

Decision Notice pursuant to section 92 of the Localism Act 2011 (the 2011 Act) and pursuant to the Listing Review Hearing Procedure that the Council has adopted under section 92 (5) of the 2011 Act

Reference: ACV/2026/0001

Enquiries to: David Redfern

Property

The Boot Inn High Street Berwick St James Salisbury Wiltshire SP3 4TN

Parties

Landowner:

Red Oak Taverns of 5A Gamma Terrace West Road Ipswich IP3 9FF

Additional Interests person(s) Mr and Mrs Ross Anderson

Nominating Body:

Berwick St James Parish Meeting

Original Decision-Making Council Officer:

Natasha Gumbrell

Reviewing Officer

Mr David Redfern, Director – Leisure, Culture & Communities

Introduction

On the 20th of January 2026, William Hicocks, being the Treasurer for the Nominating Body submitted a Nomination Form for listing land at The Boot Inn High Street Berwick St James ("the Property") as an Asset of Community Value ("ACV"). (See appendix i).

On the 21st of January 2026 the Council notified all relevant interested persons, including the landowner that such nomination had been received. On the same day, the Landowner objected to the listing by way of a letter (see appendix ii)

On the 13th of March 2026, Natasha Gumbrell, the designated Council Officer for making the original decision confirmed by way of decision notice that, having considered all the information and submissions provided, the Council was listing the Property as an Asset of Community Value.

On 13 March 2026 Charles Stewart on behalf of the landowner requested a review of the decision by email to the Council. This application for review was on the grounds that 1) Community sentiment and future closure risk are not relevant to the listing criteria 2) the decision incorrectly applied the “realistic to continue test and 3) the listing decision does not distinguish between incidental social use and qualifying community use. The full text of the email is reproduced at appendix iii and my comments in further detail are set out later in this Review (See Nominator’s Representations)

I am the Senior Council Officer designated by the Council to undertake this review. As part of my Review, I considered the following documents:

- Nomination Form submitted by the Nominating body dated 20th January 2026.
- Objection to Nomination dated 21st January 2026
- The Decision Notice dated 13 March 2026.
- The Request for Review dated 13 March 2026.

Decision

I have considered all of the Information and am satisfied that: -

- a) The Boot Inn Association is a valid community nominator pursuant to section 89 (2) (b) (iii) of the Localism Act 2011 and Regulation 5 (1) (d) of the Assets of Community Value (England) Regulations 2012 in that the nomination is by a person that is a voluntary or community body with a local connection
- b) The Application for the review was made to the owner of the Property in writing within time in accordance with section 92 of the Localism Act 2011 as prescribed by paragraph 1 of Schedule 2 of the Assets of Community Value (England) Regulations 2012.
- c) The Property meets the definition of an asset of community value as set out in section 88 (1) of the Localism Act 2011
- d) The ACV regime is a statutory scheme whereby it provides a methodology for community groups to nominate assets which they believe hold a community value.

I have therefore, determined that the Property should not be removed from the List of Properties of Community Value.

Reasons for Decision

The Law

1. The ACV Regime is contained in Chapter 3 of Part 5 of the Localism Act 2011 (the 2011 Act). The 2011 Act applies to England and Wales, and (for England only) is supplemented by the Assets of Community Value (England) Regulations SI/2012/2 (the 2012 Regulations).
2. The regime provides a methodology for community groups to nominate assets which they believe hold a community value, and if so identified and designated creates a breathing space (a moratorium) should the owner decide to sell the asset.
3. It does not require a landowner to do anything with the asset but if the owner decides to sell the asset it gives community groups a right to bid on the asset.

Requirement for a List to be maintained

4. Section 87 of the 2011 Act requires this Council to maintain a list of assets within its administrative area which it determines are assets of community value.

Nominator

5. Section 89 (1) and (2) provides: -

(1) Land in a local authority's area which is of community value may be included by a local authority in its list of assets of community value only—

(a) in response to a community nomination, or

(b) ..

(2) For the purposes of this Chapter "community nomination", in relation to a local authority, means a nomination which—

(a) nominates land in the local authority's area for inclusion in the local authority's list of assets of community value, and

(b) is made—

(i) ...

(iii) by a person that is a voluntary or community body with a local connection.

