

**Report of Asset Management Service**

**Report to Head of Asset Management**

**Date: 21 June 2019**

**Subject: Community Right to Bid Nomination for T.V Harrison Sports Playing Field, Oldfield Lane, Wortley**

Are specific electoral wards affected? If yes, name(s) of ward(s): Farnley & Wortley	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Has consultation been carried out?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Will the decision be open for call-in?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, access to information procedure rule number: Appendix number:	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

**Summary**

**1. Main issues**

- In line with the legislation and regulations set out in the Localism Act 2011, this report considers the nomination to add land at T.V Harrison Ground Sports Playing Field, Wortley, Leeds to the List of Assets of Community Value.
- The Council has received a nomination from T.V Harrison Community Action Group which is an unincorporated community group. They are eligible to nominate the property, but not trigger the moratorium period, bid for the property or legally purchase the property.
- The nomination comprises of a site known as T.V Harrison Ground Sports Playing Field, Wortley as shown on the attached plan. The site is owned by two separate landowners. The area edged red on the attached plan is in the ownership of Leeds City Council and the area edged blue on the attached plan is in the ownership of National Westminster Bank and Leeds Schools Sports Association (LSSA) act as the trustee of the land.
- The land in Council ownership is currently leased to LSSA by way of a 99 year lease and when in use both parcels of land were used in conjunction with one another.
- There has been no formal use of the subject site for many years. The sports pitch has had no regular use since 2002, therefore there has not been a time in the

recent past when an actual use of the land that was not an ancillary use furthering the social wellbeing or interests of the local community.

- Officers therefore conclude, the land does not further the social interests of the local community as set out in paragraph 88(1) of the Localism Act 2011

## **2. Best Council Plan Implications** (click [here](#) for the latest version of the Best Council Plan)

- The Best Council Plan 2018/19-2020/2021 includes the city priority of Safe Strong Communities: Being responsive to local needs and building thriving resilient communities. The objective of Community Right to Bid supports the Best Council Plan priority by giving 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.

## **3. Resource Implications**

- 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
- 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

## **Recommendations**

The Head of Asset Management is recommended to decline the listing of the nomination of T.V Harrison Ground Sports Playing Field, Oldfield Lane, Wortley 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.

### **1. Purpose of this report**

- 1.1 The purpose of this report is for the Head of Asset Management to consider whether T.V Harrison Ground Sports Playing Field, Oldfield Lane, Wortley 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 site is located within the Farnley & Wortley 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 Part of the land (marked blue on the plan at Appendix 1) is within Council ownership and is currently leased to Leeds Schools Sports Association (LSSA) by way of a 99 year lease and for the purposes of this assessment they are to be considered as the owner. The remainder of the site (marked red on the plan) is in the freehold ownership LSSA. When in use both parcels of land were used in conjunction with one another.
- 2.5 The nominator advises that from 1850 the land was used as a sports playing field. Up to 2002 the ground was used by schools including the Leeds County Boys team.
- 2.6 In 2002 the LSSA relocated the Leeds County Boys team to Morley Woodkirk High School. The nominator has confirmed that since that date LSSA "abandoned" the playing fields and failed to maintain them use of the land.
- 2.7 It is clear from a site visit that there has been no use of the land for a considerable amount of time. Although part of the land appears to have recently been cut back, the condition is poor and does not show any signs of regular use for any sporting events or community related activities.
- 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.
  - 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.
- 2.9 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.

