

**Report of**     **Asset Management Service**

**Report to**    **Head of Asset Management**

**Date:**       **17 July 2017**

**Subject:**    **Community Right to Bid Nomination for Thorp Arch & Boston Spa Cricket Club, Leeds, LS23 7AR**

Are specific electoral Wards affected?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
If relevant, name(s) of Ward(s): Wetherby		
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 Thorp Arch & Boston Spa Cricket Club, Leeds, LS23 7AR to the List of Assets of Community Value.
2. The Council has received a nomination from Thorp Arch Parish Council. They are eligible to nominate the property, trigger the moratorium period, bid for the property and purchase the property if the opportunity arises.
3. The nomination includes the pavilion and cricket ground. Thorp Arch and Boston Spa Cricket Club are based at this site and run both junior and senior cricket teams here. The site is also used as a base for community events. The cricket club hold regular social events both to fund raise and to bring the community together. A large number of the community attend the clubs and social events which forms a focal point for the community as there is no community centre or church hall.
4. The landowner has objected to the nomination. The owner's objection suggests that consideration should be given as to whether or not the use of the cricket ground is ancillary or non – ancillary due to the fact that players become members of the club upon payment of an annual subscription fee. The landowner states that this indicates that the playing of cricket at the Club is by private members of the Club only and that the Club is not open to the community as a whole.

5. The objection also considers whether or not the other uses of the property are ancillary. If the Cricket Club has/does organise events for the community, rather than just for members of the cricket club, or even if the cricket club is used by local groups in the future these uses are/would be considered to be ancillary to the main use of the property for playing and practising cricket as a private cricket club. It is also clear that any activities or events carried out at the Thorp Arch and Boston Spa Cricket Club by the wider community are/have been in breach of the terms of the 1976 lease as they require permission from the Landlord.
6. The final point of the objection considers whether or not use of the site furthers the social wellbeing or social interests of the local community. It is felt that the playing of cricket at Thorp Arch and Boston Spa Cricket Club is by members of the Club only and that it is not open to the whole community and therefore benefits its members and not the whole community.”
7. To summarise, officers are of the view that by its nature, the Club serves the local community. The playing of cricket matches and practicing of cricket is the only non-ancillary use of the site. The club is based in Boston Spa and is named after the two villages of Boston Spa and neighbouring Thorp Arch. Membership of the cricket club is surely made up of members of the local community. Therefore people from the local community, playing and practising cricket on the land is a non- ancillary use that furthers the social interests of the local community.
8. 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.
9. **Recommendations**

The Head of Asset Management is recommended to add Thorp Arch & Boston Spa Cricket Club, Leeds, LS23 7AR to the Lists of Assets of Community Value.

## **1 Purpose of this report**

- 1.1 The purpose of this report is for the Head of Asset Management to consider whether Thorp Arch and Boston Spa Cricket Club 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 21<sup>st</sup> 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 of the Localism Act 2011 section (90) 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 The nomination is for Thorp Arch and Boston Spa Cricket Club. The property is located within the Wetherby 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.
- 2.4 The landowner is the Trustees of the Hatfield Estate and they have objected to 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.'
  - 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, a site visit by the Leeds City Council case officer and the owner's objection letter.
- 3.2 The nomination for Thorp Arch and Boston Spa Cricket Club was received on 5 June 2017 from Thorp Arch Parish Council.
- 3.3 Thorp Arch 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. Thorp Arch Parish Council or another eligible group could consider funding a purchase of the nominated property if it is marketed for sale.
- 3.4 The aim of the parish council's nomination is to preserve the use of Thorp Arch and Boston Spa Cricket Club.
- 3.5 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?**

- 3.1 Thorp Arch and Boston Spa Cricket Club serves the local surrounding communities of Thorp Arch and Boston Spa. The cricket club is an essential part of the community running a variety of cricket clubs and training sessions for young people and adults.
- 3.2 There are both junior and senior cricket teams based at the club which provide a safe and child-friendly cricket experience for junior players of all standards and experience. Both boys and girls are welcome to play.
- 3.3 The cricket club hold regular social events both to fund raise and to bring the community together. A large number of the community attend the clubs and social

events which forms a focal point for the community as there is no community centre or church hall.

- 3.4 Furthermore the local school has recently terminated all community lettings, so many groups may look to relocate at the cricket club.
- 3.5 The landowner has objected to the nomination details of which are set out below in italics, with the case officer's response underneath each one.

