

Report of **Asset Management Service**

Report to **Chief Officer Economy & Regeneration**

Date: **10th August 2016**

Subject: **Community Right to Bid Nomination for 3&5 The Green, Horsforth, Leeds, LS18 5JB**

Are specific electoral Wards affected?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
If relevant, name(s) of Ward(s): Horsforth		
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?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
If relevant, Access to Information Procedure Rule number: Appendix number:		

Summary of main issues

1. In line with the legislation and regulations set out in the Localism Act 2011, this report considers the nomination to add 3&5 The Green, Horsforth, Leeds, LS18 5JB to the List of Assets of Community Value.
2. The property has been nominated by Horsforth Town Council.
3. No 3 is currently used as Council offices for Housing staff. Until recently it also provided a housing enquiry point for local people. No 5 and the stables to the rear of the property are leased out to Horsforth Historical Society and used as Horsforth Museum.
4. Officers conclude that the property's current use furthers the social interests of the local community and it is realistic to think that this can continue in the future. Therefore the criteria as set out in section 88(1) of the Localism Act 2011 is considered to have been met and the nominated land should be added to the List of Assets of Community Value.

Recommendations

5. The Chief Officer Economy & Regeneration is recommended to add 3&5 The Green, Horsforth, Leeds, LS18 5JB to the List of Assets of Community Value.

1 Purpose of this report

- 1.1 The purpose of this report is for the Chief Officer Economy & Regeneration to consider whether the nominated property should be added to the List of Assets of Community Value or whether it should be included on the List of Land Nominated by Unsuccessful Community Nominations in accordance with Part 5 Chapter 3 of the Localism Act 2011.

2 Background information

- 2.1 Part 5 Chapter 3 of the Localism Act 2011 details the legislation 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 or land that is believed to further their social interests or social wellbeing and gives them a fair chance to make a bid to purchase the property or land on the open market if the owner decides to sell. From the date the landowner informs the Council of their intention to sell, eligible community groups have a period of six weeks to confirm whether or not they wish to submit to bid to purchase the property or land. If they do inform the Council that they want to bid, the landowner is prevented from disposing of the property for a period of six months (from the date they originally informed the Council of their intention to sell) unless it is to a community organisation. The landowner is free to dispose of the property at the end of the six month period to whomsoever they see fit.
- 2.2 The nomination is for 3&5 The Green in Horsforth ward (please see the ownership plan at appendix 1). The Executive Member for Communities, Ward Members and Area Support (Citizens and Communities) have been made aware of the nomination. The only response received was from Councillor Townsley who identified that he was the president of Horsforth Village Historical Society and fully supported this action.
- 2.3 The freehold interest in the property is owned by the council. A lease with an original term of 25 years is in place with Horsforth Village Historical Society for 5 The Green and the stable block. For the purposes of Assets of Community Value, the council is the owner for 3 The Green and the historical society is the owner for 5 The Green and the stable block, given their qualifying leasehold interest as defined in section 107(3). The council is obliged to consider whether land is of community value in response to a community nomination. The plan attached to the nomination identifies 3&5 The Green and the stable block as the nominated property. The council must therefore assess the nomination as one.
- 2.4 The historical society responded to their landowner notification letter expressing their support for the nomination.
- 2.5 For property or land to be added to the List of Assets of Community Value, the nominator must be able to demonstrate and satisfy all the listing criteria as laid down in the legislation. The legislation states that buildings or land with a current use is considered to be of community value if, in the opinion of the authority, there is:

- a) an actual current use of the building or other land that is not an ancillary use which 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.'

2.6 For buildings or other land that do not have a current use, the legislation states that land is of community value, if in the opinion of the authority

- a) there is a time in the recent past when an actual use of the building or other land that was not an ancillary use furthered the social wellbeing or interests of the local community, and
- b) it is realistic to think that there is a time in the next five years when there could be non-ancillary use of the building or other land that would further (whether or not in the same way as before) the social wellbeing or social interests of the local community.

2.7 It is important to note that if either of the criteria stated at 2.5 or 2.6 is met, then the Council must add the nominated asset to the List of Assets of Community Value.

3 Main issues

3.1 This report has been based on an assessment of the nomination form, an external site visit and the historical society's response. The report author has previously visited both numbers 3&5.

