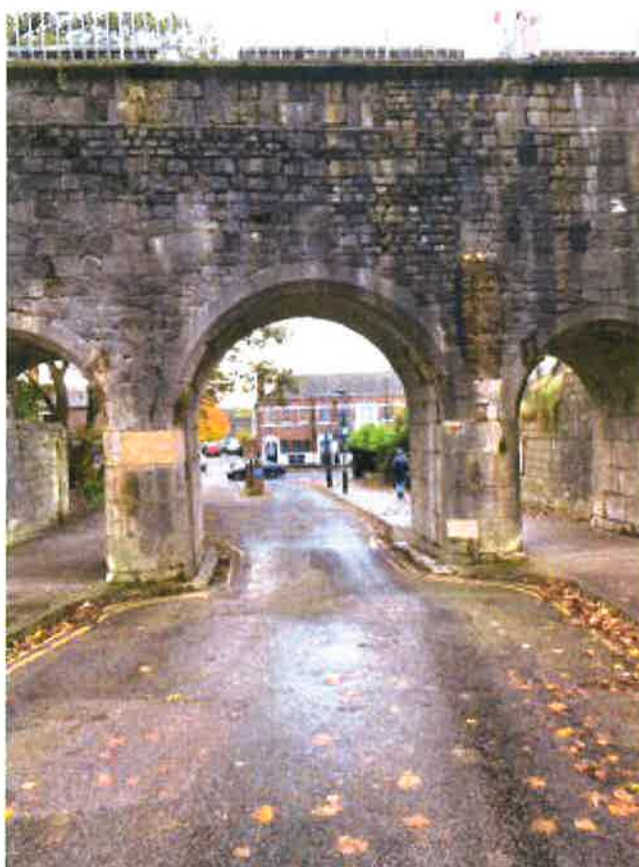
The property is elected for VAT and therefore VAT will be payable on the purchase price.

AML

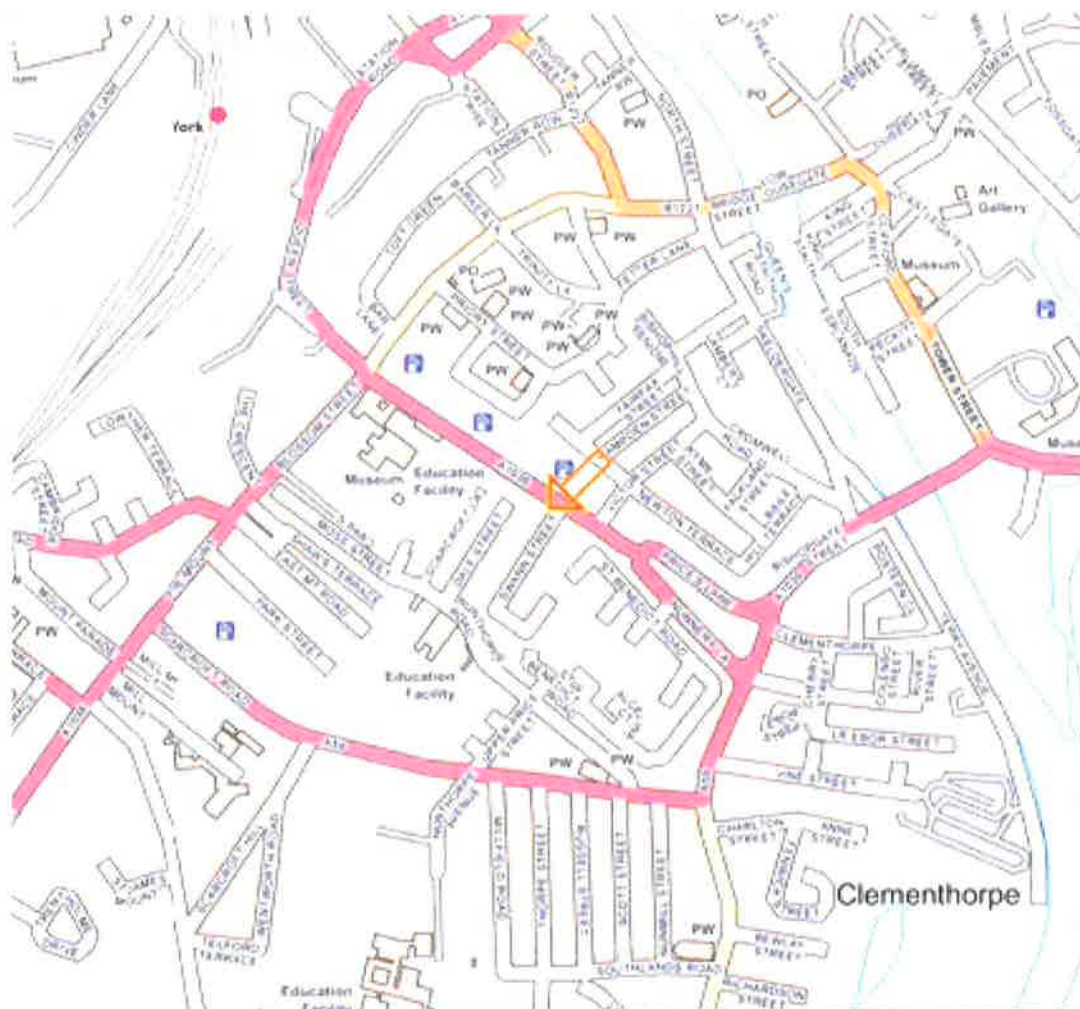
The successful purchaser will be required to provide the relevant information to satisfy the AML requirements when the heads of terms are agreed.

