

Notice of public Decision Session - Executive Member for Finance and Performance

To: Councillor Steward

Date: Monday, 12 September 2016

Time: 4.45 pm

Venue: The Thornton Room - Ground Floor, West Offices (G039)

AGENDA

Notice to Members – Calling In

Members are reminded that, should they wish to call in any item* on this agenda, notice must be given to Democratic Services by **4.00pm on Wednesday 14 September 2016**.

*With the exception of matters that have been the subject of a previous call in, require Full Council approval or are urgent which are not subject to the call-in provisions. Any called in items will be considered by the Corporate and Scrutiny Management Policy and Scrutiny Committee.

Written representations in respect of items on this agenda should be submitted to Democratic Services by **5.00pm on Thursday 8 September 2016**.

1. Declarations of Interest

At this point in the meeting, the Executive Member is asked to declare:

- any personal interests not included on the Register of Interests
- any prejudicial interests or
- any disclosable pecuniary interests

which he might have in respect of business on this agenda.

- 2. Minutes** (Pages 1 - 4)
To approve and sign the minutes of the Decision Session held on 15 August 2016.

- 3. Public Participation**
At this point in the meeting members of the public who have registered their wish to speak regarding an item on the agenda or an issue within the Executive Member's remit can do so. The deadline for registering is **5:00 pm on Friday 9 September 2016**.

Filming, Recording or Webcasting Meetings

Please note this meeting may be filmed and webcast and that includes any registered public speakers, who have given their permission. This broadcast can be viewed at <http://www.york.gov.uk/webcasts>.

Residents are welcome to photograph, film or record Councillors and Officers at all meetings open to the press and public. This includes the use of social media reporting, i.e. tweeting. Anyone wishing to film, record or take photos at any public meeting should contact the Democracy Officer (whose contact details are at the foot of this agenda) in advance of the meeting.

The Council's protocol on Webcasting, Filming & Recording of Meetings ensures that these practices are carried out in a manner both respectful to the conduct of the meeting and all those present. It can be viewed at http://www.york.gov.uk/download/downloads/id/11406/protocol_f_or_webcasting_filming_and_recording_of_council_meetings_20160809.pdf

- 4. Application for Community Right to Bid (Pages 5 - 14) under the Localism Act 2011 - Holgate Community Garden**
The Executive Member is asked to consider an application to list Holgate Community Garden as an Asset of Community Value (ACV).

**5. Applications for Community Right to Bid (Pages 15 - 34)
under the Localism Act 2011- Blacksmiths
Arms Public House, Naburn**

The Executive Member is asked to consider an application to list the Blacksmiths Arms Public House, Naburn, York as an Asset of Community Value (ACV).

6. Urgent Business

Any other business which the Executive Member considers urgent under the Local Government Act 1972.

Democracy Officer:

Name: Jayne Carr

Contact Details:

Telephone – (01904) 552030

Email – jayne.carr@york.gov.uk

For more information about any of the following please contact the Democratic Services Officer responsible for servicing this meeting:

- Registering to speak
- Business of the meeting
- Any special arrangements
- Copies of reports and
- For receiving reports in other formats

Contact details are set out above.

This information can be provided in your own language.

我們也用您們的語言提供這個信息 (Cantonese)

এই তথ্য আপনার নিজের ভাষায় দেয়া যেতে পারে। (Bengali)

Ta informacja może być dostarczona w twoim własnym języku. (Polish)

Bu bilgiyi kendi dilinizde almanız mümkündür. (Turkish)

یہ معلومات آپ کی اپنی زبان (بولی) میں بھی مہیا کی جاسکتی ہیں۔ (Urdu)

 **(01904) 551550**

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City of York Council

Committee Minutes

Meeting	Decision Session - Executive Member for Finance and Performance
Date	15 August 2016
Present	Councillor Steward

6. Declarations of Interest

The Executive Member was asked to declare any personal interests not included on the Register of Interests, any prejudicial interests or any disclosable pecuniary interests that he may have in the business on the agenda. None were declared.

7. Minutes

Resolved: That the minutes of the Decision Session held on 11 July 2016 be approved and signed as a correct record.

8. Public Participation

It was reported that there had been had been two registrations to speak at the meeting under the Council's Public Participation Scheme.

