

Bab Cary Parish Council  
c/o Simon Hoar, Chairman

**Please ask for:** Alyn Jones

**Email:** [alyn.jones@somerset.gov.uk](mailto:alyn.jones@somerset.gov.uk)

**By email only**

**Date:** 10<sup>th</sup> December 2025

Dear Mr Hoar

### **Review of Asset of Community Value (ACV) Decision – The Red Lion Inn, Bab Cary**

This letter sets out the decision of the Council in the matter of the review of the decision made by the Council on 4 September 2025 to include The Red Lion Inn, Main Street, Bab Cary, TA11 7ED (“the Property”) as an Asset of Community Value (“the Original Decision”) following a nomination received from Bab Cary Parish Council (“the Nominators”).

#### **Background**

On 30 June 2025, the Nominators applied to the Council to have the Property included as an Asset of Community Value (“ACV”) under section 87 of the Localism Act 2011 (“the Act”). Having assessed the nomination and considered the evidence provided by the Nominators, the Council added the Property to its list on 4 September 2025 following the expiration of the previous listing.

As owners of the Property, Mr and Mrs C Garrard of the Red Lion Inn Bab Cary Ltd (“the Landowner”) requested that a review be carried out in accordance with s.92 of the Act. On 21 October 2025, the Landowner made further representations in writing in support of that request. In response to those representations the Nominators have made further submissions which were received on 29 October 2025.

The review has been carried out by Alyn Jones, Executive Director Resources, Strategy and Transformation (Monitoring Officer) who is a senior officer that was not involved in the original decision. The review has been carried out on the basis of the written submissions received, both as part of the original nomination and in furtherance of the review.

The remit of the review is to consider whether the Property should be listed as an ACV and, to that end, the duty of the reviewing officer is to re-determine the Original Decision. The reviewing officer has looked at all the submissions relevant to the nomination and considered the statutory provisions laid out in the Act, the Regulations and the Non Statutory Guidance. The Council is under no obligation to investigate or test information received from any nominating body, or any landowner relating to a potential listing of an asset. The onus of the legislation puts the obligation on the nominating body to provide the

evidence and reasons why the asset should be listed as an ACV. The Council is entitled to treat the information received on face value and made in good faith. The decision must be made solely on the evidence submitted by the Nominators and the Landowner.

### **The Relevant Criteria**

The criteria for assessing whether an asset should be listed as an ACV as set out in s.88 of the Act. The only test to be considered is whether an actual current (or in the recent past) use of the land in question which is more than ancillary furthers the social wellbeing or interests of the local community, and it is realistic to think that in the next five years a similar non-ancillary use would exist (whether continuing or re-starting).

The test for future use is not connected to the ability of any community group to buy or run an asset successfully, nor is it connected to the intentions of the landowner either in the past or the future. The question is a purely factual evidential analysis of the information put before the Panel.

### **Assessment of Actual current use – or in the recent past**

Section 88 of the Act applies where the Property's actual current non-ancillary use furthers social wellbeing or social interests, and it is realistic that such use will continue; alternatively, where such use occurred in the recent past and there is a realistic prospect of re-commencement within five years. Somerset's guidance treats "recent past" as generally within the last five years. Council officers' due diligence identified a continuing programme of open, community-facing activities hosted and promoted by the Property (recent and forthcoming events such as a fancy-dress Halloween evening, live music, children's trick-or-treating, and a Christmas fair/market), together with the venue's own positioning as "very much a locals' pub." These features indicate an ongoing, public-facing hospitality use that is open to and used by the wider local community, and which furthers social wellbeing through opportunities to meet, socialise and participate in community events.

### **Current or past use more than ancillary**

In order for the community value use to meet the full definition, the uses have to be more than ancillary. There is little in the way of guidance or definitive case law as to what "more than ancillary" means and therefore the usual everyday definitions would apply: that is referring to something which is more than supplementary or subordinate to some other primary use. Ancillary means that the use under consideration is ancillary to a more dominant use of that piece of land. It does not refer to the land's relationship to other land within the same ownership. It is how the specific land that has been nominated is used, and what the primary uses of that piece of land are that is important.

While part of the Property operates as hotel/letting accommodation, the Regulations do not preclude listing where non-residential, community-facing uses take place that are more than ancillary to residence/hotel uses. The relevant question for listing is whether the non-residential community use exists and is more than de minimis, not whether it is the predominant commercial use. On the evidence available, the Property's pub/restaurant offer, and programme of community events are not confined to overnight guests and therefore, cannot be characterised as merely ancillary to residential accommodation.

### **Realistic to continue in the future**

The last part of the test is that the review must consider whether it is realistic that the uses that further social wellbeing and social interest can continue in the future, including in cases where such uses have diminished or stopped in the recent past. This is not connected to the ability of any community group to buy or run an asset successfully, nor is it connected to the intentions of the landowner either in the past or the future. The question is a purely factual evidential analysis of the information available to the Panel. What is realistic may admit a number of possibilities, none of which needs to be the most likely outcome. The threshold needed to satisfy the “realistic to think” test is low.

The fact that a property may need renovation to make it viable does not mean that it is not realistic to think that someone could come forward with a plan or a strategy to make it of use to the community.

In the alternative, even if actual current use were disputed, the record shows the Property was listed as an ACV from 2020 to 2025, and in the 2021 appeal the Owners accepted the “past test” was met. That judicial history while not binding precedent for today’s decision provides strong, contemporaneous evidence that qualifying community use existed within the last five years. Coupled with the ongoing hospitality offer and publicly advertised events, there is a realistic prospect that such community-benefitting use will continue in the future.

### **CONCLUSION**

Having considered the nomination, the Owner’s representations, and the Nominators’ further submissions, together with the applicable provisions of section 88 of the Localism Act 2011 and the Asset of Community Value (England) Regulations 2012, I find on the balance of the available evidence that:

- There is an actual current non-ancillary use of the Property which furthers the social wellbeing and/or social interests of the local community, evidenced by the open, community-facing hospitality offer and the programme of publicly promoted events (including seasonal/family and music activities), and by the Property’s own positioning as a “locals’ pub”.
- That qualifying use is realistic to continue within the next five years. The statutory threshold (“realistic to think”) is modest; it admits more than one plausible future. On the factual record before the Council, continuation of the community-benefitting use is realistic.
- In the alternative, even if actual current use were disputed, the “recent past” test is satisfied. The Property has been listed as an ACV within the last five years and, in the 2021 appeal, the Owners accepted the past-use test was met; taken with today’s public offer and events, there is a realistic prospect of re-commencement/continuation within five years.

Decision: The review is upheld. The Red Lion Inn, Main Street, Babcary, TA11 7ED shall remain on the Council's List of Assets of Community Value.

Reasons: As set out above, the section 88 criteria are met on the "actual current use" test and, in the alternative, on the "recent past" test. Matters raised regarding planning status, economic impact, or intentions of the Owner/Nominators are not material to the statutory test.

If you are dissatisfied with this decision, you have the right to submit an appeal to the General Regulatory Chamber of the First Tier Tribunal within 28 days from the date of receipt of this notice.

All parties are reminded of the requirements of the Act in relation to disposal of the Property. If the owner of any asset which is listed as an ACV intends to sell or dispose of that asset, they must inform the Council in writing. This then triggers an initial moratorium period of six weeks for a community group to submit an expression of interest.

Yours sincerely



**Alyn Jones**  
**Executive Director Resources Strategy & Transformation (Monitoring Officer)**