

Meeting:	Decision Session – Executive Member for Finance, Performance, Major Projects and Equalities
Meeting date:	24/04/2025
Report of:	Director of Finance
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 an application to list the following property as Asset of Community Value (ACV) for consideration by the Council.
 - a) New Earswick & District Indoor Bowls Club, Huntington Road, Huntington, York, YO32 9PX. An application has been received by New Earswick & District Indoor Bowls Club
2. The application has 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 recommendation(s) to:

Approve the listing of:

- (i) New Earswick & District Indoor Bowls Club, Huntington Road, Huntington, York, YO32 9PX.
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. New Earswick & District Indoor Bowls Club was previously entered on the Council's list of ACV property on 24th July 2020 following an earlier ACV nomination received on 22nd April 2020. 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-list New Earswick & District Indoor Bowls Club onto the Council's AVC list (for a further period of 5 years).
8. The purpose behind the provisions regarding Assets of Community Value (ACV) in the Localism Act 2011 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 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.
9. Section 89(1)(a) sets out that land in the local authority's area may be listed on the ACV list only in response to a community nomination. Section 89(2)(b)(iii) of the Localism Act 2011 requires that the organisation nominating an asset to be an ACV is a person

that is a voluntary or community body with a local connection to the asset nominated. Further, the legislation requires that the nominating organisation must include in the nomination form information about the asset nominated, in accordance with part 6 of the Assets of Community Value (England) Regulations 2012.

10. 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. s88(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. s88(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.
11. 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

12. 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 ACV 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).

A. The eligibility of the nominating organisation and the nominated asset to be an ACV

13. The application nominating the nomination land (“New Earswick & District Indoor Bowls Club”) was made by New Earswick & District Indoor Bowls Club on 07 April 2025. When making the application, the applicant seeks to assert its status as a community body under section 89(2)(b)(iii) of the Localism Act 2011 (“The Act”).
14. New Earswick & District Indoor Bowls Club are an eligible body, as they are an unincorporated body, whose activities are concerned with the Council’s local area. They do not distribute any surplus/profits to their members and have at least 21 members who live in the local area. The applicant meets the qualifying test set out in section 89(1)(a) of the Act as an application made by way of a community nomination.
15. The application sets out that the freehold of New Earswick & District Indoor Bowls Club is owned by Joseph Rowntree Housing Trust (JRHT) and confirms that the occupiers are New Earswick & District Indoor Bowls Club. In accordance with the regulations, the freehold owner of the property and the occupiers of the property, have been informed in writing that the application has been made. The freeholder has been invited to make representations regarding the nomination.
16. The application provides a clear description and postcode of the land nominated on the first page of the form and has attached to it a map setting out the extent of the land. The nominated land does not come within the categories of land which may not be ACVs.
17. The applicant has provided their reasons for thinking that the Council should conclude that the land is of community value, at section 3 and in the Supplement section of the nomination form.
18. 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.

B. Is the current or recent usage of the nominated land an actual and non-ancillary use, does the usage further social wellbeing or social interest, and is it realistic to think that there can continue to be non-ancillary use of the building which will further (whether or not in the same way) the social wellbeing or social interests of the local community.

19. This application concerns the re-listing of New Earswick & District Indoor Bowls Club on the Council's ACV list. The past and current usage of the club as a venue for community activities/events is set out below and indicates that the current and recent usage of the nominated land is an actual and non-ancillary use pursuant to section 88(1) and section 88(2) of the Act.
20. New Earswick & District Indoor Bowls Club state in the nomination form that after embarking on a survival plan in 2005 the bowls club has changed from a single sport members club to a community venue through partnerships with City of York Council, private and public care providers such as JRHT & Avalon, local and national community organisations such as York Neighbours, First York Boccia & Slimming world, which is enjoyed by nearly 500 members and many more non-members that attend community sessions throughout the year. Along with the bowling club that has almost 350 participants, 90% over 60 years of age, the club is a venue for leisure activities including line dancing, carpet bowls and keep fit.
21. A weekly 'bowlsability' session for bowls, carpet bowls and boccia is provided for between 30-45 adults with physical and learning disabilities. The club also has a flourishing visually impaired bowling program and a Positive Vibes group to bring together the 60 plus age group and recently bereaved.
22. There is also social programme which includes, quizzes and bingo based around the bar facilities. Additional community activities supporting bowling sessions for adults with learning and physical disabilities, Special Olympics training for Yorkshire & Humber athletes and boccia sessions for Alzheimer's Society and Age UK. The indoor bowls area is also adapted in the summer months to provide activities such as badminton, new age curling and table tennis, predominantly for disabled participants.
23. The club is the host venue for York Boccia who provide social and competitive boccia and new age curling sessions for similar groups.