3.2 The nomination form was received on 8th July 2016 from Horsforth Town Council which is eligible to nominate in line with 89(2)(b)(i) of the Localism Act 2011. Furthermore, in line with Regulation 12(a) the parish council would be eligible to be treated as a bidder should the landowner serve notice of an intention to dispose of the property in line with Section 95(2) of the act. The property is located within Horsfoth Town Council's boundary.

3.3 For a property to be added to The List of Assets of Community Value, the nominator must demonstrate that a current non-ancillary use furthers the social interests and social wellbeing of the local community and that it is realistic to think that it can continue to do so whether or not in the same way.

Does a current non-ancillary use further the social interests or social wellbeing of the local community?

3.4 Viewed in isolation, the current use of 3 The Green as council offices would not be considered to further social interests or social wellbeing of the local community.

3.5 5 The Green houses the exhibits for Horsforth Museum. The museum is open to the public from 10am-4pm Saturdays and on Sundays from 2-5pm from the end of March until the middle of December, except in November when the museum closes at 4pm on Sundays.

- 3.6 The museum displays a range of historical artefacts from Horsforth and the surrounding area. It also hosts seminars, lectures and courses on local history. Coffee mornings are also held on the last Saturday of every month.
- 3.7 The stable building is used by local schools who visit the museum and also hosts local history talks and lectures.
- 3.8 It is considered by Leeds City Council that the current use of 5 The Green and the stables does further the social interests and social wellbeing of the local community. Section 88(6) states that “social interests” includes cultural interests. Clearly the museum furthers cultural interests.
- 3.9 Officers have considered whether or not the museum’s use is non-ancillary when looking at the nominated property as a whole. The museum itself is only open for limited hours for 9½ months of the year. It is closed on weekdays and during the winter is not open at all. The housing office is open during normal office hours year round. The historical society’s lease is for over 50% of the property and when the museum is closed their property has no other use and they have used the property for the museum since 1988. The housing office use and the historical society use are independent and unconnected. There is no definition of non-ancillary in the Act or Regulations. However, the issue of whether there can be more than one non-ancillary use of a property has been considered in previous cases that have been appealed to the First Tier Tribunal. In those cases the Tribunal decided that a property could have more than one non-ancillary use. Officers are of the opinion that in this case the housing office use is non-ancillary, but also that the museum’s use is sufficient to be considered non-ancillary.

Is it realistic to think that there can continue to be a non-ancillary use that will further the social interests or social wellbeing of the local community (whether or not in the same way)?

- 3.10 The museum is currently open and trading. Although there are ongoing discussions about the historical society’s lease and the future of the property, any such negotiations will take time and nothing has been provided to suggest the museum can’t continue to operate in the meantime. Beyond then there are a number of possible outcomes and one of these is that the museum continues to operate from the property. Such an outcome is considered realistic. Therefore, it is realistic to think the current eligible use will continue.
- 3.11 The criteria for listing as set out in paragraph 88(1) of the Localism Act 2011 is considered to have been met and the nominated land should be added to the List of Assets of Community Value.

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.

- 4.1.2 The Executive Member for Communities has been briefed.
- 4.1.3 Horsforth Ward Members have been informed of the nomination. The only response was from Councillor Townsley who is supportive.

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 Localism Act contains a right to appeal for private landowners, ultimately with them being able to take the Local Authority to a first tier tribunal if they are dissatisfied with a decision on a nomination and are still dissatisfied after a formal internal appeal. If a first tier tribunal finds in the landowners favour, the Local Authority is liable for all costs of the tribunal.
- 4.4.2 The Act also gives the landowner a right to compensation if they incur costs or loss of value directly from complying with the Assets of Community Value legislation. This compensation is payable by the Local Authority.

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 Head of Asset Management has authority to take the decisions requested in this report under Executive functions 2(o) (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 potential risk implications as the landowner is able to request an internal review which could ultimately lead to a first tier tribunal.

5 Conclusions

- 5.1 In order to be included on the List of Assets of Community Value, all listing criteria, as laid down in Part 5 Chapter 3 of the Localism Act 2011, must be satisfactorily met.

5.2 The property has a current use that furthers the social interests of the local community and it is realistic to think that such a use can continue. Therefore the criteria as set out in section 88(1) of the Localism Act 2011 is considered to have been met and the nominated land should be added to the List of Assets of Community Value.

6 Recommendations

6.1 The Chief Officer Economy & Regeneration is recommended to add 3&5 The Green, Horsforth, Leeds, LS18 5JB to the List of Assets of Community Value.

7 Background documents¹

7.1 Nomination form.

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.