

# Officer Delegated Decision Record

<b>Report Title:</b>	Decision of Review Listing of YMCA North Camp, Lakeside, Ulverston (CU305604 Title Number) – Asset of Community Value
<b>Date of Decision:</b>	23 February 2024
<b>Decision-Maker:</b>	Steph Cordon - Director of Thriving Communities
<b>Report Author:</b>	Steph Cordon- Director of Thriving Communities
<b>Cabinet Member:</b>	Virginia Taylor – Sustainable Communities and Localities
<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.ODR of 2 November 2023 2.Map of site

## 1. Purpose & Executive Summary

- 1.1 This paper sets out the outcomes and decision of the Director of Thriving Communities following a review of the listing of the element of YMCA North Camp outlined in red on the attached map as an Asset of Community Value. The review was carried out at the request of the land owner, YMCA Trust.

## 2. Recommendation(s)

- 2.1 *That following the outcome of the review of the listing, the area outlined in red on the plan should be included in the list of land nominated by unsuccessful community nominations as maintained by the Council under section 93(1) of the Localism Act 2011 along with the remainder of the site.*

**3. Background:**

- 3.1 A nomination to list YMCA North Camp Lakeside as an Asset of Community Value was submitted by South Windemere Sailing Club (SWSC) on 19 July 2023.
- 3.2 The Officer Decision Record (ODR) of 2 November 2023 which is attached at Appendix 1 sets out the decision:
  - to list as a successful nomination of Asset of Community Value the area outlined in red on the attached map and;
  - to list the area outlined in blue on the register of unsuccessful community nominations
- 3.3 The ODR was agreed by the Assistant Director of Community Instructure in consultation with the Portfolio Holder of Sustainable Communities and Localities.
- 3.4 The nomination was assessed under the legacy South Lakeland District Council Assets of Community Value and Community Right to Bid Policy (Policy). The Policy sets out at Section 7 that a landowner can ask for a review of the decision. Initially this must be an internal review. The Policy further states that a Senior Officer who is independent of the Assets of Community Value decision making process will conduct the review.
- 3.5 The person determined as a Senior Officer and with delegated decision power to undertake the review is the Director of Thriving Communities. The timescale set out in the policy is 8 weeks from the date of receiving the request to carry out the review.
- 3.6 The YMCA as the landowner requested a formal review of the decision on 5 December 2023. Due to the Christmas and New Year period, it was agreed with the YMCA that the final date for a decision on the listing review would be given on 16 February 2024. An extension to the deadline was subsequently agreed with the YMCA until 23 February 2024 due to annual leave commitments.
- 3.7 The YMCA also submitted a request for an oral hearing, which is not provided for expressly in the Policy, but is included in the legislation. Therefore, the request was granted, and the hearing took place on 6 February 2024. The YMCA submitted further representations prior to the review, on 25 January 2024.

3.8 The review has taken into account all of the information provided by the SWSC who made the community nomination; information provided by the YMCA in writing; and, as part of the oral hearing, the letters of third parties.

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

4.1 Having regard to the facts and matters contained in the information specified in paragraph 3.8 above, the Director of Thriving Communities is not satisfied on behalf of the Council that it is realistic to think there can continue to be non-ancillary use of the Property (or part of it) which will further (whether or not in the same way) the social wellbeing or social interests of the local community. In forming this view, the Director of Thriving Communities had regard to the following::

- (a) The planning status of the Director's House, which forms part of the site as outlined in red on the plan, and which is not authorised for non-residential use.
- (b) The letting of the Director's House to the Sailing Club on a short term basis.
- (c) The short unexpired term of the Sailing Club's lease, which is not a protected lease under the Landlord and Tenant Act 1954, and the confirmation from the YMCA Trust that it does not intend to renew the lease.
- (d) the YMCA Trust's plans for the redevelopment of the land, which benefits from an extant planning permission.
- (e) The description in the owner's sales particulars that the Director's House could be refurbished and reused as a residence.

- (f) The potential need for substantial investment in the Director's House and the remainder of the Sailing Club's demise.

## **5. Alternative Options Considered**

- 5.1 Not to de-list the element of the site occupied by SWSC.
- 5.2 To continue with the option to delist the entire site for the reasons outlined in the report.

## **6. Risk Implications**

- 6.1 The decision to delist the area outlined in red on the plan may cause a reputational impact on the Council for making a decision that could be perceived by SWSC and wider community as removing a community asset from the area. SWSC has intimated that there are a lack of affordable and accessible facilities elsewhere. However, the lack of alternative provision is not a factor that can be considered in this process.
- 6.2 If the area is not delisted, the YMCA would then have the option to submit an appeal to the First Tier Tribunal, which would incur additional time and potential exposure to costs and damages.

## **7. Financial Implications**

- 7.1 Legal costs have been incurred as a consequence of the review, but these are not significant at this stage.
- 7.2 If the decision from the original ODR (2<sup>nd</sup> November '23) remained unaltered so that only the SWSC element (outlined in red on the plan) were included in the List of Assets of Community Value, it is considered there is a possibility that the YMCA would apply for to the First Tier Tribunal. This would require instruction of external Counsel and representation at a hearing.
- 7.3 If Westmorland and Furness Council were to lose any such case, they could be liable for damages and costs.
- 7.4 If the entire site is delisted as proposed there is the possibility of legal challenge from SWSC, with associated costs.
- 7.5 In either scenario there will be a budgetary pressure if Westmorland and Furness Council are unsuccessful in defending any court action. Initial funding would need to be found from existing resources and any damages would likely have to come from Reserves.

## **8. Legal & Governance Implication**

- 8.1 In accordance with the South Lakeland District Council Assets of Community Value and Community Right to Bid Policy 2022, the Director of Thriving Communities has been identified as the relevant Senior Officer who is independent of the Assets of Community Value decision making process to conduct the review.
- 8.2 Pursuant to sections 87 to 108 of the Localism Act 2011, the Council has the statutory power to implement the Listing of Assets of Community Value policy.
- 8.3 The Council has followed the Policy and statutory procedures in relation to the Listing of Assets of Community Value as set out in this Decision Record

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

9.1 There are no specific EDI implications identified.

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

9.2.1 The legislation for Asset of Community Value contained in the national legislation and the South Lakeland District Asset of Community Value Policy takes into account under Section 88 whether an actual current use of an asset that is not ancillary furthers the social wellbeing or social interests of the local community.

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

10.1 *South Lakeland Policy; Officer Decision Record; Representations from YMCA; Letters from third parties*

**Cabinet Member Consultation**

**Name:**

**Statement:** *As the Cabinet Member was consulted on the decision to list, they have not been consulted on the listing review. The Director of Thriving Communities has delegated authority to review the listing and make a decision.*

**Details of any registrable interest relevant to the decision:**

**Details of any dispensation granted:**

**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: Steph Cordon**

**Post title: Director of Thriving Communities**

**Date: 23/02/2024**

**Delegated authority to make the decision:**