Mr Phil Harding, member of the Groves Association, spoke in support of the application for Community Right to Bid – Grove House (agenda item 4). He stated that Grove House was an asset to the community and explained the Association's vision, as outlined in the application form (Annex 3 of the report). Mr Harding stated its importance to the social and wellbeing of the community and commented that communal living would be incidental to the wider aim of the Association. It was envisaged that the land would be held in a land trust. Mr Harding asked that the Council worked with the Association to allow it time to demonstrate the benefits of the proposal.

Ms Joyce Green, Chair of White Rose House Committee and representing North Yorkshire South Girlguiding County Commissioner, spoke in respect of agenda item 4 – Application for Community Right to Bid – White House, Wheldrake. She expressed her concern that the address on the initial application had been incorrect and hence the letter that had been sent by the Council had not been received. Ms Green stated that she endorsed the written comments that had been submitted by the County Commissioner and stated that the primary use of the building was by the Girlguiding Association and that other use by the community was very limited.

The speakers were thanked for their contributions.

9. Applications for Community Right to Bid under the Localism Act 2011

The Executive Member considered a report that presented applications to list the following assets as Assets of Community Value (ACV):

- White Rose House, 79 Main Street, Wheldrake, York, YO19 6AA
- Grove House, 40/48 Penley's Grove Street, York, YO31 7PN

Referring to the White Rose House application and the letter from the County Commissioner Girlguiding North Yorkshire South, the Executive Member stated that he believed that further consideration was required as to whether the community use of the building was more than an ancillary use of the building. To enable further time for these issues to be explored, and to enable the application to be given broader consideration, he was therefore referring the matter to the Executive for consideration at their meeting in September 2016.

Referring to the Grove House application, the Executive Member stated that he was mindful of community activity within the Groves and noted their aspirations for the use of the building. However, the decision he was being asked to make at the meeting was whether or not to approve the application for Grove House to be listed as an Asset of Community Value. The Council would make decisions regarding the disposal of the buildings in due course.

The Executive Member stated that he was mindful of the legal advice that had been given in respect of the interpretation of the ACV Regulations regarding residential properties. It was for this reason that he was intending to reject the application to list Grove House as an Asset of Community Value.

- Resolved: (i) That the application to list White Rose House, Wheldrake as an asset of community value be referred to the Executive.¹
- (ii) That the application to list Grove House, Penley's Grove Street as an asset of community value be rejected.

- Reasons: (i) As the Executive Member believed that the application merited broader consideration, and to provide an opportunity to explore in more depth the information provided by the owners of the property.
- (ii) As the application is excluded from the definition of an Asset of Community Value set out in legislation.

Action Required

1. Include on Forward Plan

CC

Councillor Steward, Executive Member

[The meeting started at 4.45 pm and finished at 5.00 pm].

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12 September 2016

Executive Member for Finance and Performance Decision Session

Report of the Assistant Director of Governance and ICT

Application for Community Right to Bid under the Localism Act 2011

Summary

1. This report presents an application to list Holgate Community Garden as an Asset of Community Value (ACV), for consideration by the Council.

Background

2. An application has been made to include Holgate Community Garden on the list of assets of community value under the community right to bid legislation. That legislation exists to ensure that property (land and building) assets which are currently used (or have been recently been used) to the benefit of the local communities are not disposed of without the local community being given a fair opportunity to bid for these assets when they are put on the open market. 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.
3. The definition of 'community value' is set out in the regulations and can be summarised as
 - The actual current principal use of the building/land furthers social well being or the social interests of the local community and there is a realistic prospect that a principal use of the property (not necessarily the same use as present) will also further the social well-being or social interests of the local community (whether or not in the same way as at present) or;

- In the recent past a principal use of the property has furthered the social well-being or social interests of the local community and there is a realistic prospect that within the next 5 years a principal use of the property (not necessarily the same use as previously) will again further the social well-being or social interests of the local community (not necessarily in the same way as previously).
4. 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

5. The regulations set out how potential assets can be listed which in brief is 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). An unincorporated association that is not registered as a charity must have at least 21 members registered to vote in the local area before it is eligible to submit a nomination.
 - **Consideration** – the local authority have 8 weeks to make the decision. If the nomination is successful the asset details are entered onto the ‘Community Value list’ 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.
 - **Compensation** – there are statutory compensation provisions. However these will not apply in this case since those provisions are only relevant to privately owned assets. The Gardens are owned by the City Council.

