

Meeting:	Decision Session – Executive Member for Finance, Performance, Major Projects and Equalities
Meeting date:	12/10/2023
Report of:	Director of Housing, Economy and Regeneration
Portfolio of:	Executive Member for Finance, Performance, Major Projects and Equalities

Decision Report: Application for Community Right to Bid under the Localism Act 2011

Subject of Report

1. This report details applications to renew the listing of the following properties as Assets of Community Value (ACV) for consideration by the Council.
 - a) Strensall Library, The Village, Strensall, York. An application has been received from Strensall Parish Council.
 - b) The Deramore Arms Public House, Main Street, Heslington, York. An application has been received from Heslington Parish Council.
 - c) The Garrison Church of St Wilfrid, Strensall. An application has been received from Strensall Parish Council.

2. The applications have been received, for a decision by the Executive Member in the Council's statutory capacity as an Asset of Community Value (ACV) listing authority.

Benefits and Challenges

3. This process is a statutory requirement. The process and the effects through the listing of an asset is set out in detail in this paper.

Policy Basis for Decision

4. The process is a statutory requirement.

Financial Strategy Implications

5. There are no financial strategy implications to this decision.

Recommendation and Reasons

6. The Executive Member is asked to consider the officer recommendations to:

Approve the renewal of the listing of:

- (i) Strensall Library, Strensall , York;
- (ii) The Deramore Arms Public House, Heslington, York; and
- (iii) The Garrison Church, Strensall, York

as Assets of Community Value (ACV) for the reasons outlined within this report.

Reason: To ensure the Council meets its legislative obligations (pursuant to the Localism Act 2011 and the Assets of Community Value (England) Regulations 2012) and promotes community access to community facilities.

Background

7. Strensall Library was previously entered on the Council's list of ACV property on 9 April 2018 following an earlier ACV nomination received on 12 February 2018. Pursuant to Section 87(3) of the Localism Act 2011 land/property must be removed from the ACV list after 5 years from date of listing. This application is a request to re-add Strensall Library onto the Council's AVC list (for a further period of 5 years).
8. The Deramore Arms, Heslington was previously entered on the Council's list of ACV property on 13 March 2017 following an earlier ACV nomination received on 24 December 2016. Pursuant to Section 87(3) of the Localism Act 2011 land/property must be

removed from the ACV list after 5 years from date of listing. This application is a request to re-add the Deramore Arms onto the Council's AVC list (for a further period of 5 years).

9. The Garrison Church of St Wilfrid, Strensall was previously entered on the Council's list of ACV property on 17 September 2018 following an earlier ACV nomination received on 22 June 2018. Pursuant to Section 87(3) of the Localism Act 2011 land/property must be removed from the ACV list after 5 years from date of listing. This application is a request to re-add the Garrison Church onto the Council's AVC list (for a further period of 5 years).
10. The purpose behind these provisions is to ensure that property (land and building) assets which are currently used for principal/non-ancillary use(s) which benefit the local communities are not disposed of without the local community being given an opportunity to bid for these assets if and when the owner wishes to dispose of the asset. This right is not simply to accommodate 'public assets' but also private assets, the test is whether such assets are viewed as 'assets of community value'. These assets therefore could be currently owned by the public, private or voluntary sector.
11. The definition of 'land of community value' is set out in section 88 of the Localism Act 2011. To be considered as an asset of community value the land or property must satisfy either of the following criteria:
 - a. 88(1) an actual current non-ancillary use of the building or other land furthers the well-being or social interests of the community and whether 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 well-being or social interests of the local community.

OR

- b. 88(2) there is a time in the recent past when an actual non-ancillary use of the building or other land furthered the social well-being or social interests of the local community and it is realistic to think that there is a time within the next 5 years when there could be non-ancillary use (whether or not the same use as before) that would further the social well-being or social interests of the local community.

12. There is no exhaustive list of what is considered to be an asset of community value, but cultural, recreational and sporting interests are included. Excluded specifically are residential type properties (such as hotels, housing in multiple occupation and residential caravan sites) and operational land of statutory undertakers.