FURTHER INFORMATION

CARTER TOWLER
01904 217 941







IMPORTANT NOTICE RELATING TO THE MISREPRESENTATION ACT 1967 AND THE PROPERTY MISDESCRIPTION ACT 1991

Carter Towler, on their behalf and for the sellers or lessors of this property whose agents they are, give notice that : (i) These particulars are set out as a general outline only for the guidance of intending purchasers or lessees and do not constitute, nor constitute part of, an offer or contract; (ii) All descriptions, references to condition and necessary permissions for use and occupation and other details are given in good faith and are believed to be correct but any intending purchasers or tenants should not rely on them as statements or representations of fact but must satisfy themselves by inspection or otherwise as to the correctness of each of them; (iii) No person employed by Carter Towler has any authority to make or give any representation or warranty in relation to this property. Unless otherwise stated prices and rents quoted are exclusive of VAT. The date of this publication is November 2023. For information on our Privacy Policy please visit our website - www.cartertowler.co.uk

We the undersigned wish to nominate **The York Vaults, 47-49 Nunnery Lane, York YO23 1AB** to be listed as an Asset of Community Value (ACV) by City of York Council

[illegible]

We the undersigned wish to nominate **The York Vaults, 47-49 Nunnery Lane, York YO23 1AB** to be listed as an Asset of Community Value (ACV) by City of York Council

NAME	ADDRESS	SIGNATURE
------	---------	-----------

--	--	--

--	--	--

--	--	--

De

We the undersigned wish to nominate **The York Vaults, 47-49 Nunnery La.**
YO23 1AB to be listed as an Asset of Community Value (ACV) by City of York C.

TURE


[illegible]

D. PAUL.

A hand-drawn diagram of a triangle is visible on the right page, with some scribbles and lines around it.

We the undersigned wish to nominate **The York Vaults, 47-49, Nunnery Ln, York YO23 1AB** to be listed as an Asset of Community Value (ACV) by City of York Council

NAME	ADDRESS	SIGNATURE
------	---------	-----------

[illegible]

Victoria Vaults Pub, Nunnery Lane

The Pub was let on a 30 year full repairing and insuring lease with 5 yearly rent reviews at an initial rental of £25,000 pa on a Tied House basis

Appleton Estates acquired it in 2013 subject to the existing lease and allowed the tenant to trade free of Tie so it became a Free House. It operated as a pub but with occasional live music performances

In 2017 the original tenant sought to dispose of his lease as he was looking to retire from the trade

A new tenant acquired the lease and decided to concentrate on it being a music venue

The rental was reduced to £17,500 pa to help the tenant. During Covid restrictions the tenant applied for and successfully received in excess of £90,000 in a grant from the Government

The current tenant took responsibility for The Victoria Vaults in 2022

Approximately 16 months ago the tenant asked whether he could surrender his lease as he was losing considerable sums of money per month

The current tenant has compiled a history of the pubs trading which clearly shows that the fickle nature of live music venues in York is unsustainable for small venues