Holgate Community Garden and Play Park

6. The freehold of Holgate Community Garden and Play Park is owned by The City of York Council.

7. The application is being made by the Friends of Holgate Community Garden on the basis that the property is a green haven for inner city dwellers in York, particularly Holgate residents. The garden and basket ball court are actively used on a daily basis by families, dog walkers, picnickers, urban explorers, gardeners and other groups. The local residents have invested large amounts of their own time and money in transforming a run down area into a space filled with flowers, vegetables and well cared for play equipment.
8. The community garden is part of the Edible York movement and provides the neighbourhood's children with a safe enclosed green space, who play in it on a daily basis. The basketball court is used by St Paul's Primary School and Out of School Club for physical education and forest school sessions throughout the year. Further information can be found in the nomination form attached at annex 1.
9. Legal Services have confirmed that the nomination meets the eligibility criteria specified in the relevant legislation and the nomination form includes the information specified in regulation 6 of the ACV Regulations 2012. The property comes under the responsibility of the City of York Council's Parks and Open Spaces. The head of this service has confirmed that he has no objection to the proposed listing.

Implications

10. **Financial** – there are no immediate financial implications

Human Resources (HR) – none

Equalities, Crime and Disorder and IT - none

Legal – Organisations falling within any of the following categories are eligible to submit an ACV nomination relating to property within their local area:

- (i) a parish council
- (ii) a charity, non-profit making company or community interest company with a local connection to the nominated property
- (iii) an unincorporated association which has at least 21 members registered to vote in the local area

It is accepted that the Friends of Holgate Community Garden fall within criteria (iii) and are therefore entitled to submit their ACV nomination.

The report sets out the definition of 'land of community value'. If the listing authority considers that a nominated property falls within that definition then it must include the property on its ACV register unless the property falls within an exempt category. The Holgate Community Garden does not fall within an exempt category.

Property – property issues have been included in the body of the report

Other – none

Risk Management - There are no significant risks to this application.

Recommendations

11. The Executive Member is asked to agree to the listing of Holgate Community Garden and Play Park as an asset of community value for the reasons outlined above.

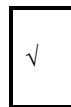
Reason: To ensure the Council meets its legislative requirements of the Localism Act 2011 and promotes community access to community facilities.

Contact Details

Author and Chief Officer responsible for the report:

Andy Docherty
Assistant Director
Tel no: (01904) 551004

**Report
Approved**



Date 30th August 2016

Wards Affected: Holgate

For further information please contact the author of the report

Annex

Annex 1 – Holgate Community Garden and Play Park – Application to add to the list of community assets



ASSETS OF COMMUNITY VALUE NOMINATION FORM

If you need assistance completing this form, then please refer to the guidance document which can be downloaded from the website www.york.gov.uk/assetsofcommunityvalue or alternatively call 01904 553360.

Section 1

About the property to be nominated

Name of Property:	Holgate Community Garden and Play Park Unique asset ID: E00062/B01 Unique Property Reference Number: 200004776489
Address of Property:	Upper St Pauls Terrace, York
Postcode:	YO24 4BS

Property Owner's Name:	Land in public ownership (Freehold owned by Council)
Address:	
Postcode:	
Telephone Number:	
Current Occupier's Name:	Community land/asset

Section 2

About your community organisation

Name of Organisation:	Friends of Holgate Community Garden
Title:	Mr
First Name:	David
Surname:	Barrett
Position in Organisation:	Member (acting on behalf of the Friends of Holgate Park Group)
Email Address:	Group email: friends-of-holgate-garden-committee@googlegroups.com
Address:	54 St Pauls Terrace, York
Postcode:	YO24 4BJ
Telephone Number:	Home: 01904 613233

Organisation type:

Click in field for options

Organisation size

How many members do you have?

Section 3

Supporting information for nomination

Any information entered in this section only may be copied and passed onto the owner of the property you are nominating. Definition of an asset of community value can be found in the guidance document.

Why do you feel the property is an asset of community value? Please give as much information as possible.