The Process

13. The regulations set out how potential assets can be listed which in brief are as follows:
 - **Nomination** – this can be by a voluntary or community body with a local connection. This includes parish councils, neighbourhood forums, charities, community interest groups but excludes public or local authorities (except parish councils).
 - **Consideration** – the local authority has 8 weeks to make the decision. Under the Council's procedures the Executive member is the decision maker. If the nomination is successful, the asset details are entered onto the 'Community Value list' – see further details in the report – and also the local land charges register. If unsuccessful, then the details are entered onto an 'unsuccessful nominations' list for a period of 5 years to prevent repeat nominations. The owner can request a review of the decision which must be completed within 8 weeks and the owner can further appeal within 28 days of the review outcome to a Tribunal. Neither the Localism Act nor the ACV Regulations give the nominating organisation any right to appeal a decision of the local authority that the nominated property is not an asset of community value/does not satisfy the necessary S.88 criteria referred to above.
 - **Disposal of assets on the list** – if a building or piece of land which is on the list is going to be disposed of (by way of either a freehold sale or granting of a lease for a Term of 25 years or more) with vacant possession, then the owner of the asset needs to give notice to the local authority. There is then a 6 week moratorium period for any community group to express interest in writing. If they do, then a 6 month period (commencing from the date on which the Council had received notice of the owner's intention to dispose of the asset) is provided for that group to prepare its bid. After that period the owner can market the property and any bid from the community group will be considered with bids from other interested parties. There is no guarantee that the offer from the community group

will be successful as the owner of the asset will dispose of the property in accordance with its own criteria for disposal. There are a number of exceptions contained within the legislation that mean that this moratorium period does not apply and the owner does not need to give notice of its intention to sell. This includes when there is a legally enforceable requirement, which pre-dates the listing, to sell to a specific party.

- **Compensation** – the presence of the land or building asset on the community value list may result in additional expenditure or a loss to the owner and therefore the owner can apply for compensation from the local authority. The figure is limited to costs or losses incurred only whilst the asset is on the list and could include such items as legal expenses for appeals, costs relating to the delay in the sale (such as maintenance, security, utility costs, loss of value).

The Community Ownership Fund

14. The Community Ownership Fund is a £150 million fund over 4 years to support community groups across England, Wales and Northern Ireland to take ownership of assets which are at risk of being lost to the community. The Fund is administered by the Government. Whilst there is no guarantee of success, this Fund is a potential source of financial assistance for community groups which could assist them in raising the necessary funding to buy the asset, in the event that it became available.

Strensall Library, The Village, Strensall

15. The freehold of 19 The Village, Strensall is owned by City of York, Council (CYC). The nomination is being made by Strensall Parish Council. Legal Services have confirmed that a nomination must be considered by the Council if the nominator is someone who meets the eligibility criteria specified in the relevant legislation and if the nomination form includes the information specified in regulation 6 of the ACV Regulations 2012. Strensall Parish Council are considered as an eligible body. In accordance with the regulations, the freehold owner of the property, and the occupiers of the property have been informed that the application has been made. They have been invited to make representations regarding the nomination.
16. Strensall Parish Council state in the nomination form that the library is a resource centre for people in the village. It is a meeting

place where parishioners can access a huge range of local regional and national information, which is crucial for everyday life. It also acts as an IT centre for those who do not have a home computer for job seeking, learning etc.

17. The adopted Strensall with Towthorpe Neighbourhood Plan (June 2023) includes a policy for designating assets of community value, which aligns with Strensall Parish Council's nomination of both this property and the Garrison Church.
18. The property is leased by City of York Council and occupied by Explore York Libraries and Archives Mutual Limited, who provide the library service for City of York Council. Both have confirmed that they have no objection to the proposed listing renewal.
19. Full details of the application are provided in the nomination form attached in Annex 1.
20. Based upon the information provided, it is recommended that the property's listing as an Asset of Community Value is renewed.

The Deramore Arms Public House, Heslington, York

21. The freehold of The Deramore Arms is owned by Spirit Pub Company (Leased) Limited (which is part of the 'Greene King' group). The nomination is being made by Heslington Parish Council. Legal Services have confirmed that a nomination must be considered by the Council if the nominator is someone who meets the eligibility criteria specified in the relevant legislation and if the nomination form includes the information specified in regulation 6 of the ACV Regulations 2012. The Parish Council are considered as an eligible body. In accordance with the regulations, the freehold owner of the property, and the occupier, have been informed in writing that the application has been made. They have been invited to make representations regarding the nomination.
22. The Parish Council state in the nomination form that The Deramore Arms is a village community pub serving a varied customer demographic in an area where this type of facility is needed, given that it is one of two public houses that serve a significant immediate population, including the York University campus. The Parish Council say that the other pub, the Charles

XII, is student orientated, with music, multiple TV sports screens and gaming machines, whereas they say, that they consider the Deramore Arms is designed to appeal to local residents and diners, as well as students and is appealing to those who enjoy a traditional pub atmosphere. They also state that the community facilities offered by the Deramore Arms are not replicated elsewhere nearby.

