

Report of **Asset Management Service**

Report to **Head of Asset Management**

Date: **22 January 2018**

Subject: **Community Right to Bid Nomination for Chapel Hill Open Space, Harper Terrace, Yeadon, LS19 7RG**

Are specific electoral Wards affected?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
If relevant, name(s) of Ward(s): Otley & Yeadon		
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 Chapel Hill Open Space, Harper Terrace Yeadon, Leeds, LS19 7RG to the List of Assets of Community Value.
2. The Council has received a nomination from 16th Airedale Scout Group. They are eligible to nominate the property, trigger the moratorium period, bid for the property and purchase the property if the opportunity arises.
3. On 31 January 2018 a site visit was undertaken by officers. The area looked well maintained. The area was fully open access with no restrictions in place (such as no ball game signs or no playing on the grass and no fencing other than that to the adjacent car park or gates).
4. The land is currently listed as an Asset of Community Value. However the five year listing period is due to end on 4th April 2018 and so the 16th Airedale Scout Group have submitted a new nomination.
5. **Recommendations**

The Head of Asset Management is recommended to add Chapel Hill Open Space, Harper Terrace, Yeadon, Leeds, LS19 7RG 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 Chapel Hill Open Space, Harper Terrace Leeds, LS19 7RG 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 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 Chapel Hill Open Space. The land is located within the Otley and Yeadon 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. The land is currently listed as an Asset of Community Value and was added to the list on 4th April 2013. Listing lasts for five years and after that time property is automatically removed, so the subject land was due to be removed on 4th April 2018. There is nothing to prevent re-nomination during or after the five year period.
- 2.4 The landowner is Leeds City Council. No objection to the nomination has been made.
- 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 and information provided on the previous nomination form received.

3.2 The nomination for Chapel Hill Open Space was received on 12 December 2017 from 16th Airedale Scout Group.

3.3 16th Airedale Scout Group 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. 16th Airedale Scout Group 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 scout group's nomination is to preserve the use of Chapel Hill Open Space.

3.5 The open space lies at the heart of Yeadon town and the 16th Airedale Scout Group advises that it is the only central recreational open space available to surrounding residents and is much used by them.

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 space is mainly used by the Scouts, Guides, Beavers and Brownies from March until September/October (weather dependent). Each session lasts between 1 to 2 hours and the main activity that takes place is playing sport / games.

- 3.8 The land is also used by the preschool playgroup located nearby and has also been used by the Yeadon community for the venue for the annual carnival.
- 3.9 The use of the land appears limited and it could be argued that that this makes the use ancillary and therefore not eligible to be listed. However the view taken is that the Council owns this land and keeps it as open space so the community can access and use it. Therefore the land being put to its intended use cannot be considered ancillary
- 3.10 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?

- 3.11 Nothing has been provided to suggest there are plans to change the use of the open space. Therefore it is realistic to think that the current eligible use can continue.
- 3.12 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 Otley and Yeadon ward members and colleagues in area leadership have been informed of the nomination.

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 land 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 list Chapel Hill Open Space, Harper Terrace, Leeds, LS19 7RG to the List of Assets of Community Value.

7 Background documents¹

7.1 None.

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.