Holgate Community Garden and Play Park is a green haven for inner city dwellers in York, in particular Holgate residents. For many local residents, this is their only garden; a central point for exercising, gardening and socialising. Residents in this part of Holgate have tiny yards that are not suitable for exercising children or pets. The garden and basketball court are therefore well loved and actively used on a daily basis by families, dog walkers, picnickers, urban explorers, gardening enthusiasts and other groups.

The Community Garden was established in 2011 in what was a quite neglected area with unused flower beds and regular rubbish deposits. The creation of Holgate Community Garden, by Julie Fern (a local resident), galvanised the local community into action to transform this space into a beautiful, tranquil site filled with flowers, vegetables and well cared for play equipment.

The local residents have generously invested large sums of their own time and money in this project and carried out the work as a collective team. The result has been a transformation. It is now a beautiful place that residents are proud of and use daily with great enthusiasm.

The trees that surround and form part of Holgate Community Garden and Play Park are protected by 16 Tree Preservation Orders (TPOs) and species of tree include: Sycamore, Rowan, Himalayan Birch and Whitebeam, which is not commonly found outside formal gardens & parks. The green space is also home to wildlife and acts as corridor for wildlife that utilise green and unmanaged wild areas. Evidence of this can be seen at night when the areas nocturnal animals emerge. Bats are resident in the area of the Community Garden and Play Park and have been observed by many local people. In addition, residents have seen: squirrels, hedgehogs, woodpeckers, slow-worms to name just a few examples. The flourishing Community Garden attracts many insects including bees and dragonflies.

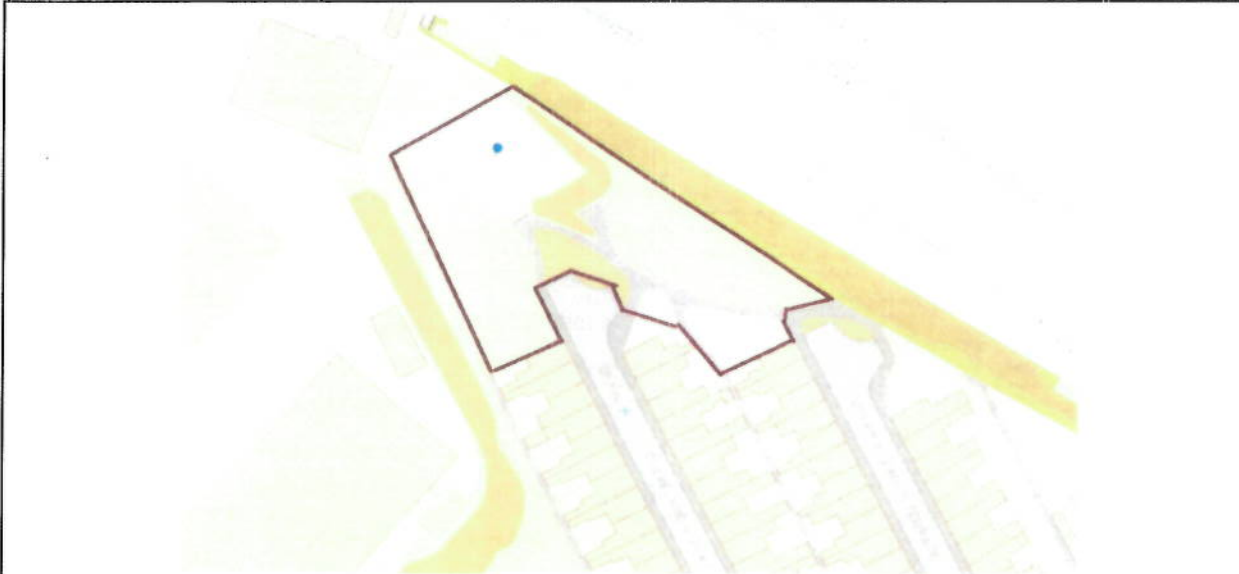
The Community Garden is part of the Edible York movement, and this extract from the Edible York website entry for Holgate Community Garden gives a feel for the type of fruit, vegetables and flowers that are grown there:

"We have six raised beds, one dedicated to herbs and black and red currants, another filled principally with edible flowering plants: giant globes artichokes, dwarf sunflowers, and bergamot (but also with supremely pollinator friendly flowers, such as Allium sphaerocephalon, Erysimum 'Bowles Mauve', and Knautia 'Melton Pastels'). In the four remaining beds in this, our first season, we have grown a mix of edible flowers and fruit and vegetables: peas, strawberries, broad beans, spinach, lettuces, chives, Nasturtiums, calendulas, violas, dwarf purple French beans, runner beans (grown up a teepee with heavily scented heirloom sweet peas), beetroot, purple sprouting broccoli, radishes, rainbow chard, the fabulous custard white Zucchini, pumpkins, tomatoes, cut and come again lettuces, rocket, cauliflower, beetroot, curly kale, raspberries, celeriac, parsley, cilantro, borage..."

