

**Report of Asset Management Service
Report to Head of Asset Management**

Date:

**Subject: Community Right to Bid Nomination for T.V Harrison Sports Ground,
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 accordance with the Localism Act 2011 and the Assets of Community Value (England) Regulations 2012, this report considers the nomination to include land at T.V Harrison Ground Sports Ground, Wortley, Leeds in 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, or bid for the property.
- The nomination comprises of a site known as T.V Harrison Sports Ground, 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 Leeds Schools Sports Association (LSSA) and National Westminster Bank act as the trustee of the land. The Council-owned part of the site is let on a 99-year lease to the LSSA.
- There is some photographic evidence which appears to show that as at June 2019, the site was overgrown, subject to vandalism and did not show any sign of regular activity. However, the nomination which has been submitted by the Group refers to members of the local community accessing the site on an informal basis for sports and leisure-related activities, including events such as football matches, park runs

and community gardening, and to a general improvement of the site by cutting back overgrown areas.

- There is no information from the Council's Parks & Countryside Service or from the LSSA, to confirm or not the Group's account of community uses in the nomination.
- The site has been allocated for housing under the adopted Site Allocations Plan (SAP). The SAP was found to be sound by the Planning Inspectorate and was formally adopted by the Council in July 2019.
- There are firm and settled plans by the Council, in its capacity as local housing authority to develop the site for housing, subject to the grant of planning permission.
- It is therefore recommended that it is reasonable for the Council to conclude that it is not realistic to think that there can continue to be non-ancillary use of the site which will further (whether or not in the same way) the social wellbeing or social interests of the local community, and therefore the site should not be included in the List of Assets of Community Value.

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 the "Community Right to Bid" provisions of the Localism Act 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 of appeal for private landowners, including the right to appeal to the First-Tier Tribunal if the landowner is still dissatisfied following a listing review by the Council. If the First-Tier Tribunal found in the landowner's favour on appeal, there could also be an award of costs against the Council.
- The Act also gives the owner a right to compensation if they incur costs or loss of value directly from complying with the legislation. Any compensation would be payable by the Council.

Recommendations

The Head of Asset Management is recommended not to include the site in the List of Assets of Community Value on the basis that the criterion in Section 88(1)(b) of the Localism Act 2011 has not been met, and therefore the site 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 Head of Asset Management to consider whether T.V Harrison Ground Sports Ground, Oldfield Lane, Wortley should be included in 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 and the Assets of Community Value (England) Regulations 2012 contain the rules relating to the “Community Right to Bid”. The purpose of this right 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 “community interest groups” as defined in the Regulations have a period of six weeks to request in writing for the group to be treated as a potential bidder in relation to the land. If they do make such a request, the owner 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 interest group. The landowner is free to dispose of the property at the end of the six month period to whomsoever they see fit.
- 2.2 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, and is of community value.
- 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 the LSSA by way of a 99 year lease for the provision of sports pitches and therefore they are to be considered as the owner, for these purposes. The remainder of the site (marked red on the plan) is in the freehold ownership of the LSSA. When in use, both parcels of land were used in conjunction with one another as sports pitches.
- 2.5 In 2002 the LSSA relocated the Leeds County Boys team to Morley Woodkirk High School. The site had become a regular target for vandalism and anti-social behaviour, so much so that it became dangerous and unusable as a sports facility.
- 2.6 Following extensive negotiations with the LSSA, Heads of Terms were agreed for the Council’s acquisition of the LSSA’s freehold part of the site, and for the surrender of the LSSA’s 99-year lease, and the Council and the LSSA have now exchanged contracts, on a conditional basis.
- 2.7 As set out above, the Group has stated in their most recent nomination that the local community has been using the site since 2006 for various informal leisure activities such as football matches, park runs and community gardening, and that it is a regular route for dog walkers.
- 2.8 There is no information from the Parks & Countryside Service or from the LSSA, as to current or recent uses of the site.
- 2.9 There is some photographic evidence from June 2019 which appears to show that the general condition of the site was overgrown, and poor, despite some recent cutting back and did not show signs of regular use for any sporting events or community related activities.