There are currently over 40 Live Music venues in York all competing against each other and it is therefore obvious that the market is over supplied with venues (list attached)

We subsequently instructed Lawrence Hannah (now Carter Towler) to market the freehold with the benefit of the existing lease or with vacant possession, the latter enabling the tenant to walk away from his lease responsibilities

The extensive marketing activity and list of interested parties has been compiled by our agent (letter attached) but no offers were received on either basis

In the last two months an offer was received to purchase the property on an unconditional basis and with vacant possession. This has been accepted and contracts exchanged, allowing the tenant to surrender his lease and alleviate his ongoing responsibilities

This clearly illustrates that small music venues are wholly unsustainable even at a reduced market rent and with government help during the pandemic. With no offers being received from music venue or pub operators during the extensive marketing, the prospect of continued music venue use is wholly unrealistic

The local community has failed to support the Victoria Vaults as too many other opportunities exist close-by and throughout the City

Victoria Vaults, 47-49 Nunnery Lane, York, YO41 5QS

Info for York Council

The Vaults has made a loss every year after the grants stopped and the business has never properly recovered. Prior to Covid the business barely broke-even making a profit of about £50 per month.

After Covid and the war in Ukraine the cost of Utilities sky-rocketed. Our electric bills went from £550 per month to over £2000 per month. The highest I recall was £2400 for one month!

Attendance numbers did not recover after Covid, and since the cost of living crisis, the spend per head has fallen from £20 per head to £10 per head on average.

Typically the bar-take needs to be 5 - 6 times the cost of the band. As a guide, the break-even point is at about 5 times the cost of the band. So, a band costing £300 requires a bar take of 1,500 to break even.

Break Even Figure

Bar take £1500 from 75 attendees @£20per head bar spend

Costs

VaT £250

cost of Alcohol £420

Staff at £150

Band £300

Total costs £1120, leaves £380 towards O/Head

Reality – Typical Event

Bar take £770 from 75 attendees @ £10.25/head bar spend

Costs

VaT £130

cost of Alcohol £215

Staff at £150

Band £300

Total costs £795, leaves £25 loss on gross margin and no contribution to O/Head

The above is aggravated by many customers coming in to watch bands and only drinking water rather than buying drinks. This obviously negatively affects turnover. Also affecting turnover is bands pulling gigs at the last minute because they have low ticket sales leaving us having to close for a night. It isn't possible to replace a band at such short notice and promote it adequately.

All the above makes the Venue unsustainable as a business. It has made a loss every year in spite of us personally funding many of the events ourselves in the sum of £31,000 over the last 2 years.

We have inherited a £40-£50,000 dilapidation bill accumulated over various previous managements.

This has kindly been waived by the Landlord due to the sale of the freehold.

In the course of our tenure we have replaced the roof to the gent's toilets plus considerable redecorating, works to the plumbing, sound proofing and the electrics and fire alarm system.

To improve the venue we combined the saloon and public bars by moving the servery to the side of the space. This gave a single large space for the audience. We extended the dance floor and we raised and extended the existing stage and installed a lighting rig.

We also bought new furniture for internal and external areas and put in a Beer Garden to provide outside space with heaters.

We made improvements to the beer chillers by moving the evaporation units outside of the cellar to reduce the heat load on the cellar cooler which reduced the electric consumption.

We also rectified a problem with the cellar cooler to further reduce the electric consumption.

The savings that we made were more than eaten up by the increased running costs as per 2nd paragraph.

We tried opening during the day to provide a community pub and thereby increase revenue, but very few customers made use of the facility. The cost of staff far exceeded the income.

In Summary

The reality is that the Vaults location is too far from Bishy Road, and also too far from the city centre, to attract passing trade. People ONLY come to the Vaults to see bands. We open the doors at 7pm but, in the main, customers arrive just before the main band starts and leave immediately after they finish, presumably so they can spend less money at the gig. We have tried putting on DJ's after the bands but it is not possible to hold the crowd.

