

## Officer Delegated Decision

<b>Report Title:</b>	Asset of Community Value Nomination – YMCA North Camp, Lakeside, Ulverston LA12 8BD
<b>Date of Decision:</b>	2.11.23
<b>Decision-Maker:</b>	David Haughian - Assistant Director – Community Infrastructure Tracey Ingham – Assistant Director – Safe and Strong Communities
<b>Report Author:</b>	Tom Dugdale – Case Management Officer, Planning Policy
<b>Cabinet Member:</b>	Virginia Taylor
<b>Wards Affected?</b>	Coniston and Hawkshead
<b>Public, Part Exempt, Fully Exempt</b>	Public
Identify exempt information and exemption category	
<b>List of Appendices</b> (if any)	1. YMCA North Camp_Lakeside_ACV Nomination Form 2. YMCA North Camp_Lakeside_ACV Nomination Additional Information 3. YMCA North Camp_Lakeside_ACV Location Plan 4. YMCA North Camp_Lakeside_ACV Assessment Form

### 1. Purpose & Executive Summary

- 1.1 Entry of part of YMCA North Camp, Lakeside onto the list of successful nominations of Assets of Community Value.
- 1.2 Entry of part of YMCA North Camp, Lakeside onto the list of unsuccessful nominations of Assets of Community Value.

### 2. Recommendation(s)

- 2.1 For the reasons set out in the report, the Assistant Directors are recommended to –

2.1.1 Agree that part of YMCA North Camp, Lakeside, **outlined in red** on the plan attached, be entered on to Westmorland & Furness Council's list of **successful** nominations of Assets of Community Value.

2.1.2 Agree that part of YMCA North Camp, Lakeside, **outlined in blue** on the plan attached, be entered on to Westmorland & Furness Council's list of **unsuccessful** nominations of Assets of Community Value.

### **3. Background to the Proposal Information:**

- 3.1 A nomination to list YMCA North Camp, Lakeside as an asset of community value was submitted by South Windermere Sailing Club (SWSC) on 19 July 2023.
- 3.2 SWSC is a not for profit private members organisation. In accordance with s89(2)(b)(iii) of the Localism Act 2011, SWSC are eligible to make a community nomination as an unincorporated body that is non-profit distributing with a local connection to the asset.
- 3.3 YMCA North Camp is owned by YMCA Trust (Company number 10764579). SWSC are a paying tenant of YMCA Trust at the property, by virtue of a lease dated 23 December 2021. The area of the site covered by the lease is outlined in red on the attached plan. The asset was advertised and marketed for sale week commencing 17 April 2023.
- 3.4 Section 88 of the Localism Act 2011 sets out those uses of land which may result in a property being considered as an asset of community value. They are uses that are non-ancillary and that further (or have recently furthered) either the social wellbeing or social interests of the local community. In the case of YMCA North Camp, it appears that the main, non-ancillary use of the asset is that of an outdoor pursuits/education centre provided by Fylde Coast YMCA.
- 3.5 The nomination states that in recent years, in addition to this use, the asset has also been used by five other organisations, including SWSC. The nomination states that SWSC occupies the north section of the site (6% of the total site area), and offers sailing and social activities to its members (currently 225). It states that the other businesses operating from the site also offer public sport and food activities to the community. The West Windermere Way (Public Right of Way) runs through the land, with a public footpath linking this to the public jetty.
- 3.6 It is apparent from the above that the asset has more than one use, and therefore it is necessary to consider whether SWSC's use is ancillary to the assets main use. Having considered the facts in this particular nomination SWSC's use is not considered to be supplemental to nor supportive of the

YMCA's use and is therefore not an ancillary use. The evidence provided by SWSC indicates that their use of the asset is primarily concentrated to the area of the site which they lease (outlined in red on the attached plan). The evidence provided indicates that YMCA primarily uses the remaining area of the site (outlined in blue on the attached plan).