24. Full details are provided in nomination form in Annex 1 with Clarification of points in Annex 2.
25. New Earswick & District Indoor Bowls Club has developed the community focus and, for the reasons set out above and further in the nomination form, the club appears to have been using and continues to use the land in a way which engages and strengthens community bonds, adding to the social value of the community. It is also the case that the users of the New Earswick & District Indoor Bowls Club are predominantly comprised of a definable group of local individuals, rather than 'passing trade' derived from individuals outside the community. There is, therefore, a direct link to the local community.
26. It is realistic to think that in light of the past and current activities and social events that the club offers to the community, there can continue to be non-ancillary use of the building or other land and that the club's usage of the land will further (whether or not in the same way the social wellbeing or social interests of the local community in the future; therefore the application meets the criteria of the legislation.
27. This property has previously been listed as an asset of community value. New Earswick & District Indoor Bowls Club were granted a 10-year lease of the building, and the term of the lease expired on 31 May 2023. The Club remains in occupation.
28. The application meets the criteria for listing. It is therefore recommended that New Earswick & District Indoor Bowls Club should be re-listed on the ACV register.

Consultation Analysis

29. As required by the Assets of Community Value Regulations, the owners and occupiers of the property have been consulted regarding the application. No representations have been received from the owner regarding the renewal of the listing.

Options Analysis and Evidential Basis

30. The application to list New Earswick & District Indoor Bowls Club, as an Asset of Community Value, can either be accepted or

rejected. There are no other options, as it is considered that sufficient information has been provided for a decision to be made.

31. If the decision is to approve the ACV nomination application, then the owner of the property has 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 claim to the High Court.)

Organisational Impact and Implications

32.

- **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).
- **Human Resources (HR)** – None
- **Legal** – Advice and comments have been sought from Legal Services and incorporated in this report.
- **Procurement** – None
- **Health and Wellbeing** – The added protection of an ACV around a physical activity facility which caters for some of our more vulnerable and poorer residents has health and wellbeing benefits which should be considered in decision making.
- **Environment and Climate action** – No direct environmental impacts but buildings of community value are key and underpin a sense of place
- **Affordability** – None
- **Equalities and Human Rights** – None
- **Data Protection and Privacy** – The completion of data protection impact assessment (DPIA) screening questions evidenced there would be no processing of personal data, special categories of personal data or criminal offence data processed, so there is no requirement to complete a DPIA.
- **Communications** – This is a routine statutory process. However, given the high level of community use and support for the venue, there may be public or stakeholder interest.

Should this arise, communications will be able to support. Proactive messaging opportunities also exist to highlight the value of Assets of Community Value in sustaining vibrant neighbourhoods.

- **Economy** – None
- **Specialist Implications Officers** – None

Risk Management

33. The freeholder may appeal against the Council's decision to list their property as an asset of community value. In the first instance the property owner should ask the council to review its decision. If the Council upholds its decision to list the owner may appeal to the First-Tier Tribunal. If the decision is to reject the ACV nomination application, the nominating organisation may seek a Judicial Review of the decision by submitting a claim to the High Court. In both cases this can be a long and costly procedure.

Wards Impacted

34. Huntington & New Earswick.

Contact Details

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Annexes

- Annex 1 – New Earswick & District Indoor Bowls Club, Huntington Road, York – Application to add to the list of assets of community value.
- Annex 2 – Clarification of further points from New Earswick & District Indoor Bowls Club
- Annex 3 – Current list of assets of community value.

Abbreviations used in the used in the report.

ACV – Assets of Community Value

DPIA – Data Protection Impact Assessment