

Report of **Asset Management Service**

Report to **Head of Asset Management**

Date: **24 September 2020**

Subject: **Community Right to Bid Nomination for The Bowling Green,
Bondgate, Otley, LS21 3AB**

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 The Bowling Green, Bondgate, Otley, LS21 3AB to the list of Assets of Community Value.
2. The Council has received a nomination from The Otley Pub Club 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.
3. The nomination is one of 16 received simultaneously for pubs in Otley. The nomination form states that the Bowling Green has been serving the people of Otley since 1830, when the first innkeeper was recorded. Prior to this it was the courthouse for the area. Developed by JD Wetherspoon PLC, it has become recognised as a popular resource for reasonably priced food and drink as well as playing an important role in being a venue for the cultural activities that take place in Otley such as Morris dancing.
4. 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.

Recommendations

5. The Head of Asset Management is recommended to add The Bowling Green, Bondgate, Otley, LS21 3AB to the List 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 the nominated property 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 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 On 26 January 2015 Government Ministers announced their intention to change the law to remove permitted development rights for pubs that are listed as Assets of Community Value. Previously a pub's owner could change the use to certain uses (including retail) or demolish the pub without seeking full planning consent. The new law, which took effect from 6 April 2015, requires a full planning application to be submitted for such activities if the pub is listed as an Asset of Community Value.
- 2.3 The nomination is for The Bowling Green which is located within the Otley and Yeadon ward (please see the red line boundary plan at appendix 1). The Ward Members and have been made aware of the nomination and to date no responses have been received.
- 2.4 The freehold interest in the property is owned by JD Wetherspoon PLC.
- 2.5 To date, the landowner has not submitted an objection to the potential listing and neither has any other interested party.
- 2.6 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 either of the criteria stated at 2.6 or 2.7 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 supplementary information document received from The Otley Pub Club. In addition, officers conducted a visit to the nominated pub.

3.2 The nomination for The Bowling Green was received on 27 July 2020 from The Otley Pub Club, which is a locally based unincorporated community group with at least 21 members eligible to vote in the Leeds area. This has been subsequently checked with the Leeds City Council Elections team.

3.3 As an unincorporated community group with a local connection, The Otley Pub Club is eligible to submit a nomination to register a property as an Asset of Community Value but not to trigger the moratorium in order to make a bid for the property. Therefore, the Otley Pub Club cannot purchase the nominated property. However, in considering this nomination, it is irrelevant whether the Otley Pub Club satisfies the requirements for a "community interest group" under Section 95, as well as satisfying the requirements for "a voluntary or community body with a local connection" under Section 89. It is entirely possible, and permissible under the Act for one community group to nominate a property, and for a different community group to later trigger the moratorium period.

3.4 The Otley Pub Club is a community organisation made up of local pub supporters. The Otley Pub Group is free to join, their 'Role and Constitution' states that their purpose is:

- For people to be kept informed of what is going on in the pubs
- To campaign against pub closures and on other issues affecting local pubs and be the 'voice of pub supporters' in the town
- For people to support, identify with and feel some 'ownership' of Otley's pubs as a community.

3.5 The Otley Pub Club has nominated 16 pubs in the Leeds District. All the pubs in Otley have been nominated by the Pub Club and have all previously been added to the list of Assets of Community Value, and each of these listings have now reached their five year expiry date.

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. It is important to note that each nomination of each pub must be considered separately and on its own merits, and there is no presumption that because the nominated land is a pub, then it is automatically land of community value.

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

3.7 The Otley Pub Club provide the following reasons in their nomination for thinking that the Council should conclude there is an actual, current, non-ancillary use which furthers the social wellbeing or social interests of the local community.

3.8 The Otley Pub Club state that 'Otley is a famous pub town' it has a reputation which is both nationally and internationally known. The established 'Historic Otley Ale Trail' links together the Otley pubs on a publicised trail which can be downloaded from the Otley Pub Club website.

3.9 A number of the Otley pubs date back to the 17th and 18th centuries and form an important part of the town's history and architecture.