The owner's objection suggests that consideration should be given as to whether or not the use of the cricket ground is ancillary or non – ancillary. The objection states:

*“A review of Thorp Arch and Boston Spa Cricket Club's website shows information which contradicts this statement. The website clearly identifies that the Cricket Club allows junior and senior cricket players to become members of the Cricket Club, on payment of an annual subscription. This indicates that the playing of cricket at Thorp Arch and Boston Spa Cricket Club is by members of the Club only and that the Club is not open to the community as a whole. We therefore consider that any community use of the Cricket Club is ancillary to the main use of the property for playing and practising cricket by a private club”*

Section 88 (6) (c) of the Localism Act 2011 states that “sporting interests” are included in the definition of “social interests”. Therefore the playing of cricket in itself is an eligible use. The argument being made appears therefore to be that it is club members that are playing cricket and not the local community. The club's website ([www.tabscricketclub.co.uk](http://www.tabscricketclub.co.uk)) on its homepage states “We welcome all new members. TABS has two senior sides running during the season. We are looking for seniors and juniors for the forthcoming 2017 season. Nets start Feb 3rd for 12 weeks. (free taster sessions) TABS also has five thriving junior squads (Under 9's, 11's, 13's, 15's and 18's) and provides a safe and child-friendly cricket experience for junior players of all standards and experience. Both boys and girls are welcome to play.” There is nothing on the website and nothing has been provided to show that there are any restrictions about who can or can't be a member of the club. Indeed, the website appears to be openly inviting new members to join. The cricket club is based in Boston Spa and is called Thorp Arch and Boston Spa Cricket Club. Officers are of the view that by its nature the club serves the local community. Membership of the club will surely mainly be made up of people from the local community and nothing has been provided to argue to the contrary. Officers do not, therefore, agree with this point in the objection.

The objection goes on to consider whether or not the other uses of the property are ancillary and states:

*“In summary if the Cricket Club has/does organise events for the community, rather than just for members of the cricket club, or even if the cricket club is used by local groups in the future (as stated within the Parish Council's application) these uses are/would be considered to be ancillary to the main use of the property for playing and practising cricket as a private cricket club. It is also clear that any activities or events carried out at the Thorp Arch and Boston*

*Spa Cricket Club by the wider community are/have been in breach of the terms of the 1976 lease as they require permission from the Landlord.”*

Officers would agree that the non-cricket activities carried out at the property are ancillary. From the information provided in the nomination and the objection, officers are of the view that the playing and practicing of cricket on the land is a non-ancillary use that furthers the social interests of the local community and is the only non-ancillary use.

The final point of the objection considers whether or not use of the site furthers the social wellbeing or social interests of the local community:

*“For the use of the Cricket Club to truly further the social well-being or social interests of the local community it must be for the whole community. It is clear from the above that the playing of cricket at Thorp Arch and Boston Spa Cricket Club is by members of the Club only and that it is not open to the whole community. The Cricket Club therefore benefits its members and not the whole community.”*

As stated above, officers are of the view that the Cricket Club’s members will be drawn from the local community. The term “*whole community*” is included in this point of the objection. The Localism Act does not go as far as to state that use must be for the whole community.

- 3.6 To summarise, the playing of cricket matches and practicing of cricket is the only non-ancillary use of the site. The club is based in Boston Spa and is named after the two villages of Boston Spa and neighbouring Thorp Arch. Membership of the cricket club is surely made up of members of the local community. Therefore people from the local community playing and practicing cricket on the land is a non- ancillary use that furthers the social interests of the local community.
- 3.7 As well as the playing and practising, the viewing of cricket matches by local people also furthers the sporting/recreational interests of the local community.
- 3.8 In 2013, Bramham and Clifford Cricket Club was successfully listed as an asset of community value.
- 3.9 It is considered by Leeds City Council that the current use does further the social interests and social wellbeing of the local community.

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

- 3.10 Thorp Arch and Boston Spa Cricket Club is currently open and running. 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 can 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 informed of the nomination.
- 4.1.3 Wetherby ward members and colleagues in area leadership have been informed of the nomination. Councillor Proctor responded to confirm his support for the proposal.

### **4.2 Equality and Diversity / Cohesion and Integration**

- 5.2.1 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 landowner has objected to the nomination. They feel that consideration should be given as to whether or not the use of the cricket ground is ancillary or non – ancillary as the Club charges a fee for playing cricket at the ground, making it a private members club which therefore does not further the social wellbeing or social interests of the local community.. However officers conclude that it is our view that by its nature the Club serves the local community. The playing of cricket matches and practicing of cricket is the only non-ancillary use of the site. The club is based in Boston Spa and is named after the two villages of Boston Spa and neighbouring Thorp Arch. Membership of the cricket club is surely made up of members of the local community. Therefore people from the local community, playing and practicing cricket on the land is a non- ancillary use that furthers the social interests of the local community. 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 Head of Asset Management is recommended to add Thorp Arch and Boston Spa Cricket Club, Leeds, LS23 7AR to the List of Assets of Community Value.

## **7 Background documents<sup>1</sup>**

7.1 None.

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<sup>1</sup> 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.