- 2.10 It is important to note that if either of the criteria stated at 2.8 or 2.9 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 by the Leeds City Council case officer.
- 3.2 The nomination for T.V Harrison Ground Sports Playing Field, Oldfield Lane, Wortley was received on 4 June 2019 from T.V Harrison Community Action Group.
- 3.3 T.V Harrison Community Action Group are eligible to nominate the property **as an Asset of Community Value**, but not trigger the moratorium period, bid for the property or legally purchase the property.
- 3.4 The site is owned by two separate landowners. The area edged red on the attached plan is in the ownership of Leeds City Council and the area edged blue on the attached plan is in the ownership of National Westminster Bank and Leeds Schools Sports Association are the trustees of the land.
- 3.5 The land in Council ownership is currently leased to LSSA by way of a 99 year lease and when in use both parcels of land were used in conjunction with one another.
- 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?**

- 3.6 The nomination form indicates that the land is not currently used. The nominator states that the subject site was “abandoned” by LSSA as owners in 2002 and has not been maintained since. No detail has been provided that there has been any use since 2002. The land is currently disused and therefore, there is no current non-ancillary use that furthers the social interests or social wellbeing of the local community.

#### **Has there been 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?**

- 3.7 For many years the land was used by schools as a sports playing field. However since 2002 the fields have not had any formal use. Use by local schools for sports provision clearly furthered the social interests of the local community and this use of land laid out as playing fields was non-ancillary.
- 3.8 To meet the criteria set out in the Localism Act 2011, the eligible use must have taken place in “the recent past”. Neither the act itself nor the Assets of Community Value Regulations (England) 2012 define a period of time for “recent past”, rather it is left to Local Authorities to determine whether a period of time is “recent past” on a case by case basis.

3.9 It is evident that the Act does not fetter the discretion of individual local authorities in coming to their own conclusion on this point. This position was reinforced by Baroness Hanham, the Under-Secretary of State for Communities and Local Government in her statement on the 23 July 2012 during a reading of the Assets of Community Value (England) Regulations as they passed through the House of Lords. Speaking on behalf of the Government, Baroness Hanham stated that.

***“My definition of the “recent past” would be reasonably short and my definition of “not recent past” quite lengthy. However, I am not defining this; local authorities once again are going to be defining it. Any normal logic would suggest that “recent” would not be 20 years or, probably, even 10 years, but further than that I will not go”***

3.10 On the basis of the above, whilst we consider it useful for Leeds City Council to use five years as a guide to the upper limit of the “recent past”, we do not go as far as to recommend this as an absolute cut off. Rather, we take the view that each case needs to be considered on its merits. In this case given the length of time is considerably more than 5 years, we do not consider this to be the recent past.

**Is it realistic to think that the land can be brought back into an eligible use, (whether or not in the same way)?**

3.11 Although the land has deteriorated due to the passage of time, it still remains an area of open space which with willing ownership it is realistic to think it could be brought back into its previous use as playing fields within five years and that such a use would likely further the social interests of the local community.

3.12 Although it is considered realistic to think that the land could be brought back into an eligible use, to be added to the List of Assets of Community Value all of the criteria needs to be met and without an eligible current use or such use in the recent past the Council cannot add the property to the list.

3.13 The criteria for listing as set out in paragraph 88(1) or 88(2) of the Localism Act 2011 is considered not to have been met and the nominated property should not be added to the List of Assets of Nominated by Unsuccessful Community Nominations.

## **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 Farnley & Wortley ward members and colleagues in area leadership have been informed of the nomination. Councillor Ann Forsaith, Councillor Ann Blackburn and Councillor David Blackburn have all formally noted that they are in support 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 the Best Council Plan**

4.3.1 The Council has an obligation under the Localism Act 2011 to assess nominations under Community Right to Bid.

#### Climate Emergency

4.3.2 There are no climate emergency implications relevant to this nomination.

### **4.4 Resources, procurement 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 landowners are 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 does not have a current or recent previous use that furthers the social interests of the local community. There has been no formal or permitted use of the land since 2002 which is not considered to be the recent past.

5.3 Therefore 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.

5.4 The property should be added to the List of Assets Nominated by Unsuccessful Community Nominations.

## **6. Recommendations**

6.1 The Head of Asset Management is recommended to decline the listing of the nomination of T.V Harrison Sports Playing Field, Oldfield Lane, Wortley on the basis that the criteria laid down on 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.

## **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.