The community garden and play area provides the neighbourhood's children with a safe, enclosed green space which many can access without crossing a road. For decades the park has been a fundamental space for play, where generations have grown up, learning independence and confidence due to it being encircled by a fence and wall. The basketball court is used regularly by St Paul's Primary School and Out-of-School Club for physical education and forest school sessions throughout the year. This surface is perfect for children learning to walk, run, ride a bicycle and roller skate. On occasions it has also been used as a giant canvas for outdoor chalks, promoting creativity, imagination and role-play.

Section 4 Boundary of Property

What do you consider to be the boundary of the property? Please give as much detail/be as descriptive as possible. Please include a plan.



The boundary marks the land in public ownership, which includes, a hard surface basketball court (marked as Play Area on the map), a community garden (comprises of large, raised, circular beds and borders) and children's play equipment (a seesaw, a climb on train with slide, and a climbing frame).

The land is recognised as an asset in the Council's asset register (last updated May 2016) and has the following asset identification numbers:
 Unique asset ID: E00062/B01
 Unique Property Reference Number: 200004776489

Section 5 Attachment checklist

- n/a Copy of group constitution (if you are a constituted group)
- YES Name and home address of 21 members registered to vote in nomination area (if group is not constituted)
- YES Site boundary plan (if possible)

Section 6 Declaration

I can confirm that to the best of my knowledge the information contained in this nomination form is complete and accurate.

Signed:

David Barrett

Dated: 24.07.2016

Please e-mail your completed form to property.services@york.gov.uk or post to:
 Asset and Property Management
 City of York Council
 West Offices

Station Rise
York
YO1 6GA

The names and home address of 21 members registered to vote in nomination area (if group is not constituted) are as follows:

Name	Address
David Barrett	54 St Pauls Terrace, York, YO24 4BJ
Laura Barrett	54 St Pauls Terrace, York, YO24 4BJ
Paul Scott	50 Wilton Rise, York, YO24 4BT
Alison Mawson	50 Wilton Rise, York, YO24 4BT
Andy Fern	55 St Pauls Terrace, York, YO24 4BJ
Julie Fern	55 St Pauls Terrace, York, YO24 4BJ
Benjamin Hall	22 Cleveland Street, York, YO24 4BS
Davina Moher	22 Cleveland Street, York, YO24 4BS
Linda Sofie Edon	14 Cleveland Street, York, YO24 4BS
Daniel Edon	14 Cleveland Street, York, YO24 4BS
Annabel Jelley	36 Cleveland Street, York, YO24 4BS
Andy Richardson	78 Wilton Rise, York, YO24 4BT
Kathryn Richardson	78 Wilton Rise, York, YO24 4BT
Simon Graysmark	34 Cleveland Street, York, YO21 4BS
Ruby Alice Graysmark	34 Cleveland Street, York, YO21 4BS
Christopher Robert Barrett	26 St Pauls Terrace, York, YO24 4BL
Jeffrey Morris	40 St. Pauls Terrace, York, YO24 4BJ
Rachel Foster	15 Cleveland Street, York, YO24 4BS
Jack Painter	24 St Pauls Terrace, York, YO24 4BL
Fabian Seymour	22 Railway Terrace, York, YO24 4BN
Madeleine Mossman	67 Wilton Rise, York, YO24 4BT
Sally McClean	41 Wilton Rise, York, YO24 4BT
Regan van der Werff	15 St Pauls Terrace, York, YO24 4BL

The growth in community that Holgate Community Garden and Play Park has engendered has been the resounding surprising success of the project. The park is now played in daily by neighbourhood children who delight in helping with watering and planting and especially in picking their own fresh peas and strawberries; a place where adults come to relax with a book in the sun.