The Vaults has not been supported by the Community as there are 40 other different Live Music Venues for them to choose from in the City. The combination of an excess of music venues and the pubs location together with the continuing downturn and pressure on disposable income has made it totally unsustainable

LIVE MUSIC VENUES

(As compiled from "Whats Occurring in York" website)

York Barbican	Paragon Street
Grand Opera House	Clifford Street
Blue Bear	Castlegate
O'Neills	Low Ousegate
The Snickleway	Goodramgate
Cross Keys	Goodramgate
Bootham Tavern	Bootham
Forty Five Vinyl Café	Micklegate
The Terrace	New Street
Crooked Tap	The Green, Acomb
Red Lion Inn	Boroughbridge Rd, Upper Poppleton
The Gillygate	York
The Three Legged Mare	High Petergate
The White Horse	Bootham
The Black Horse	Monkgate
The Edinburgh Arms	Fishergate
Severus Social Club	Milner Street, Acomb
Hi Ho Club	Kings Square
National Centre for Early Music	Walmgate
Dringhouses Sports Club	St Helen's Road
The Stonebow	Stonebow
Golden Fleece	Pavement
Hole in the Wall	High Petergate
Ye Old Shambles Tavern	Shambles
Crescent Community Venue	The Crescent
Royal Oak	Goodramgate
Fulford Arms	Fulford Road
Black Swan Inn	Peasholme Green
The Phoenix	George Street
Golden Ball	Cromwell Street
Cat in the Wall	The Stonebow
The Habit	Goodramgate
Three Tuns	Coppergate
Kennedys	Little Stonegate
Golden Slipper	Goodramgate
The Falcon	Micklegate
The Old Bank	Lendal
Roman Bath	St Sampsons Square
The Hop	Fossgate
Last Drop Inn	Colliergate
Kuda	Clifford Street
Dusk	New Street



Appleton Estates Limited



13th November 2024

Dear

Victoria Vaults, 47-49 Nunnery Lane, York

I write further to your request to provide a summary of the marketing activity undertaken by me through Lawrence Hannah Limited and Carter Towler Ltd over the last 15 months associated with the above building.

You have asked for the following information, which I have highlighted below.

- Duration property has been on the market
- Details of the marketing campaign
- Details of offers received and feedback provided

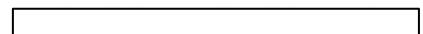
Duration the Property has been on the Market

Lawrence Hannah Ltd were first instructed by Appleton Estates Limited in late summer 2023 to promote the availability of the subject building on a freehold basis either with the benefit of the existing tenancy or with full vacant possession. The latter being as a direct result of the existing tenant's express desire to bring their tenancy agreement to a premature end for commercial and economic reasons, through direct discussions with you. Clearly, we would not be able to offer the option of vacant possession without the sitting tenant's full support. The existing tenant we understand had made some attempts to trade his lease as a going concern, but no 3rd party interest materialised.

Following the merger of the agency functions of Lawrence Hannah with Carter Towler Ltd in midOctober of 2023, this instruction was then switched to the aforementioned and continued to be managed by me in my capacity of heading their new York office. Lawrence Hannah Ltd then voluntarily ceased trading in late October 2023. The property has continually and without interruption been on the

Tower House, Fishergate, York YO10 4UA tel:

01904 217 941



www.cartertowler.co.uk

Carter Towler Surveyors is the trading name of Carter Towler Limited, registered in England and Wales (No.8560072).
A list of Directors is open to inspection at our Registered Office | Apsley House, 78 Wellington Street, Leeds, LS1 2EQ

Regulated by RICS



open market up until the point where acceptable terms were mutually agreed between Appleton Estates Limited and the existing tenant to sell the property with vacant possession in late September 2024.

Details of Marketing Campaign

From late June 2023 standard "in house" marketing details were produced by my old business Lawrence Hannah Ltd and widely/regularly circulated to the appropriate local, regional and national commercial & leisure property consultants, principally through PIP Distribution which Lawrence Hannah then subscribed to. Following the appointment of Carter Towler in October 2023, new marketing details were produced and again widely and regularly circulated through various specialist online information distribution business's including EACH (Estate Agents Clearing House) which also covers off all the principal national regional and local specialist Licence Premises property specialist agencies, Christie & Co, Fleurets and locally Barry Crux & Co for example. In addition to the circulation of the marketing details once a property is listed on the Carter Towler web-site it is automatically uploaded to the principal property platforms of LoopNet, Realla/CoStar, Zoopla, Primelocation etc, to mention a few.