6. The relevant parts of Regulation 5 of the 2012 Regulations provides: -

(1) For the purposes of section 89(2)(b)(iii) of the Act, but subject to paragraph (2) “a voluntary or community body means

—

(a) ...

(c) a group whose activities are wholly or partly concerned with the local area

7. Subsection (2) restricts local authorities (other than Parish Councils) from being a voluntary or Community Body.

Review Time Limits

8. Section 92 of the 2011 Act Provides: -

(1) The owner of land included in a local authority's list of assets of community value may ask the authority to review the authority's decision to include the land in the list.

(2) If a request is made—

(a) under subsection (1), and

*(b) in accordance with the time limits (if any) provided for in regulations under subsection (5),
the authority concerned must review its decision.*

9. Paragraph 1 (1) of Schedule 2 of the 2012 Regulations provides:

Except as specified in sub-paragraph (2), a request for a listing review must be made in writing before the end of a period of eight weeks beginning with the day on which written notice of inclusion of the land in the list was given by the responsible authority under section 91(2) of the Act, or such longer period as the authority may in writing allow.

10. Section 88 (1) of the 2011 Act sets out the test that the Council must apply to determine whether an asset is of community value: -

(1) For the purposes of this Chapter but subject to regulations under subsection (3), a building or other land in a local authority's area is land of community value if in the opinion of the authority—

(a) an actual current use of the building or other land that is not an ancillary use furthers the social wellbeing or social interests of the local community, and

(b) 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 wellbeing or social interests of the local community.

Discussion

Nominator's status

11. The nomination form confirms that the Nominator is an unincorporated body which facilitates community activities held within the Property. The landowner questioned the status of the Nominator on the 21st January but subsequent evidence of a signed list of 21 local electors was provided before the Property was listed
12. I am therefore satisfied that the Nominator meets the criteria for a community nominator as defined in section 89 (2) (b) (iii) of the Localism Act 2011 and Regulation 5 (1) (d) of the Assets of Community Value (England) Regulations 2012.

Timing for application for review

13. The original decision to list the property was made on 13 March 2026. Eight weeks from 13 March 2026 would take us to 9 May 2026. The landowner made an application to the Council for a review of the original decision in writing on 13 March 2026,
14. I am therefore satisfied that the request for the review was made in time and accordance with the requirements in section 92 of the Localism Act 2011 as prescribed by paragraph 1 of Schedule 2 of the Assets of Community Value (England) Regulations 2012.

Criteria for listing and Request For Review

15. The Nomination form describes the building as in the past and currently being actively used as a public house since 1897 though in the last 12 months pub opening hours have been cut to Friday to Sunday only Information pertaining to the community focused activities is available on the Facebook page and is used for a number of community driven events such as Games Nights and by the local cricket club. I further note that the building is the only pub in the immediate vicinity of the community it serves, does not provide accommodation and although food is available for customers, the menu is modest and is advertised accordingly on the website

Dealing with the Review Request I turn to the 3 Grounds below. I have not specifically referred to the contents of the Letter as this was not specifically referred to in the Review Request. I am satisfied that only responses to such Review Request are required

1. Community sentiment and future closure risk are not relevant criteria

Response: These are not factors which influenced the decision to list the Property and are not referred to in the Decision Letter

2. the decision incorrectly applied the realistic to continue test

Response: I am satisfied that non ancillary use *could* further the interest of the community in the next 5 years. It is not necessary to prove that it *will*. There is no “realistic to continue test” set out in the legislation.

3. The listing decision does not distinguish between incidental social use and qualifying use

Response: There is no clear definition of where community use in a public house is ancillary to its main use or is non-ancillary in its own right. However, the Property is a standalone village pub in a small community.

16. I am therefore satisfied that the current use of the building or other land (or use of the building or other land in the recent past), that is not an ancillary use, furthers the social wellbeing or social interests of the local community.
17. I am further satisfied that it is realistic to think that now or in the next 5 years there could continue to be non-ancillary use of the building or other land which will further (whether or not in the same way as before) the social wellbeing or social interests of the local community.
18. On that basis, the criteria for listing the property as an asset of community value as set out in section 88 (1) of the 2011 Act has been satisfied.
19. As I said at the outset of this decision the ACV regime provides a methodology for community groups to nominate assets which they

believe hold a community value, and if so identified and designated creates a breathing space (a moratorium) to allow community groups to bid should the owner decide to sell the asset.