Photos of Holgate Community Garden and Play Park, courtesy of York Stories:



Photos of Holgate Community Garden and Play Park, some of which were recently taken at a community basketball event (July 2016):



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12 September 2016

Executive Member for Finance and Performance Decision Session

Report of the Assistant Director of Finance, Asset Management and Procurement

Applications for Community Right to Bid under the Localism Act 2011

Summary

1. This report presents an application to list the Blacksmiths Arms Public House, Naburn, York, as an Asset of Community Value (ACV), for consideration by the Council.

Background

2. On 6th March 2014 the Cabinet Member approved the proposals for the implementation of a process for the Community Right to Bid legislation to ensure the Council has a process in place for dealing with any applications and the establishment and maintenance of a list of Assets of Community Value.
3. The purpose behind these provisions is to ensure that property (land and building) assets which are currently used to the benefit of the local communities are not disposed of without the local community being given a fair opportunity to bid for these assets when they are put on the open market. 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.
4. The definition of 'community value' is set out in the regulations and can be summarised as
 - The actual current use of the building/land furthers social well being or the social interests of the local community and there is a realistic prospect that a principal use of the property (not necessarily the same use as present) will also further the social well-being or social

interests of the local community (whether or not in the same way as at present)

OR

- In the recent past a principal use of the property has furthered the social well-being or social interests of the local community and there is a realistic prospect that within the next 5 years a principal use of the property (not necessarily the same use as previously) will again further the social well-being or social interests of the local community (not necessarily in the same way as previously).
5. 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

6. The regulations set out how potential assets can be listed which in brief is as follows:
- **Nomination** – this can be by a voluntary or community body with a local connection. Includes parish councils, neighbourhood forums, charities, community interest groups but excludes public or local authorities (except parish councils).
 - **Consideration** – the local authority have 8 weeks to make the decision which is decided by an ‘appropriate group’. The process adopted for CYC is an initial consideration by the Capital and Asset Board (CAB) which has cross-Council representation at a senior level (the Board is chaired by the Director of CBSS). A report is then written to the Executive Member for Finance and Performance who will then formally take the decision. If the nomination is successful the asset details are entered onto the ‘Community Value list’ – see below – 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.

- **The ‘Assets of Community Value’ List** – this needs to be published and reviewed regularly and must be accessible in electronic and paper format.
 - **Disposal of assets on the list** – if a building or piece of land which is on the list is going to be sold 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 and if they do then a 6 month period for that group to prepare it’s 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 it’s 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). This compensation is determined by the local authority (the adopted policy states that this is carried out by the Capital Asset Board) and the owner can have the compensation reviewed within 8 weeks and appeal to a Tribunal if still not satisfied. It should be noted that compensation can only be claimed by private owners (no compensation for public authorities) and the government has not provided any funding for this compensation (or for any costs associated with any of these provisions). However this should not be a factor in determining any application for listing of a pub as an Asset of Community Value.
7. This application have been received under this legislation, for a decision by the Cabinet member
 8. To list an asset as an ACV the asset needs to meet the definition as set out in the Localism Act 2011 which states that the local authority has to ask itself

- a. whether an actual current use of the building or other land that is not an ancillary use furthers the well-being or social interests of the community, and
- b. 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.

If the Listing Authority considers that both elements of this definition are met and the applicants are a valid organisation or group to make the nomination then the Listing Authority must list the asset.

9. It should also be noted that changes to the General Permitted Development Order have been made with effect from the 6th April 2015, which means that where a pub is listed as an asset of community value a planning application is required for a change of use or demolition of the pub building. However this should not be a factor in determining any application for listing of a pub as an Asset of Community Value

The Blacksmiths Arms Public House, Naburn

10. The freehold of The Blacksmiths Arms Public House is owned by Marstons Pubs Ltd. The nomination is being made by Naburn 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, which is the case with this nomination. In accordance with the regulations, the freehold owner, and the tenant 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 and no representations have been received.
11. The Parish Council state that The Blacksmiths Arms enables local people to meet and socialise in a welcoming environment. Such social interaction encourages community cohesion and a collective sense of well being. It is the only pub in the village.
12. The pub hosts regular quiz nights, local sport teams meet in the pub, it is one of only three focal points in which the villagers can gather and socialise, meeting spaces are available for local community

groups, and charities, such as the Community Fund Group and Street Party Committee.