Details of offers received and feedback provided

From the beginning of the marketing up until the hand over of the instruction in October 2023 to Carter Towler, no real interest had emerged. We had one inspection from an individual looking to run the building as a licenced premises but following that inspection no further interest was shown.

In late 2023 there were further inspections, none of which were interested in retaining the existing tenant..

In March 2024 following your approval we dropped the quoting and listed price of the property and again the details were widely distributed and re-listed on the various online property platforms.

We then had some initial interest from Ossett Breweries (who have both the Fox & Hounds on Holgate Road & The Hopp on Fossgate). Following their inspection of the premises and further subsequent due diligence on the potential trading performance of the building and location, this interest fell away without an offer, at any price. Further general enquires were received from a number of other local independents including the owners of The Three Legged Mare on High Petergate, who we know own another licenced premises in central York. Again following further scrutinization of the potential trading performance of the location and costs associated with re-fitting this interest did not materialise in any further action.

We were contacted in April of this year from an on-line enquiry by [redacted] the venue manager & promoter for The Crescent Community Venue to inspect the premises but again this came to nothing despite several attempts to follow this initial enquiry up. It is worth noting that this applicant on his enquiry details is listed as the Co-Chair of the York Music Venue Network, which naturally leads me to believe that as a continued live music venue opportunity, it was not of any interest to him or members of his network.



Throughout the year we have had sporadic interest and inspections. In the main these have been from individuals who work in the pub & licenced sector however they have appeared to either not been able to raise any finance for this opportunity or just drifted onto other potential opportunities to run a pub.

After a considerable amount of time and effort over the past 15 months I am pleased we are now in a position to conclude an unconditional sale of the property with vacant possession

I trust the above summary is sufficient for your immediate purposes but if you require any further information, please do not hesitate to contact me.

Kind regards



All correspondence is subject to contract and without prejudice unless otherwise stated.



Our Ref: JH/JH/62338

City of York Council

By Email Only:

15 November 2024

Dear Sirs,

Re: Application to register the Victoria Vaults and 47-49 Nunnery Lane, York as an Asset of Community Value.

We write further to asset of community value nomination relating to the Victoria Vaults at 47-49 Nunnery Lane, York.

We are the proposed purchasers of the Property. We think it is prudent to begin with the point that had we known that the Property was an ACV or was to be an ACV we would not have showed interest in the Property.

We are currently contractually bound to complete this purchase, however, as we had exchanged contracts for the purchase of the Property before the nomination.

We are therefore compelled to complete and have no other choice but to dispute this nomination.

If the Property is registered as an ACV we will be applying to the First Tribunal for compensation. The Property is opted to tax. We had served the sellers with a VAT1614D form to evidence our intention to develop the Property. This disapplied the VAT on our purchase. If due to the Property being registered as an ACV we are unable to apply for planning permission or planning permission is rejected, we will be applying to recover the amount of VAT as compensation should HMRC decide to recover the same.

Whilst we are now compelled to complete the transaction, we are left with no other choice but to dispute the nomination for an ACV. We believe the ACV should be refused on the following grounds:

Newcastle Office
Floor 5, 18-24 Grey Street
Newcastle Upon Tyne
NE1 6AE
T. 0191 232 8451
E. admin@samuelphillips.co.uk

Fax: 0191 261 0405
Newcastle upon Tyne
samuelphillips.co.uk



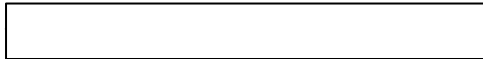
1. It is clear from the Victoria vaults Facebook page that the Pub has been struggling for some time now.
2. The Property has been listed for a significant time before we had agreed to purchase. The letters from Carter Towler suggests that there was hardly any interest, and the sellers had to reduce their guide price because of this.
3. We do not believe that It is 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. We understand that the Property/business has changed ownership many times since 2000. It is evident that everyone who had tried running it has struggled. We also understand that the closure of the property and business artists and gig-goers will be going to other pubs and bars within proximity. We understand a list of all the pubs within the locality has been provided.
4. We understand that the property has received numerous funding for the purposes of renovation and propping up of the business but unfortunately there was not enough support from local people. The vaults Facebook page is littered with posts confirming the cancellation of events due to low ticket sales.
5. The applicant has made no indications as to:
 - a. Whether those voting to list this as an ACV would support an offer to bid for the property.
 - b. They would use the Property for something else which would benefit the those within the locality given that a public house is not of demand within the locality and especially given that there are alternatives within close proximity.
6. The application seems subjective as they make reference to properties falling “prey” to developers. We are spending our money to provide housing for those within the locality and especially where there is rising homelessness and shortage of housing. Councils will have to deal with this in other ways by dealing with homelessness and funding developments by way of affordable housing.
7. The applicants have claimed the following economic benefits:
 - a. **Job Creation** – the previous owners were struggling and had agreed to surrender their lease. They wanted to vacate for some time and were struggling to keep the business running. The continuation would have resulted in redundancies and possibly bankruptcies.