3.10 Otley hosts a number of annual festivals and one off events such as: The Folk Festival; The Walking Festival; Otley Word Fest; The Victorian Faye; Otley Cycle Races; The Street Festival and the 'turning on' of the Christmas lights. The pubs play an integral role by providing more than food and drink. They provide venue hire and rooms for events to allow festivals to take place across the town rather than in one hall; amenity space for the local community and tourists visiting the town for an event; they add to and enhance the ambience of the town making it a place where people want to live and visit.

3.11 The Bowling Green is located in the town centre and has been serving the people of Otley since 1830 when the first innkeeper was recorded. The nomination states that prior to this the pub was the courthouse for the area. It was redeveloped by JD Wetherspoon who have expanded the seating area and in which the nominator states has earned the reputation as a social hub as well as a resource for reasonably priced food and drink.

- 3.12 Further supporting information provided by the Otley Pub Club details how The Bowling Green forms an integral part of the historic ale trail. It is stated that the outside seating area provides a venue for the Otley Folk Festival which is held annually and is used by Morris dancers on occasions. It's location on the locally famous Otley Cycle Race has made it a popular venue on race day.
- 3.13 To date, no objection from the landowner has been received.
- 3.14 It is considered that the current uses of the Property do further the social interests and social wellbeing of the local community, and are not ancillary. In addition to the information provided in the nomination, it is generally accepted that pubs are places where people go to drink and socialise. The setting of a pub is a social setting. To argue to the contrary would be to paint a picture of a pub being a place where people went to consume alcohol alone without interacting with other patrons. It is considered that such circumstances would be rare, and there is nothing to suggest that The Bowling Green is such a place. If the local community solely intended to consume alcohol, it is considered more likely they would do so in their own home, taking advantage of the lower prices available in shops and supermarkets. The fact that people are visiting a social environment supports the view that they do so to further their social interests and social wellbeing.

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

- 3.15 The Bowling Green is currently open and trading. As mentioned above, no compelling reasons have been given to think that a continuation of the current uses is not a realistic outcome. Therefore, it is considered reasonable for the Council to conclude that it is realistic to think the current uses will continue and that such uses will be eligible, and will not be ancillary.
- 3.16 Therefore, it is considered that the criteria for listing as set out in Section 88(1) of the Localism Act 2011 have been met and the Property 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 Otley and Yeadon Ward Members have been informed of the nomination. No comments have been received.

4.2 Equality and Diversity / Cohesion and Integration

- 4.2.1 The public sector equality duty in the Equality 2010 must be considered whenever the Council is discharging any of its functions. The duty is to have due regard to the need to eliminate discrimination, harassment etc., and advance equality of opportunity and foster good relations between those who share a relevant

protected characteristic and those who do not. This means the Council must assess the risk and extent of any adverse impact on people with a relevant protected characteristic, and the ways in which such risk may be eliminated, before reaching a decision. It is not considered that listing the Property as an asset of community value could give rise to any such risk.

4.3 Council policies and City Priorities

4.3.1 The Council has a duty under Section 90 of the Localism Act 2011 to consider community nominations, and to accept nominations if the land is in the authority's area and is of community value.

4.4 Resources and value for money

4.4.1 The Localism Act contains a right to appeal for private landowners, first by way of requesting the authority to carry out a listing review, and then by appeal to the first tier tribunal. If the tribunal found in the landowners favour, the authority could be liable for the costs of the appeal.

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 Act. This compensation is payable by the Local Authority.

4.5 Legal Implications, Access to Information and Call In

4.5.1 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) and under 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 given the landowner's rights of appeal mentioned above.

5 Conclusions

5.1 In order to be included on the List of Assets of Community Value, the statutory criteria referred to above must be met.

5.2 For the reasons mentioned above, it is considered reasonable to conclude that the statutory criteria have been met and the Property should be added to the List of Assets of Community Value.

6 Recommendations

6.1 The Head of Asset Management is recommended to add The Bowling Green, Bondgate, Otley, LS21 3AB to the List of Assets of Community Value.

7 Background documents