13. The pub also holds fund raising events for local charities and offer a pensioners special each week, which draws a large number of the older villagers into the pub to socialise.
14. Full details are provided in the attachment to the nomination form in Annex 1.
15. There is significant precedent set elsewhere in the country from other authorities who have accepted pubs onto the list even where they are currently run as commercial businesses.
16. The application meets the basic criteria for listing and no objection has been raised by the owner or occupier to the nomination

Implications

17. **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

Equalities, Crime and Disorder and IT - none

Legal – Organisations falling within any of the following categories are eligible to submit an ACV nomination relating to property within their local area:

- (i) a parish council
- (ii) a charity, non-profit making company or community interest company with a local connection to the nominated property
- (iii) an unincorporated association which has at least 21 members registered to vote in the local area

The organisations who have submitted the nominations covered by this report fall within the above criteria and are therefore entitled to submit their ACV nominations.

Paragraph 4 of the report contains the statutory definition of 'land of community value'. If the listing authority considers that a nominated property falls within that definition then it must include the property on its ACV register.

Property – All property issues included in the report

Other – none

Risk Management

18. There are no significant risks to this application.

Recommendations

19. The Executive Member is asked to.

Agree to the applications to list The Blacksmiths Arms Public House as an Asset of Community Value (ACV) for the reasons outlined above.

Reason: To ensure the Council meets its legislative requirements of the Localism Act 2011 and promotes community access to community facilities.

Contact Details

Author:

Tim Bradley
Asset Manager
Asset and Property Management
Tel No.553355

Chief Officer Responsible for the report:

Tracey Carter
Assistant Director Finance Property
Procurement

**Report
Approved**



Date 1 September
2016

Specialist Implications Officer(s)

Implication Legal
Name Andy Docherty
AD Governance and ICT
Tel No. 551004

Wards Affected: Wheldrake

All

For further information please contact the author of the report

Annexes

Annex 1 – The Blacksmiths Arms Public House – Application to add to the List of community assets

Annex 2 – Current list of assets of community value

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ASSETS OF COMMUNITY VALUE NOMINATION FORM

If you need assistance completing this form, then please refer to the guidance document which can be downloaded from the website www.york.gov.uk/assetsofcommunityvalue or alternatively call 01904 553360.

Section 1

About the property to be nominated

Name of Property:	Blacksmiths Arms
Address of Property:	Main Street, Naburn, York
Postcode:	YO19 4PN

Property Owner's Name:	Please See Attached Land Registry Documentation Which Confirms Th
Address:	
Postcode:	
Telephone Number:	
Current Occupier's Name:	

Section 2

About your community organisation

Name of Organisation:	Naburn Parish Council
Title:	Mr
First Name:	Philip
Surname:	Ashworth
Position in Organisation:	Parish Councillor
Email Address:	
Address:	Park View Naburn York
Postcode:	YO19 4RU
Telephone Number:	7889113313

Organisation type:

Click in field for options

PARISH COUNCIL

Organisation size

How many members do you have?

Section 3**Supporting information for nomination**

Any information entered in this section only may be copied and passed onto the owner of the property you are nominating. Definition of an asset of community value can be found in the guidance document.

Why do you feel the property is an asset of community value? Please give as much information as possible.

See attached document

Section 4**Boundary of Property**

What do you consider to be the boundary of the property? Please give as much detail/be as descriptive as possible. Please include a plan.

The nominated asset is a public house. Please see attached the Title Plan and Register from the Land Registry which confirm the boundaries of the property.

Section 5**Attachment checklist**

- Copy of group constitution (if you are a constituted group)
- Name and home address of 21 members registered to vote in nomination area (if group is not constituted)
- Site boundary plan (if possible)

Section 6**Declaration**

I can confirm that to the best of my knowledge the information contained in this nomination form is complete and accurate.