- 3.7 The nomination states that the asset provides outdoor education services to young people, providing an opportunity for individuals, families and groups to access Lake Windermere, enabling affordable and fun learning activities. The representation submitted on behalf of the owner states that the activities provided by YMCA are carried out on a regional footprint, rather than being directed towards the local community. The evidence provided by SWSC suggests that the use of the part of the site outlined red on the attached plan could be seen to benefit the local community, however there is little evidence to suggest that the use of the remainder of the site (outlined blue on the attached plan) does so.
- 3.8 The nomination provides evidence of how the facilities and activities offered by SWSC might further the social wellbeing or social interests of the local community, such as reducing isolation, addressing the needs of disadvantaged members of the community and offering access to positive activities. As these activities are mostly undertaken within the part of the site outlined in red on the attached plan, it could be said that this part of the site furthers the social wellbeing and interests of the local community. SWSC have stated that they do, on occasion use the facilities in the part of the site outlined blue on the attached plan. However, it can be seen from the evidence provided that this part of the site is mainly used by YMCA, whose activities are focussed on those from outside the local area, and not the local community.
- 3.9 The nomination states that the site feels like one of the last areas around Windermere that is available for the local community to access the lake in an affordable way, where they can appreciate nature and engage in positive activities in a safe and social environment. It states that while YMCA will still operate from their South Camp (immediately south of the land being nominated), primarily for young people, the diverse activities now on offer to the community at North Camp are threatened with closure. It states that in the case of SWSC, they do not foresee another area on Windermere where they could operate. The representation on behalf of the owner states that community use is currently restricted to limited public rights of way access, and the asset does not need to be designated as a community asset for their continued enjoyment.
- 3.10 Section 88 of the Localism Act 2011 states that a building or other land can be considered as an asset of community value if:

- a) The actual current use of the land or building, that is not an ancillary use, furthers the social wellbeing or social interests of the local community and it is realistic to think that the land can continue to be used in a way that will further the social wellbeing or social interests of the local community (whether or not in the same way as previously).
- b) There is a time in the recent past when the actual use of the building (that was not an ancillary use) furthered the social wellbeing or interests of the local community.
- c) It is realistic to think that there is a time in the next five years where there could be a non-ancillary use of the asset that would further the social wellbeing or interests of the local community.

- 3.11 The nomination states that the main, non-ancillary use of the asset is that of an outdoor pursuits/education centre, available to both local residents and visitors to the area. It states that users of the facilities offered by YMCA, and members of SWSC gain access to positive activities and education on the land nominated, primarily due to the access that it provides to the lake.
- 3.12 It is evident from the information provided that SWSC's use of the asset is mostly delivered within the part of the site outlined in red on the attached plan. SWSC's use of this part of the asset is a significant use in its own right and is not subsidiary or ancillary to the main use. The evidence provided is considered sufficient to state that the use of this part of the site does further the social interests and wellbeing of the local community.
- 3.13 It is evident from the information provided that the use of the remaining part of the site (outlined in blue on the attached plan) is that undertaken by YMCA, whose main focus is on customers from outside of the local area, and not on the local community. Therefore, it is considered that there is not enough evidence to prove that this section of the site furthers the social wellbeing or interest of the local community.
- 3.14 The nomination states that there has been an offer for the site which sets out a vision of a community access provision at a similar level to what is currently available. SWSC have stated that they have a plan to improve the private bid by their members as a community bid, having received an expression of an additional sizeable contribution, as well as assistance from the local MP to facilitate a meeting of interested parties. SWSC have stated that their vision is for the full site, however their primary concern is to maintain their current level of use, and that they would be open to limiting their bid to the section of the site outlined in red on the attached plan rather than the site as a whole. The representation on behalf of the owner has indicated that significant improvements and remedial works are required to buildings and site infrastructure, which could indicate that the site as a whole could not

realistically continue to operate going forward without significant investment. Therefore, it could be said that there is evidence to indicate that the part of the site outlined in red on the attached plan could continue to further the social wellbeing and interests of the local community. However, there is not enough evidence to suggest that this could be achieved for the remaining section of the site, outlined in blue on the attached plan.

- 3.15 The District Councillor for the Coniston and Hawkshead Ward has been informed of the nomination. Councillor Suzanne Pender has registered her support of the nomination, stating that SWSC is a great community project reaching a diverse range of the community, promoting healthy activity at a low cost.
- 3.16 Colton Parish Council has been informed of the nomination.
- 3.17 A representation has been submitted by Napthens Solicitors on behalf of the owner, YMCA Trust. The owner strongly disagrees and objects to the nomination.
- 3.18 Cumbria Tourism have submitted a response, supporting the businesses that currently operate at the site, and highlighting the popularity of the Public Right of Way (West Windermere Way), which runs through the site.
- 3.19 Blackwell Sailing, a charity providing sailing activities on Windermere for local disabled people have submitted a response, supporting the activities provided by SWSC, and stating how they were hoping to work in partnership with SWSC to provide more accessible and inclusive sailing activities from the asset and highlighting the benefits of sailing in general.

