

Report of Chief Asset Management and Regeneration Officer

Report to Director of City Development

Date: 12th May 2014

Subject: Community Right to Bid Nomination – Leeds Girls’ High School Playing Field

Are specific electoral Wards affected? If relevant, name(s) of Ward(s): Headingley	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: Appendix number:	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

Summary of main issues

1. In line with the legislation and regulation set out in the Localism Act 2011, this report considers the nomination to add Leeds Girls’ High School Playing Field to the List of Assets of Community Value.
2. The nomination has been submitted by South Headingley Community Association and relates to the playing field at the former Leeds Girls’ High School in Headingley. The same organisation submitted a nomination in March 2013 for the site, although at that time included the buildings as well as the field.
3. The previous nomination was turned down at review stage on the basis that the nominator lacked a deliverable plan to finance any purchase. No new information has been provided by the nominator to support this nomination and since the review planning consent has been granted to develop the site for a mainly residential scheme.

Recommendations

4. It is recommended that the Director of City Development declines the nomination on the basis that it does not satisfactorily meet the criteria laid down in the Localism Act 2011 and that the land remains on the List of Assets Nominated by Unsuccessful Community Nominations.

1 Purpose of this report

- 1.1 The purpose of this report is to consider the nomination from South Headingley Community Association to list the playing field at the former Leeds Girls' High School Sports Facilities, Victoria Road, Leeds, LS6 on the List of Assets of Community Value in line with the Localism Act 2011.

2 Background information

- 2.1 Part 5 Chapter 3 of the Localism Act 2011 details regulations for Assets of Community Value and sets out the Community Right to Bid. The right came into force on 21st September 2012 and its purpose is to give communities a right to identify a property that is believed to further their social interests or social wellbeing and gives them a fair chance to make a bid to buy the property on the open market if the property owner decides to sell.
- 2.2 On 2nd April 2014 a nomination was received from South Headingley Community Association requesting the playing fields be listed. A Land Registry search has established that the property is owned by the Morley House Trust. This trust is a charity which is responsible for management of the Grammar School At Leeds' properties in Headingley which made up Leeds Girls' High School.
- 2.3 The same organisation submitted a nomination in March 2013, but at that time included the neighbouring buildings which made up the sports hall and swimming pool. Although originally added to the List of Assets of Community Value, that decision was overturned at review stage by the Director of City Development. The decision to overturn was on the basis that there was a likelihood that planning consent would be granted for a mainly residential scheme and the landowner would reasonably expect to receive market value, which with the consent would be a significant sum. The view of the reviewing officer was that the nominator lacked a deliverable plan to finance any purchase on those terms and therefore the nomination did not meet the test for it to be considered realistic that the property could be brought back into an eligible use within five years.
- 2.4 The landowner has submitted an objection to this listing.

3 Main issues

- 3.1 The nominator is a registered charity based in the local area and therefore is eligible to nominate the property.
- 3.2 To be listed as an asset of community value the nominator must be able to demonstrate that the nominated land has a current non-ancillary use that furthers the social interests or social wellbeing of the local community and that it is realistic to think that such a use can continue, whether or not in the same way. Land which does not meet this criterion may only be listed if there was an eligible use in the recent past and it is realistic to think it may be brought back into an eligible use within five years.
- 3.3 The nominated land was formerly used to provide sports facilities for pupils at Leeds Girls' High School. The site is currently disused and the landowner

maintains that the last use was in November 2007. Although the nominator provided evidence as part of the previous nomination that the swimming pool had been used in January 2008, they have not included the swimming pool as part of this nomination. Therefore the November 2007 date is the best available.

3.4 As a sports field the use clearly furthered social interests and social wellbeing. What is less clear is whether or not this use was by the local community. The landowner's position is that although there was some informal use by the local community, such use was ancillary, the non-ancillary use was by pupils of the school and the pupils were not part of the local community. During the review of the previous nomination this point was considered in detail. The Director of City Development concluded that the school made their facilities available for use of the local community and it was therefore reasonable for residents to consider the school as part of their local community. Furthermore, it was considered that there was sufficient use outside of the pupils of the school by local residents to constitute non-ancillary use. Nothing new has been presented since the time of the review. Therefore it is considered that the part of the test that the nominated land had a non-ancillary use that furthered the social interests or social wellbeing of the local community is met.