- b. **Property Value** – The property was falling in disrepair. The Tenant was struggling and the Landlord did not want to put more money into the Property. If left it would dilapidate and reduce the property values within the vicinity.
- c. **Tourist Attraction and Preservation of Local Character** – We are hoping to keep the external parts of the property to maintain the character of the Property whilst splitting the property down, subject to architects comments.
- d. **Community Building** – The development of further houses will increase the size of the community.
- e. **Social Value** – Please see Annex A for the number of pubs within the vicinity and that are a stone throw away.

Yours faithfully,



Samuel Phillips Law



Annex 5 - Current list of Assets of Community Value

1. The Golden Ball Public House, 2 Cromwell Road, York, YO16 6DU - approved 6th March 2014. Renewed on 19th September 2024.
2. New Earswick and District Bowls Club, Huntington Road, York, YO32 9PX – approved 6th November 2014. Renewed on 24th July 2020.
3. Holgate Allotments, Ashton Lane, Holgate, York, YO24 4LX – approved 29th June 2015. Renewed on 14th February 2022.
4. The Derwent Arms, 29 Osbaldwick Village, Osbaldwick, YO10 3NP – approved 14th March 2016. Renewed on 11th April 2022.
5. The Jubilee Hotel Public House, Balfour Street, York, YO26 4YU – approved 11th July 2016. Renewed 14th June 2021.
6. The Blacksmiths Arms, Naburn York, YO19 4PN – approved 12th September 2016. Renewed on 12th September 2022.
7. Holgate Community Garden and Play Park, Upper St Paul's Terrace, York, YO24 4BS. – approved 12th September 2016
8. The Grey Horse Public House, Main Street, Elvington, York, YO41 4AA – approved 11th July 2022.
9. The Deramore Arms Public House, Main Street, Heslington, York, YO10 5EA. – approved 13th March 2017. Renewed on 12th October 2023.
10. The Carlton Tavern Public House, 104 Acomb Road, York, YO24 4HA – approved 10th April 2017.
11. The Royal Oak Public House, 1 Main Street, Copmanthorpe, York, YO23 3ST. – approved 11th July 2022.
12. The Blue Bell Public House, 53 Fossgate, York, YO1 9TF. – approved 17th October 2017. Renewed on 19th September 2024.
13. New Earswick Swimming Pool, Hawthorne Terrace, New Earswick, YO32 4TZ. - approved 12th March 2018.
14. Strensall Library, 19 The Village, Strensall, York, YO32 5XS. – approved 9th April 2018. Renewed 12th October 2023.
15. The Garrison Church of St Wilfrid, St Wilfrid's Road, Strensall, York, YO32 5SJ. – approved 17th September 2018. Renewed 12th October 2023.

16. Hurst Hall Community Centre, Border Road, Strensall Camp, York, B757RL. – approved 15th July 2019. Renewed 19th September 2024.
17. The Lord Nelson Public House, 9 Main Street. Nether Poppleton , York, YO26 6HS. – approved 16th September 2019.
18. The Blacksmiths Arms Public House, Shipton Road, Skelton, York, YO30 1YJ. – approved 16th September 2019.
19. The car park at rear of the former Murton Arms Public House, Main Street, Murton, York, YO19 5UQ. – approved 24th July 2020.
20. The Ship Inn Public House, Hauling Lane, Acaster Malbis, York, YO23 2UH. – approved 19th December 2022.
21. The Rose and Crown Public House, Main Street, Askham Richard, York, YO23 3PT. – approved 10th July 2023.
22. Vernon House, Vernon Close, Bishopthorpe, York, YO23 2RH. – approved 10th July 2023.