- 2.10 In addition, the LSSA wrote to the Group in June 2019 requesting that they refrain from trespassing on the land and cease to carry out any sporting related activities with immediate effect.
- 2.11 The site has been allocated as part of the Site Allocations Plan (SAP) for housing. The SAP was found to be sound by the Planning Inspectorate and was formally adopted by the Council in July 2019.
- 2.12 For property or land to be included in 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. Section 88 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.
- 2.13 It is important to note that if the criteria in Section 88 are met, then the Council must include the site in 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 previous site visits by the Council's case officer, and on information provided by the Council in its capacity as local housing authority.
- 3.2 The site is currently listed on the List of Assets Nominated by Unsuccessful Community Nominations.
- 3.3 The nomination to be considered was received on 9th April 2020.
- 3.4 The Group are eligible to make a "community nomination" as they are a voluntary or community body with a local connection, in accordance with the Act and the Regulations.
- 3.5 As set out above, the nomination indicates that the site has been used for informal leisure activities since 2006. The Group have advised that the site has been greatly improved by the local community and is being used for informal leisure and recreational activities, and is now being used again informally as a sports field. This has been confirmed by local Ward Members.
- 3.6 It appears that the uses of the site referred to in the nomination, have taken place without the permission of the LSSA as owner/lessee, and therefore may have been trespassory in nature, and unlawful. However, case-law indicates that beneficial recreational activities, though technically unlawful in the sense that they have not been permitted, should still be taken into account as actual uses of the nominated land. It is not relevant therefore, whether the LSSA approves of, or has given permission for these uses. Nor is it relevant for these purposes, whether the Council considers these uses are appropriate or desirable, given the nature or condition of the site, or given the on-going site investigations by the Council in its capacity as local housing authority. It is therefore accepted that there are current, non-ancillary uses of the site which further the social interests or social wellbeing of the local community.

- 3.7 As regards whether it is “realistic to think that there can continue to be” eligible, non-ancillary uses of the site, the site has been identified by the Council in its capacity as local housing authority, as potentially suitable for council housing. This use would be in accordance with the formal allocation of this site (housing) within the Site Allocations Plan (SAP). Consultation on the SAP commenced in 2013 and it was formally adopted in July 2019. During the SAP process there was extensive consultation with a range of stakeholders, including statutory bodies such as Sport England, Historic England, and the Environment Agency. In addition to this local communities were consulted, including hard to reach groups such as Travellers and Show people. Following this extensive consultation the SAP was approved and adopted by Full Council in July 2019. At the point of adoption, there was the opportunity to challenge the allocation for the site and no such challenge came forward relating to the allocation for this site.
- 3.8 In addition, it is to be noted that the Council, in its capacity as local housing authority has taken significant steps towards acquiring and then developing the site for Council housing. The table below indicates the key activities undertaken by the Council as local housing authority. In addition, it is apparent that the local housing authority has a clear timetable for the outstanding matters which need to be resolved before the development of the site for housing can start, and these are also set out in the table below;

Activity	Date
Initial consultation with utility providers as part of viability considerations	May 2018
External consultants engaged to carry out site investigations, including; <ul style="list-style-type: none"> • Preliminary Site Appraisal • Topographical Survey • Preliminary Ecological Appraisal Phase 1 Desktop study	August 2018
Draft Heads of Terms developed	August 2018
Contractor appointed to begin treatment of onsite Japanese Knotweed	September 2018
Consultation with Ward Members regarding use of site for social housing	September 2018
Submission of Planning Pre-Application Advice request to Planning Department	October 2018
Executive Board Approval for <ul style="list-style-type: none"> • Development of social housing on the site • Acquisition of the private area of the site to facilitate social housing development 	November 2018

Ward Member consultation regarding site proposals	January 2019
Production of Phase I Desk Study to support development of suitable proposals	February 2019
Ward Member update regarding proposals	March 2019
Response received from Planning department to Pre-Application request	June 2019
Executive Member update regarding proposals	June 2019
Production of Preliminary Site Appraisal to support development of suitable proposals	October 2019
Approval for revised Heads of Terms	December 2019
Ward and Executive Member Consultation regarding proposals for the site	January 2020
Appointment of Design and Build Contractor to carry out feasibility study	January 2020
Approval to spend received to acquire site	February 2020
Detailed Site investigations to support feasibility study	March 2020
Ward Member briefing regarding proposals and next steps	May 2020
Member of Parliament briefing regarding current position	June 2020
Executive Member briefing regarding current position	August 2020
Preplanning Consultation with local community	October 2020
Consideration of Outline Planning Application at Plans Panel	4th March 2021 (subject to change)
Should the Outline Planning Application be approved the below activities will occur;	
Appointment of Contractor for Preconstruction Activity	March 2021
Potential Submission of Reserved Matters to Planning Authority	June 2021
Potential Approval of Reserved Matters	October 2021