3.5 The last recorded use was in November 2007, some six years and five months before the nomination was submitted. Consideration must be given to whether or not this constitutes "recent past". The landowner has suggested that five years be used to determine a period of recent past. The Localism Act uses five years as both the period that land remains on the List of Assets of Community Value and the period within which it must be considered realistic to think that an asset without a current eligible use can be brought back into an eligible use. However, the Act does not seek to define "recent past". This was an issue discussed in the reading of the Localism Act in the House of Lords by Baroness Hanham, the Under-Secretary of State for Communities and Local Government. In her statement in the House on 23rd July 2012, speaking on behalf of the Government, Baroness Hanham stated that:

"My definition of the "recent past" would be reasonably short and my definition of "not recent past" quite lengthy. However, I am not defining this; local authorities once again are going to be defining it. Any normal logic would suggest that "recent" would not be 20 years or, probably, even 10 years, but further than that I will not go"

Again this was an issue considered in detail as part of the review of the previous nomination and at that time the Director of City Development decided that whilst he felt it was useful for Leeds City Council to use five years as a guide to the upper limit of recent past he did not go as far as determining that as an absolute cut off. He felt that at the time the period of five years and two months was only marginally in excess of that period and it would be unjust to apply an arbitrary cut off in that instance.

3.6 The period of six years and five months is not marginally in excess of the five year upper limit suggested. However, the land has not been put to any other eligible use in the meantime and the local community have continuously campaigned since closure to use the site and for it not to be sold off for development. Given

the community's clear interest since closure, the period of campaigning and the lack of any non-eligible use in the meantime, it would seem unfair to determine that the last use was not within the recent past and to reject the nomination for that reason alone.

- 3.7 The review of the previous nomination concluded that it was likely that planning consent would be granted for the land for a mainly residential scheme, that the landowner would be seeking full market value and that the community had produced no deliverable plan to finance any purchase. It was therefore not considered realistic to think the land could be brought back into an eligible use within the next five years. The nominator has not provided any new information to address the issues raised by the Director of City Development during the review. Furthermore, planning consent has now been granted and ownership of the land will transfer to a developer for a residential scheme. It is therefore not considered realistic to think that the land could be brought back into an eligible use within the next five years. On that basis the nomination is not eligible and the land can't be added to the List of assets of Community Value.
- 3.8 Officers recommend that the nominated land remains on the List of Assets Nominated by Unsuccessful Community Nominations. Owners of property and land on this list are not restricted in any way. The property will stay on this list for five years from the date it was originally added.

4 Corporate Considerations

4.1 Consultation and Engagement

- 4.1.1 The Council's role is to assess the community nomination against the criteria set out in the Localism Act 2011, therefore no consultation and engagement is necessary.

4.2 Equality and Diversity / Cohesion and Integration

- 4.2.1 Equality, diversity, cohesion and integration considerations do not form part of the eligibility criteria upon which nominations are assessed. However, consideration has been given to ensure that all people have an equal opportunity to nominate assets of community value.

4.3 Council policies and City Priorities

- 4.3.1 The Council has an obligation under the Localism Act 2011 to assess nominations under Community Right to Bid.

4.4 Resources and value for money

- 4.4.1 The report has no implications for resources and value for money.

4.5 Legal Implications, Access to Information and Call In

- 4.5.1 The City Solicitor confirms that the conclusions and recommendations in this report represent a reasonable and proper application of the statutory criteria for determining whether the nominated property is an asset of community value.

4.5.2 The Chief Asset Management and Regeneration Officer has authority to take the decisions requested in this report under Executive functions 1 and 10 (specific to the Director of City Development) of the Director of City Development's sub delegation scheme.

4.5.3 The proposal constitutes a significant operational decision and is therefore not subject to call in.

4.6 Risk Management

4.6.1 The report has no risk management implications.

5 Conclusions

5.1 There is clear local community interest in the future of this site. Its use as a sports field furthered social interests and it is considered that it was the local community that used the site. There is also an argument that such use could be defined as being in the recent past.

5.2 However, for a nominated site to be added to the List of Assets of Community Value all of the criteria must be met. The Reviewing Officer concluded at the previous review that it was not realistic to think the site could be brought back into an eligible use. The nominator has not provided any new information to address this issue and the contrary position is stronger now that planning consent has been granted for the residential scheme. It is therefore unrealistic to think the site can be brought back into a use that furthers the social interests or social wellbeing of the local community.

6 Recommendations

6.1 It is recommended that the Director of City Development declines the nomination on the basis that it does not satisfactorily meet the criteria laid down in the Localism Act 2011 and that the land remains on the List of Assets Nominated by Unsuccessful Community Nominations.

7 Background documents¹

7.1 Leeds Girls' High School Playing Fields red line plan

¹ The background documents listed in this section are available to download from the Council's website, unless they contain confidential or exempt information. The list of background documents does not include published works.