

# Community Right to Bid Nomination for T.V Harrison Sports Ground, Oldfield Lane, Wortley

Date: 6 March 2022

Report of: Asset Management Service

Report to: Head of Asset Management

Will the decision be open for call in?  Yes  No

Does the report contain confidential or exempt information?  Yes  No

## What is this report about?

### Including how it contributes to the city's and council's ambitions

- In accordance with the Localism Act 2011 and the Assets of Community Value (England) Regulations 2012, this report reconsiders the nomination to include land at T.V Harrison Ground Sports Ground, Wortley, Leeds in the List of Assets of Community Value.
- The Council 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 was received on 9 April 2020.
- 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.

On 22 December 2020 the Council declined to include the land in the List of Assets of Community Value. In TV Harrison CIC, R (On the Application Of) v Leeds City Council & Leeds School Sports Association [2022] EWHC 130 (Admin), the Council's decision was quashed. This report reconsiders the nomination in the light of the Court's decision.

## Recommendations

- a) The Head of Asset Management is recommended 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 been met and therefore the site should be added to the List of Assets Nominated by Successful Community Nominations.

## Why is the proposal being put forward?

- 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.

- 1.2 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.
- 1.3 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.
- 1.4 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.
- 1.5 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. 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.
- 1.6 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.
- 1.7 The Group has stated in their nomination that the local community has been using the site since 2006 for informal leisure activities such as football matches, park runs and community gardening, and that it is a regular route for dog walkers.
- 1.8 There is no information from other sources such as the Parks & Countryside Service or from the LSSA, as to current or recent uses of the site.
- 1.9 Photographic evidence from June 2019, which is attached to this report 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.
- 1.10 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.
- 1.11 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.

- 1.12 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.
- 1.14 For the reasons set out above, this report is a reconsideration of the nomination dated 9 April 2020..
- 1.15 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.
- 1.16 As set out above, the nomination indicates that the site has been used for informal leisure activities since 2006. The Group and Ward Members 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.
- 1.17 Whilst these uses of the site have apparently taken place without the permission of the LSSA as owner/lessee, and therefore may have been trespassory in nature, and unlawful, case-law indicates that beneficial recreational activities, though technically unlawful in the sense that they had not been permitted, should still be taken into account as actual uses of the nominated land. On this basis therefore, it is accepted that there are current, non-ancillary uses of the site which further the social interests or social wellbeing of the local community.
- 1.18 Given that the site has been allocated for Housing in the Site Allocation Plan, but there is not yet a scheme in a position to be delivered, it is considered “realistic to think that there can continue to be” eligible, non-ancillary uses of the site, whilst a development scheme is being brought forward either by the Council or another party. Whilst the Council has, in its capacity as local housing authority, promoted a scheme for the land which is subject to this nomination, the scheme currently only has outline planning consent which is subject to a judicial review challenge. Equally, the Council has not yet considered whether to appropriate that part of the site currently in its ownership for housing accommodation under Part II Housing Act 1985, and the contract that the Council has entered into with the Leeds Schools Sports Association for the purchase of the site remains conditional.

**What impact will this proposal have?**

<b>Wards affected:</b>		
Have ward members been consulted?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No

2 Details of ward member consultation as follows.

**What consultation and engagement has taken place?**

3 The Executive Member for Resources has been informed of the nomination. Farnley & Wortley ward members and colleagues in area leadership have been informed of the nomination.

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.

**What are the resource implications?**

4 The Localism Act contains a right to 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 landowners 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.

### **What are the legal implications?**

- 5 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.

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.

The proposal constitutes a significant operational decision and is therefore not subject to call in.

### **What are the key risks and how are they being managed?**

- 6 There are no specific risks which are relevant to this decision.

### **Does this proposal support the council's three Key Pillars?**

Inclusive Growth       Health and Wellbeing       Climate Emergency

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

### **Options, timescales and measuring success**

#### **What other options were considered?**

- 8 This is a procedural matter and the only options are to list or not list the property as an Asset of Community Value. The considerations set out in this paper provide justification for the recommendation being made.

#### **What is the timetable for implementation?**

- 9 Upon approval of this report, the property will be added to the list of Assets of Community Value.

#### **Appendices**

10 None

#### **Background papers**

11 None