Potential Start on Site	December 2021
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- 3.9 An Outline Planning Application has now been submitted by the Council in its capacity as local housing authority, seeking approval for the principle of development and highways access into the site, whilst ensuring that the proposals are compliant with the specific Site Requirements of the SAP with regards to on-site greenspace, green link and any other matters. A consultation exercise has been carried out in the local area via both social media and postal consultation to seek feedback on the proposals, and the outcome of this has been incorporated in the Application.
- 3.10 As referred to above, the Council and the LSSA have now exchanged contracts, for the acquisition by the Council as local housing authority of the LSSA's ownerships in the site. It has been suggested that the LSSA are not permitted to sell to the Council because of their charitable status. It has also been suggested that once it has acquired the LSSA's title, the Council as local housing authority will be unable to develop the site for housing because of restrictions on the LSSA's legal title to the site. However, the local housing authority has received legal advice to the effect that there are no such constraints on the sale to the Council, or on the LSSA's legal title. In addition, legal advice has confirmed there are no constraints on the development of the Council-owned part of the site, other than a covenant for a small area of the site to remain open, and unbuilt upon for the purposes of laying out roads. However, once the Council has acquired the LSSA's title, it is likely that the Council will be the only landowner with the benefit of that covenant. In addition, if planning permission is granted for the proposed housing development, then the Council could if necessary, consider exercising statutory powers to override this covenant.
- 3.11 Plainly, it is not certain at this point in time that the proposed housing development will proceed, as no planning permission for such a development has been granted. However, the proposed development is compatible with the formal allocation of the site in planning terms. The Council in its capacity as local housing authority, has demonstrated a clear and settled intention to proceed, having taken formal decisions to that effect, and having put considerable resource into extensive site investigations, local consultations, and the acquisition of the LSSA's title to the site. In addition, it is clear that the local housing authority has the necessary resources to develop the site for housing, and a building contractor has been appointed. It is also clear, that further more intrusive site investigations and surveys will need to be carried out, as more detailed design work for the proposed housing development progresses, and the current informal uses of the site are not compatible with those activities, and could give rise to safety risks for members of the public. Given all of this, it is considered that it is reasonable to conclude that it is not realistic to think that there can continue to be non-ancillary use of the site which will further (whether or not in the same way) the social wellbeing or social interests of the local community, in accordance with Section 88(1)(b) of the Act.

4. Corporate considerations

4.1 Consultation and engagement

- 4.1.1 The Executive Member for Communities has been informed of the nomination.

- 4.1.2 Farnley & Wortley Ward members and colleagues in area leadership have been informed of the nomination.
- 4.1.3 Councillor David Blackburn, Councillor Ann Blackburn and Councillor Ann Forsaith have all confirmed their full support to the Group and their nomination, and feel strongly that the site should be brought back into use for the community.

4.2 Equality and diversity / cohesion and integration

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 considered that no such risk arises from a decision either to include, or not to include the site in the List of Assets of Community Value.

4.3 Council policies and the Best Council Plan

- 4.3.1 There are no specific implications in relation to Council policies and the Best Council Plan.

Climate Emergency

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

4.4 Resources, procurement and value for money

- 4.4.1 As mentioned above, there is a costs risk in the event of an appeal to the First-Tier tribunal by the owner, and the owner has the right to seek compensation from the Council if they incur costs or loss of value directly from complying with the Localism Act provisions.

4.5 Legal implications, access to information, and call-in

- 4.5.1 The City Solicitor confirms that the 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 There are no specific risks which are relevant to this decision.

5. Recommendations

5.1 The Head of Asset Management is recommended not to include the site in the List of Assets of Community Value on the basis that the criteria in Section 88(1)(b) of the Act have not been met, and therefore the site is not “land of community value”.

6. Background documents¹

6.1 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.