20. There is no statutory requirement for there to be an imminent sale before such assets are nominated. It is for the nominator to decide whether they wish to nominate an asset. Once they have made that decision the Council is statutorily obliged to consider the application and if the asset meets the criteria for listing set out in section 88 of the 2011 Act then the asset must be included on the Council's list.

Appeal

1. I understand the Landowner may be disappointed by this decision, but this will not prevent them from making an appeal. If the Landowner wishes to make such an appeal, they will need to ensure they will need to contact:

Tribunal Clerk
Community Right to Bid Appeals
HM Courts and Tribunals
First-tier Tribunal (General Regulatory Chamber)
P.O. Box 9300
Leicester LE1 8DJ

Or by email at GRC.CommunityRights@hmcts.gsi.gov.uk

Additional Help

If you need additional support in relation to this or future contact with us, please let us know as soon as possible. If you have difficulty reading this notice we can make reasonable adjustments to assist you, in line with the requirements of the Equality Act 2010.

Date of Decision [28] April 2026



Nominated land

Area to be covered Please describe the nominated land including its proposed boundaries and exact location, address, postcode and a map attachment.	The Boot Inn High Street Berwick St James Salisbury Wilts SP3 4TN
Ownership Please state all the information you have on: (i) the names of current occupants of the land, and (ii) the names and current or last known addresses of all those holding a freehold or leasehold estate in the land; Please include a copy of the land registry entry.	Mr and Mrs Ross Anderson Red Oak Taverns 5A Gamma Terrace West Road Ipswich IP3 9FF

Community value

Your reasons for thinking that Wiltshire Council should conclude that the land is of 'community value', having regard to the definition in the Localism Act:

- current primary use of the building/ land or use of the building/ land in the recent past furthers the social well-being or social interests (cultural, recreational, or sporting interests) of the local community
- it is realistic to think that now or in the next five years there could continue to be primary use of the building/land which will further the social well-being or social interests of the local community (whether or not in the same way as before)

The Boot Inn is a listed building in Berwick St James and was built in the mid 1600's. It has been in continuous use as a public house in 1897. It is owned by Red Oak Taverns, having been sold by Wadworth Brewery in 2019.

The current tenants have made commendable efforts to reinvigorate the pub and have used energy and ingenuity to rebuild the business after Covid. However, in the last 12 months the pub trade nationally has been increasingly difficult, with increased costs and a significant downturn in business and The Boot has not escaped. The tenants have recently made the difficult decision make redundancies and to cut their opening hours from Friday to Sunday only. This decision will be reviewed at the February half term.

Should the pub be forced to close and the freeholder apply for a 'Change of Use' for the building to remove the licence and revert it back to a private residence, then many residents in the village, and also in the locality, would want to challenge that decision.

Other groups use the pub, such as the Berwick Cricket Club and it is the venue for social gatherings from informal drinks to lunches and parties.

The Boot is the focal point for many social activities and is of great community value. Very few, if any, of the Berwick residents would want to see the Boot lost to the community as a public house.

Eligibility to nominate

Please provide evidence that you meet the definition of a community nominator as set out in the regulations (i.e. a parish council or voluntary or community body with a local connection).

If an unincorporated group please provide a list of 21 names on the local electoral register.

I am currently the Treasurer of Berwick St James Parish Meeting.

Your details

Parish	AG Berwick St James
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Community area	Amesbury Area
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Your organisation	The Boot Inn Association
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Contact name	William Hiscocks
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Position held	
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Address	
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I confirm that all information provided is accurate and complete

Name	William Hiscocks
Date	20 January 2026

Please return to assetsofcommunityvalue@wiltshire.gov.uk (scanned attachments can be accepted).

Nomination of The Boot Inn, High Street, Berwick St James, Salisbury SP3 4TN as an Asset of Community Value

This letter sets out the owner's objection to the nomination of The Boot Inn ("the Property") for listing as an Asset of Community Value ("ACV") under Part 5, Chapter 3 of the Localism Act 2011 and the Assets of Community Value (England) Regulations 2012.

