

Report of **Asset Management and Regeneration Service**
 Strategic Asset Management

Report to **Chief Officer Economy and Regeneration**

Date: **30 September 2016**

Subject: **Community Right to Bid Nomination for**
 The Arabian Horse, Main Street, Aberford, LS25 3AA

| | | |
|---|---|--|
| Are specific electoral Wards affected? | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| If relevant, name(s) of Ward(s): Harewood | | |
| 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 The Arabian Horse, Main Street, Aberford, LS25 3AA to the List of Assets of Community Value.
2. The Council has received a nomination from Aberford and District Parish Council. They are eligible to nominate the property, trigger the moratorium period, bid for the property and purchase the property.
3. The nomination includes the pub building, the car park and the outside eating area/ beer garden. The two storey property has a public bar with areas which are used for live events and are available for private function hire.
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.

Recommendations

5. The Chief Officer Economy and Regeneration is recommended to add The Arabian Horse, Main Street, Aberford to the List of Assets of Community Value.

Purpose of this report

- 1.1 The purpose of this report is for the Chief Officer Economy and 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 Part 5 Chapter 3 Section 90 of the Localism Act 2011 states if a local authority receives a community nomination, the authority must consider the nomination. The authority must accept the nomination if the land nominated is in the authority's area, is of community value and if the nomination is made by an eligible group.
- 2.3 On the 6 April 2015 the law changed removing the permitted development rights for pubs listed as Assets of Community Value. The new law requires a full planning application to be submitted for a change of use or demolition if the pub is listed as an Asset of Community Value.
- 2.4 There has been a national campaign by CAMRA to list pubs as Assets of Community Value. This has resulted in approximately 1400¹ pubs being listed nationally. To date Leeds City Council have listed 45 properties, of these 28 are public houses.
- 2.5 The nomination is for The Arabian Horse site including the car park and garden area at the rear, which is located within the Harewood ward (please see the red line boundary plan at appendix 1). Ward Members and Area Support (Citizens and Communities) have been made aware of the nomination. Councillor Robinson has responded confirming his support to the proposal.
- 2.6 The freehold interest in the property and car park is owned by Red Star Pub Company (WR III) Ltd. The whole site is leased to the landlord Ms Catherine McCoy

¹ Data taken from CAMRA website and correct as of 21 September 2016

- 2.7 To date no objection to the nomination has been received from the landowner, Red Star Pub Company (WR III) Ltd.
- 2.8 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.'
- 2.8 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.
- 2.9 It is important to note that if either of the criteria stated at 2.7 or 2.8 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 and a site visit to the nominated pub.
- 3.2 The nomination for The Arabian Horse was received on 2 September 2016 from Aberford and District Parish Council.
- 3.3 The Parish Council is eligible to submit a nomination to register a property as an Asset of Community Value and to trigger the moratorium in order to make a bid for the property. The Parish Council or other eligible group could consider funding a purchase of the nominated property if it is marketed for sale.
- 3.4 The Parish Council serves the village of Aberford. Their aim is to preserve the use of The Arabian Horse as a public house and restaurant.
- 3.5 The land registry checks have identified that the freehold registered title WYK68834 is to Red Star Pub Company (WR III).

- 3.6 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?

- 3.7 The Arabian Horse is currently the last remaining public house in Aberford.
- 3.8 The Arabian Horse is open 7 days a week between 12pm - 11pm and Sunday 12pm – 10.30pm. Food is served Monday to Saturday between 12pm - 2pm. Bar snacks and sandwiches are available at all other times.
- 3.9 The Arabian Horse hosts weddings, functions, community meetings, weekly quiz nights and live music events. The website is regularly updated with the events and activities taking place.
- 3.10 Aberford and District Parish Council state that The Arabian Horse is very popular with village residents and also with people from surrounding areas who enjoy its attractive position and facilities including the beer garden, it is within walking distance for many residents
- 3.11 It is clear from the information provided and seen at the site visit that The Arabian Horse is a popular venue used by a wide range of people and is an important venue within the local community.
- 3.12 It is considered by Leeds City Council that the current use does further the social interests and social wellbeing of the local community. Pubs are places where people go to drink and socialise. The setting of a pub is a social setting. To argue to the contrary would be to paint a picture of a pub being a place where people went to consume alcohol alone without interacting with other patrons. It is considered that such circumstances would be rare, and nothing has been provided to suggest that The Arabian Horse is such a place. If the local community solely intended to consume alcohol, it is consider more likely they would do so in their own home, taking advantage of the lower prices available in shops and supermarkets. The fact that people are visiting a social environment supports the fact that they do so to further their social interests and social wellbeing.

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)?

- 3.13 To date there has been no response or objection to the nomination from the landowner.
- 3.14 The Arabian Horse is currently open and trading. Nothing has been provided to suggest there are plans to change use or close. Therefore it is realistic to think that the current eligible use shall continue.

- 3.15 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 informed of the decision to be taken on the 26 September 2016.
- 4.1.3 Harewood Ward Members and have been informed of the nomination. Councillor Robinson has responded to confirm his support to the proposal.

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 Chief Officer Economy and Regeneration 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 interest 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 and Regeneration is recommended to add The Arabian Horse, Main Street, Aberford, LS25 3AA to the List of Assets of Community Value.

7 Background documents²

7.1 Nomination form

² 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.