

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

**Report to**     **Chief Officer Asset Management and Regeneration**

**Date:**         **25<sup>th</sup> June 2018**

**Subject:**     **Community Right to Bid Nomination for land at the former Chapeltown Community Nursery, Roundhay Road, Chapeltown, Leeds, LS7 4NT**

Are specific electoral Wards affected?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
If relevant, name(s) of Ward(s): Chapel Allerton		
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 land at the former Chapeltown Community Nursery, Chapeltown, Leeds, LS7 4NT to the List of Assets of Community Value.
2. The Council has received a nomination from the the Al-Towbah Centre who are a registered charity (charity number: 1154535). Registered charities are eligible to nominate the property, trigger the moratorium period, and bid for the property or purchase the property if the opportunity arises.
3. The nomination is for the land which was formerly the site of the Chapeltown Community Nursery. It was closed by the service for a number of years before a demolition was progressed and the site was cleared by 2010.
4. The site has not been in use since the nursery closed and since demolition has remained vacant and disused.
5. The Chief Officer Economy & Regeneration approved entering into one to one negotiations and an exclusivity agreement with the Chapeltown Cohousing and Unity Housing Association on the 13<sup>th</sup> September 2016 in order for provisional terms to be negotiated for the disposal of the subject site for affordable housing.

## **6. Recommendations**

The Chief Officer Asset Management and Regeneration is recommended to decline to list land at the former Chapeltown Community Nursery, Chapeltown, Leeds, LS7 4NT to the list of Assets of Community Value on basis that it does not satisfactorily meet the criteria laid down in the localism Act (2011) and that the land should be added to the List of Assets Nominated by Unsuccessful Community Nominations.

## **1 Purpose of this report**

- 1.1 The purpose of this report is for the Chief Officer Asset Management and Regeneration to consider whether land at the former Chapeltown Community Nursery, Chapeltown, Leeds, LS7 4NT should be added to the List of Assets of Community Value or whether it should be included on the List of Assets 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 the former Chapeltown Community Nursery site which is located within the Chapel Allerton 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. No comments have been received in support or against the nomination.
- 2.4 The land is owned by Leeds City Council.
- 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.'

2.7 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.

2.8 It is important to note that if both of the criteria stated at either 2.6 or 2.7 are 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 by the Leeds City Council case officer.

3.2 The nomination for the former Chapeltown Community Nursery site was received on 8<sup>th</sup> June 2018 from the Al-Towbah Centre who are a registered charity. Under section 89 (2)(b)(iii)(b) of the Act is the definition of a voluntary or community body eligible to submit a nomination, trigger the moratorium period, bid and purchase the property.

3.3 In the nomination form, the Al-Towbah Centre has stated that they could fund the purchase of the site through money that they currently have available as a deposit and with the remainder of the purchase being funded through charitable donations.

3.4 For a property to be added to the List of Assets of Community Value, the nominator must demonstrate that a current or 'recent past' non-ancillary use furthers or furthered the social interests and social wellbeing of the local community and that it is realistic to think that it can continue to do so, or be brought back into such a use within five years, whether or not in the same way.

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

4.1 The nomination form indicates that the land is ideally located in the heart of the community and is well suited and of sufficient size to be extremely suited to community gatherings of all kinds.

4.2 The subject land is in close proximity to the current location of the Al-Towbah Centre. The nominator advises that access to this land would ensure services currently offered by the centre are still accessible to the local community while presenting an opportunity to extend the scope of what is available by building a

larger community centre. The organisation currently runs daily, regular and annual activities that serve the interests of the community such as cultural celebrations, charity events, educational groups and sports tournaments. The courses and activities currently in place are well attended and popular and so the nominator would like to make use of the subject land to extend the services offered and make them accessible to more people.

- 4.3 The subject land is not currently in use for any purpose and has remained vacant for a number of years since the closure of Chapeltown Community Nursery prior to 2010. Given the passage of time since closure, it is considered that the property has not had an eligible use in the recent past.
- 4.4 From the nomination form and site visit it is considered by Leeds City Council case officer that land at the former Chapeltown Community Nursery does not have a current non-ancillary use that furthers the social interests and social wellbeing of the local community.

***Is it realistic to think that there is a time in the next 5 years when there could be non-ancillary use of the building that will further the social interests or social wellbeing of the local community (whether or not in the same way)?***

- 4.5 The subject land was formerly used as a community nursery. It was closed by the service for a number of years before a demolition was progressed and the site was cleared by 2010.
- 4.6 The land has not been in use at all since the closure of the nursery and has remained vacant since this date. There has not been any use of the site since the closure and demolition of the nursery.
- 4.7 The land has recently been identified as a suitable development site for Cohousing and affordable housing and has been sold under two transactions, one to Chapeltown Cohousing (ChaCo) the other to Unity Housing Association.
- 4.8 The Chief Officer Economy & Regeneration approved entering into one to one negotiations and an exclusivity agreement with the buyers on the 13<sup>th</sup> September 2016 in order for provisional terms to be negotiated for the disposal of the subject site. This transaction is currently pending completion.
- 4.9 The intended use of the subject site to ChaCo and Unity Housing Association will result in new bespoke housing that meets the needs of a growing community led housing requirement and will provide affordable older people's accommodation
- 4.10 The case officer concludes that the current use does not meet the criteria for listing as set out in paragraph 88(1) of the Localism Act 2011, the nominated property should not be added to the List of Assets of Community Value. It should instead be added to the List of Assets Nominated by Unsuccessful Community Nominations.

## **5 Corporate Considerations**

### **5.1 Consultation and Engagement**

5.1.1 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.

5.1.2 Executive Member of Communities has been informed of the nomination.

5.1.3 Chapel Allerton Ward Members and colleagues in Area Support have been informed of the nomination. No responses have been received.

## **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 Asset Management 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.

## **6 Conclusions**

- 6.1 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.
- 6.2 . Despite it being realistic to think that the subject can be used in the future to further the social interests or social wellbeing of the local community, the land does not have a current use and has not had such a use in the recent past to further the social interests of the local community which it must have to be successfully added to the List of Assets of Community Value. It is therefore concluded that the criteria as set out in section 88(1) of the Localism Act 2011 is not considered to have been met and the nominated land should not be added to the List of Assets of Community Value.
- 6.3 The property should be added to the List of Assets Nominated by Unsuccessful Community Nominations.

## **7 Recommendations**

- 7.1 The Chief Officer Asset Management and Regeneration is recommended to decline the listing of the nomination of land at the former Chapeltown Community Nursery on the basis that the criteria laid down in the Localism Act 2011 has not been met and the property is to be added to the List of Assets Nominated by Unsuccessful Community Nominations.

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

- 8.1 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.