1. Legal test under the Localism Act

Under section 88 of the Localism Act 2011, land is of community value only if, in the authority's opinion:

- An actual current non ancillary use of the building or land furthers the social wellbeing or social interests of the local community; and
- It is realistic to think that there can continue to be such non ancillary use which will further the social wellbeing or social interests of the local community in the next five years.

Both limbs of this test must be met for the nomination to succeed.

2. Current use and trading position

The nomination itself confirms that:

- Trade at The Boot has been "increasingly difficult, with increased costs and a significant downturn in business" in the last 12 months.
- The tenants "have recently made the difficult decision to make redundancies and to cut their opening hours from Friday to Sunday only", with a further review of this position already scheduled.

These statements show that:

- The Property is no longer operating as a full service public house available to the wider community throughout the week, but on a significantly restricted trading pattern driven by viability concerns.
- The primary, sustained community use described by the legislation is not evidenced as a meaningful, ongoing current use but rather as an aspiration to maintain a village pub despite a weak trading position.

On the nomination's own account, current use is fragile, limited and under active review, which weighs strongly against a finding of substantial and continuing non ancillary community use as required by section 88.

3. Realistic prospect of community use over five years

The second limb of the test requires it to be realistic to think that non ancillary community use will continue for the next five years. The nomination does not provide any objective evidence to support this; instead it:

- Acknowledges redundancies and reduced opening hours, indicating a response to trading stress rather than a stable platform for long term community use.
- States that the current arrangements “will be reviewed at the February half term”, suggesting that further trading reductions or closure are very much within contemplation.

In these circumstances, there is no evidence of:

- A credible, funded community plan to secure and support the operation for the medium term.
- Any concrete proposals (for example a community share offer, partnership arrangement, or grant backed project) that would make continued non ancillary community use realistic over a five year horizon.

Absent such evidence, it cannot reasonably be said that the statutory “realistic to think” test is met.

4. Nature of community use advanced in the nomination

The nomination refers in general terms to use by Berwick Cricket Club and to social gatherings such as informal drinks, lunches and parties, and then concludes that “The Boot is the focal point for many social activities and is of great community value”.

However:

- No specific dates, frequency of use, numbers attending, or duration of such activities are provided.
 - No supporting evidence (for example letters from user groups, usage logs, or survey results) is submitted to demonstrate the scale and regularity of use in a way that would differentiate The Boot from any ordinary village public house.
- The regime is aimed at assets whose main use is demonstrably to further the community’s social wellbeing or interests, not simply at any commercial premises where members of the public may meet. On the information supplied, the nomination does not show that the predominant use of the Property is as a community facility rather than as a commercial licensed premises subject to normal market risks.

5. Speculative future concerns about planning and change of use

The nomination places weight on a hypothetical future scenario in which the pub might be forced to close and the freeholder might apply for a change of use to a private residence, stating that many residents would want to challenge that

decision.

- The ACV regime does not operate to prevent, pre judge or duplicate the planning system, and speculative concerns about possible future planning applications are not relevant to the statutory test of current and realistically continuing non ancillary community use.
- Desire to “challenge” a potential future change of use, without evidence of current robust community use or realistic prospects of such use over five years, does not satisfy section 88.
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6. Status of the nominator

The form states that the nominator is currently the Treasurer of Berwick St James Parish Meeting and that the organisation is Berwick St James Parish Meeting. While parish councils are qualifying community nominators, an unincorporated parish meeting must demonstrate that it meets the definition of a voluntary or community body with a local connection and, if relevant, provide the required list of 21 local electors.

- The nomination as submitted does not contain any such list or any supporting documentation regarding the constitution, membership or governance of the Parish Meeting.
- In the absence of this information, there is doubt as to whether the nominator has adequately demonstrated eligibility in accordance with the Regulations.
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7. Owner’s approach to the property

For completeness, the owner wishes to emphasise that:

- The Property has continued to trade following acquisition in 2019 and throughout an exceptionally challenging period for the licensed trade nationally, including the Covid 19 pandemic and subsequent cost pressures.
- Decisions about investment, operation and (if necessary) alternative uses must remain capable of being taken in a timely way to ensure the long term stewardship of the listed building, which could be materially constrained by an ACV listing that is not justified on the statutory criteria.

