

Report of Asset Management Service

Report to Head of Asset Management

Date: 4 July 2019

Subject: Community Right to Bid Nomination for Land at Back Allerton Terrace, Chapel Allerton, LS7

Are specific electoral wards affected? If yes, name(s) of ward(s): Chapel Allerton	<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 Back Allerton Terrace, Chapel Allerton, Leeds to the List of Assets of Community Value.
- The land as shown edged red on the attached plan, is currently within Council ownership and has been vested with Resources and Housing who have declared the site surplus to requirements on 27 June 2019.
- The nomination comprises of an undeveloped, sloping piece of land formerly occupied by a row of terraced houses that were demolished in 1964 as part of slum clearance. This part of the site is unmade ground and is currently used for public car parking and bin storage without any formal permission or agreement.
- A section of the site backs onto a number of commercial premises that front Harrogate Road on the east side and part of the site has a long history of issues including maintenance liability, overgrown vegetation, waste management, encroachment and access.
- The Council has received a nomination from Seven Arts Leeds Community Interest Company. They are eligible to nominate the property, trigger the moratorium period, bid for the property and purchase the property if the opportunity arises.

- Local businesses and developers have also expressed a keen interest in the land as it could enhance assets they own nearby.
- The site has a long history of community involvement and attempted encroachments by adjacent property owners to secure access to their back yard and for parking.
- In June 2018 at the request of Ward Members, a public consultation was undertaken by Resources and Housing which included a drop in session at the local library to enable local residents and businesses to register their view on the future of the site. During this meeting, there was an overwhelming view that the land has a social value to the community.
- The area has for many years been of interest to local residents and community groups. In 2000 a section of the site which fronts onto Regent Street and is bordered by Back Allerton Terrace on the west side, was transformed informally into a pocket park with seating and a community book sharing scheme operating from the site. This area has planting and is maintained by Chapel Allerton in Bloom. The site is also used on an annual basis by the art festival groups.
- Therefore there has been a time in the recent past, when an actual use of the land that was not an ancillary use furthered the social wellbeing or interests of the local community.
- Officers therefore conclude that the land does 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 add Land at Back Allerton Terrace, Chapel Allerton to the List of Assets of Community Value for the reasons set out in this report.

1. Purpose of this report

- 1.1 The purpose of this report is for the Head of Asset Management to consider whether Land at Back Allerton Terrace, Chapel Allerton 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 site 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.
- 2.4 It is clear from a site visit that part of the subject site which fronts onto Regent Street and is bordered by Back Allerton Terrace, is being used by the local community and has been for a number of years. This area has been transformed into a pocket park with seating and a community book sharing scheme operates from the site. This area appeared to be well maintained with planting.
- 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.
- 2.9 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, a site visit by the Leeds City Council case officer and a further discussion with a representative of the nominator.
- 3.2 The nomination for Land at Back Allerton Terrace, Chapel Allerton was received on 29 May 2019 from Seven Arts Leeds CIC.
- 3.3 As a Community Interest Company that doesn't distribute a surplus to its members, Seven Arts CIC are eligible to nominate the property, trigger the moratorium period, bid for the property and purchase the property if the opportunity arises.
- 3.4 The site is owned by Leeds City Council and has recently been declared surplus to requirements by Resources and Housing on 27 June 2019.
- 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?

- 3.6 The nominator has advised that in the year 2000, a portion of the nominated site was transformed informally into a pocket park with seating and a community book sharing scheme. This area is used regularly by members of the community. Chapel Allerton in Bloom have also planted on this site and currently maintain this area. The site is also used annually by organisers of the Chapel Allerton Art Festival.
- 3.7 The pocket park takes up less than half of the site, with the remainder used informally as car parking by local residents. The pocket park has been in use since 2000 and is used by many people within the local community, certainly more than park within the site. Officers are of the view that use of the pocket park, when viewed as part of the overall use of the wider site, is a significant use and non-ancillary.

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

- 3.8 A portion of the land fronting Regent Street and bordered by Back Allerton Terrace is currently being used regularly by members of the community as a pocket park. 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.

- 3.9 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.
- 3.10 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 Chapel Allerton ward members and colleagues in area leadership 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 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 has a current non-ancillary use that furthers the social interests 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 Land at Back of Allerton Terrace, Chapel Allerton 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.