#### 4. Reasons for the Recommendation(s):

- 4.1 It is considered that the part of the site outlined in red on the attached plan meets the criteria necessary to be accepted as an asset of community value. The evidence that has been provided indicates that the use of this part of the asset does further the social wellbeing and interests of the community by giving access to positive activities. It is also evident from the nomination that SWSC do not foresee another area on Windermere where they could operate were the land to be sold. It is also considered that the part of the site outlined in blue on the attached plan does not meet the criteria necessary to be accepted as an asset of community value. On the basis of the information provided it is evident that SWSC's use of this part of the site is minimal, and that this part of the site is predominately used by YMCA. The nomination has indicated that the activities provided by YMCA are carried out on a regional footprint, rather than being focussed on the local community. It is therefore proposed that the part of the site outlined in red on the attached plan be listed as an asset of community value, and the part of the site outlined in blue be added to the list of unsuccessful nominations.

#### 5. Alternative Options Considered

- 5.1 There are two options which have been considered, which are to list the entire site nominated as an asset of community value, or to list the entire site nominated as an unsuccessful nomination. The officers who have assessed the nomination in this case feels that the criteria as set out in the legislation have been met and that the part listing is justified on the basis of the information received. Section 88 of the Localism Act 2011 states that it is a decision for the authority whether or not the criteria are met.

#### 6. Risk Implications

Risk	Consequence	Control Required
The Council fails to meet the statutory deadlines for responses and publication of lists.	The Council faces challenge on the way in which it addresses nominations for Assets of Community Value.	Appropriate procedures put in place to achieve the Council's obligations.
The Council may be required to bear the burden of administering any initial appeals in respect of either nominations or compensation decision.	The Council's financial and other resources would be used to address any appeals.	Appropriate procedures put in place to achieve the Council's obligations.

<b>Risk</b>	<b>Consequence</b>	<b>Control Required</b>
Listed assets of community value not added to the local land charge register.	Reputational challenge.	Appropriate procedures put in place to achieve the Council's obligations.

## **7. Financial Implications**

7.1 There are no financial or resources implications.

## **8. Legal & Governance Implications**

8.1 Under Section 87 of the Localism Act 2011 the Council must maintain a list of assets of community value.

8.2 Section 88 of the Localism Act 2011 states that a building or other land is, or may be, an asset of community value if, in the opinion of the authority:

- The property is actually used, or was used in the recent past, for an activity that was not an ancillary use and which furthered the social wellbeing or interests of the local community; and
- It is realistic to think that there can continue to be non-ancillary use of the property which will further (whether or not in the same way) the social wellbeing or interests on the local community; or
- It is realistic to think that there is a time in the next five years when there could be non-ancillary use of the property that would further (whether or not in the same way as before) the social wellbeing or interests of the local community.

On the basis of the evidence provided in the nomination in this case, the officer has determine that the necessary criteria of Section 88 of the Localism Act 2011 are met in respect of the land outlined in red on the enclosed plan.

## **9. Equality & Diversity Implications (including the public sector equality duty)**

9.1 There are no foreseeable adverse impacts on any single equality group arising out of the legislation relating to assets of community value.

### **9.2 Other Implications Environment & Climate Change/ Social Care & Corporate Parenting Implications Public Health, Health, Safety and well-being Implications**

9.2.1 A building or other land is an asset of community value if its main use has recently been or is presently used to further the social wellbeing or interests of

the local community and could do so in the future. The Localism Act 2011 states that social interests include cultural, recreational and sporting interests.

**10. Background Information & Sources (used in preparation of this Report)**

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

**Cabinet Member Consultation**

**Name:** Virginia Taylor

**Statement:** Agreement via email 2.11.23

**Details of any registrable interest relevant to the decision:** None

**Details of any dispensation granted:** None

**Key Decisions**

**Notice on Forward Plan?** NO

**Rule 15 Notice?** NO

**Rule 16 Approval by Chair of Scrutiny Committee?** NO

**Exempt from call in ?** YES

**Decision**

Signature of the decision record authorises the implementation (following expiry of the Call In period where applicable) of the recommendations in Section 2.

**Signature of decision maker:**



**Name:** David Haughian

**Post title:** Assistant Director of Community Infrastructure

**Date:** 2.11.23

**Delegated authority to make the decision:** Under the Westmorland and Furness Council Local Scheme of Authorisation of Officers – Section 7  
Director of Thriving Communities – Assets of Community Value