The ACV regime is intended to provide a limited “right to bid” where community value is clearly evidenced, not to impose a general fetter on the reasonable management of commercial assets.

8. Conclusion

For the reasons above, the nomination:

- Fails to demonstrate substantial, ongoing non ancillary community use as at the date of nomination.
- Fails to demonstrate that it is realistic to think such use will continue for the

next five years.

- Provides insufficient evidence of the nominator's eligibility as a qualifying community body.

Accordingly, the Council is respectfully invited to conclude that The Boot Inn does not meet the statutory definition of land of community value under section 88 of the Localism Act 2011, and to decline to include the Property on its list of Assets of Community Value.

Yours sincerely,

Charles Stewart
Projects Manager

Date Created

21/01/2026



13 March 2026

David Redfern

Director – Leisure, Culture & Communities
Wiltshire Council

By email: david.redfern@wiltshire.gov.uk

Re: Request for Review of Asset of Community Value Listing – The Boot Inn, High Street, Berwick St James, Salisbury, SP3 4TN (Ref: ACV/2026/00001)

Dear Mr Redfern,

We write on behalf of Red Oak Taverns, the freehold owner of The Boot Inn, High Street, Berwick St James, Salisbury, SP3 4TN, to request a review of the decision dated 13 March 2026 to list the above property as an Asset of Community Value under the Localism Act 2011.

This request is made within the eight-week period permitted under the legislation. We do not request an oral hearing and are content for this review to be determined on the written representations set out in this letter.

Ground of Review: Improper Factors Taken into Account

1. Community sentiment and future closure risk are not relevant listing criteria

The decision letter places material weight on the fact that “the nomination reflects strong local support for its retention” and that the Boot Inn “serves a rural area with few alternative amenities.” These are not criteria identified in section 88 of the Localism Act 2011, nor in the Assets of Community Value (England) Regulations 2012. The statutory test is concerned solely with whether the current or recent use of the land furthers the social wellbeing or social interests of the local community, and whether it is realistic to think that such use could continue over the next five years. The strength of local sentiment in favour of retention and the absence of nearby amenities are extraneous factors that go beyond the scope of the statutory criteria and should not have been taken into account.

2. The decision incorrectly applied the ‘realistic to continue’ test

The decision acknowledges that the pub has reduced its opening hours to Friday to Sunday only, that the tenants have made redundancies, and that the business faces significant economic pressures. Despite this, the Council concludes that it is realistic to think that non-ancillary community use could continue over the next five years, in part on the basis that “no evidence has been provided to show that closure is inevitable.”

Red Oak Taverns Limited
5A Gamma Terrace
West Road
Ipswich IP3 9FF
info@redoaktaverns.com
www.redoaktaverns.com

The VAT number is: 125455228
The company registration number is: 7793587

This approach reverses the proper burden of analysis. The test under section 88(1)(b) requires positive evidence that it is realistic to think that qualifying community use could continue – it is not met simply because closure has not been shown to be inevitable. By framing the absence of evidence of inevitable closure as a reason to list, the Council has applied an improper test and taken into account an irrelevant factor. The correct approach requires the Council to assess, on the balance of the evidence before it, whether continued qualifying use within five years is genuinely realistic. The evidence of serious and sustained trading difficulties, redundancies, and significantly curtailed opening hours points against that conclusion.

3. The listing decision does not distinguish between incidental social use and qualifying community use

The decision relies on the fact that the pub hosts “social gatherings, informal community interaction, local events and activities by groups such as the Berwick Cricket Club.” However, the use of a public house for general social drinking and informal gatherings is incidental to its primary function as a commercial drinking establishment. The decision does not adequately address whether the community-facing activities identified are genuinely non-ancillary uses, or whether they are simply the natural by-product of operating a pub. In taking these incidental social activities as sufficient to meet the community value threshold, the Council has given weight to considerations that do not properly satisfy the statutory definition.

Conclusion

For the reasons set out above, the decision to list The Boot Inn as an Asset of Community Value was reached by taking into account improper factors and by misapplying the statutory test. We respectfully request that the decision be reviewed by a senior officer not involved in the original decision, and that the listing be removed from the register.

We are happy to provide any further information the reviewing officer may require and would ask to be notified promptly of the outcome of this review.

Red Oak Taverns Ltd