23. The Parish Council advise, that local/University sports teams meet in the pub, and it has a wide appeal to all social groups, as well as attracting local families and residents (young and old) to the dining facility. The car park at the rear provides free parking for local businesses, the village meeting room, Manor House functions, dogwalkers and contractors working in the village.
24. The Parish Council considers that the Deramore Arms makes a valuable heritage contribution to Heslington as a 'well preserved and fine example of an Edwardian Public House'. It is cherished by residents for the part it plays in heritage and village social life.
25. No representations have been received from either the owner or occupier regarding the renewal of the listing.
26. Full details of the application are provided in the nomination form attached in Annex 2.
27. There is significant precedent set elsewhere in the country from other authorities who have accepted pubs onto the ACV lists, even where they are currently run as commercial businesses.
28. Based on the information provided, it is recommended that the property's listing as an Asset of Community Value is renewed.

Garrison Church of St Wilfrid, Strensall

29. The freehold of the Garrison Church is owned by The Secretary of State for Defence/Defence Infrastructure Organisation (DIO). The nomination is being made by Strensall Parish Council. Legal Services have confirmed that a nomination must be considered by the Council if the nominator is someone who meets the eligibility

criteria specified in the relevant legislation and if the nomination form includes the information specified in regulation 6 of the ACV Regulations 2012. Strensall Parish Council are considered as an eligible organisation. In accordance with the regulations, the freehold owner and occupier of the property have been informed in writing that the application has been made. They have been invited to make representations regarding the nomination.

30. Strensall Parish Council state in the nomination form that the Garrison Church is a vital part of the local community. They advise that it is used for Sunday Worship in order to cater for an enlarged local population, which has outgrown the parish church of St Mary. Special services such as Christingle Services (with candles) can be accommodated at St Wilfrids. Village Carol Services and lessons are also held at the church.
31. The Parish Council advise that the building has the capacity to hold large weddings and funerals as well as being a concert venue. Fund raising events are held there, organised by the local community. In addition, the church hosts other ecumenical and multi-faith occasions.
32. No representations have been received from the DIO on the proposed listing.
33. Full details of the application are provided in the attachment to the nomination form in Annex 3.
34. Based on the information provided, it is recommended that the property's listing as an Asset of Community Value is renewed.

Consultation Analysis

35. As required by the Assets of Community Value Regulations, the owners and occupiers of the properties have been consulted regarding the applications.
36. The results are contained in the background information on the individual properties.

Options Analysis and Evidential Basis

37. The applications to renew the listing of Strensall Library, The Deramore Arms, Heslington, and The Garrison Church, Strensall, as Assets of Community Value, can either be accepted or rejected. There are no other options, as it is considered that sufficient information has been provided to make a decision.
38. If the decision is to approve the ACV nomination applications, then the owners of the properties have a statutory right to request a review of that decision by submitting a review request to the Council within 8 weeks of the decision date. (If the decision is to reject the ACV nomination application, the legislation does not give the nominating group any right to appeal that request, though they could potentially seek a judicial review of the decision by submitting a J.R. claim to the High Court).

Organisational Impact and Implications

- 39.
- **Financial** - Compensation may be payable by the Council to the owner of any property which is listed. The figure is limited to costs or losses incurred only whilst the asset is on the list and could include such items as legal expenses for appeals, costs relating to the delay in the sale (such as maintenance, security, utility costs, loss of value). We have not experienced any claims over the last 5 years and therefore none are expected going forward.
 - **Human Resources (HR)** – None
 - **Legal** – Advice and comments have been sought from Legal Services and incorporated in this report.
 - **Procurement - None**
 - **Health and Wellbeing** - None
 - **Environment and Climate action** – None
 - **Affordability** - The facilities within this report support local people with advice and information, social and spiritual support and, for example, digital support for those who do not own their own equipment. This will all improve residents' ability to manage financially and improve their health and wellbeing during the Cost of Living Crisis.

- **Equalities and Human Rights** - None
- **Data Protection and Privacy** – As there is no personal data, special categories of personal data, or criminal offence data being processed, there is no requirement to complete a Data Protection Impact Assessment (DPIA). This has been evidenced by the completion of a DPIA questionnaire under the reference CGT 20570.
- **Communications** - None
- **Economy** - None
- **Specialist Implications Officers** - None

Risks and Mitigations

40. There are no significant risks to these applications.

Wards Impacted

41. Strensall and Heslington.

Contact Details

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Annexes

- Annex 1 – Strensall Library, Strensall, York – Application to add to the list of assets of community value.
- Annex 2 – The Deramore Arms, Main Street, Heslington, York – Application to add to the list of assets of community value.
- Annex 3 – The Garrison Church, Strensall - Application to add to the list of assets of community value
- Annex 4 – Current list of assets of community value.

Abbreviations used in the report:

ACV – Assets of Community Value

DIO – Defence Infrastructure Organisation

DPIA – Data Protection Impact Assessment