Signed: _____

Dated: _____

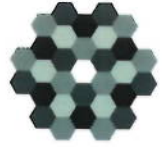
9 August 2016

Please e-mail your completed form to property.services@york.gov.uk or post to:

Asset and Property Management
 City of York Council
 West Offices
 Station Rise
 York
 YO1 6GA

The pub provides the following services which further the social wellbeing and interests of the local community:

- The pub enables local people to enjoy a range of drinks (and food) in a pleasant, convivial atmosphere, which furthers their individual well-being
- The pub enables local people to enjoy a range of drinks (and food) in a pleasant, convivial atmosphere, which furthers their individual well-being
- The pub enables local people to meet and socialise in a welcoming environment which, individually, they find rewarding and enjoyable. Such social interaction is also in the interests of the locality as a whole as it encourages community cohesion and a collective sense of well-being.
- New research from Oxford University shows that people who have a 'local' pub are happier, are more satisfied with their life and have a wider network of friends. The research is available at: <http://www.camra.org.uk/pubs-wellbeing>
- The Council has a local plan in place to protect public houses. The Council should therefore recognise the pub as an ACV to reflect the wishes expressed in the local plan to protect them.
- There is good access for disabled people at the pub
- The Pub has been included in a tourist or local pub guide
- There are good transport links available to/from the pub
- This is the only pub in the village
- There is free parking available which is accessed by the wider community
- Free wifi is available for customers
- The pub hosts regular quiz nights which bring the community together
- The pub has a great food menu enjoyed by the local community
- There are televisions screening sporting events enjoyed by patrons
- There is a beer garden attached to the pub which is used and enjoyed by local people
- The pub has special value to local heritage and culture which should be protected;
it is one of only three focal points in which the village can gather and socialise (along with the church and school)
- Meeting spaces are available for local community groups and charities such as the Community Fund group and Street Party Committee
- Local sports teams meet in the pub such as the Naburn Dad's cricket team
- The pub offers Board Games
- The pub hosts a Music and Beer Festival
- The pub holds fundraising events for local charities and also holds a Nepal Fundraising Supper
- The pub offers a Pensioners Special each week which draws a large number of the older villagers into the pub to socialise
- The pub supports the extensive camping and marina developments within the village



Official copy of register of title

Title number NYK137766

Edition date 17.03.2008

- This official copy shows the entries on the register of title on 05 AUG 2016 at 11:53:38.
- This date must be quoted as the "search from date" in any official search application based on this copy.
- The date at the beginning of an entry is the date on which the entry was made in the register.
- Issued on 05 Aug 2016.
- Under s.67 of the Land Registration Act 2002, this copy is admissible in evidence to the same extent as the original.
- This title is dealt with by Land Registry, Durham Office.

A: Property Register

This register describes the land and estate comprised in the title.

YORK

- 1 (18.06.1993) The Freehold land shown edged with red on the plan of the above Title filed at the Registry and being The Blacksmith's Arms, Naburn.
- 2 (18.06.1993) The land has the benefit of the following rights granted by but is subject to the following rights reserved by a Conveyance of the land in this title dated 28 April 1931 made between (1) George Bryan Palmes (2) Guy St. Maur Palmes and Arthur Dalton Harrison and (3) Emma Eccles:-

"Together with the right at all times hereafter to use (in common with the Vendor and all persons having the like right) the pump hereinafter mentioned RESERVING nevertheless to the Vendor and such of his tenants on the Naburn Estate as may from time to time be authorised by him in writing the right (in common with the Purchaser) to take water from the well situate on the property hereby conveyed by means of the pump at the North Eastern corner of the said property (such pump and the site thereof being retained by the Vendor)".

The Conveyance contains the following covenant:-

"The Vendor hereby covenants with the Purchaser that the Vendor and the persons deriving title under him will at all times hereafter indemnify the Purchaser and the persons deriving title under her from and against all costs charges and expenses in connection with the maintenance repairs and user of the said well occasioned by the user of the said Well by the Vendor or persons authorised so to do by the Vendor"

B: Proprietorship Register

This register specifies the class of title and identifies the owner. It contains any entries that affect the right of disposal.

Title absolute

- 1 (22.09.2005) PROPRIETOR: MARSTON'S PUBS LIMITED (Co. Regn. No. 5453367) of Marstons House, Wolverhampton WV1 4JT.

Title number NYK137766

B: Proprietorship Register continued

- 2 (22.09.2005) RESTRICTION: No disposition of the registered estate by the proprietor of the registered estate or by the proprietor of the registered charge is to be registered without a written consent signed by the proprietor for the time being of the Charge dated 9 August 2005 in favour of HSBC Trustee (C.I.) Limited referred to in the Charges Register or, if appropriate, signed on such proprietor's behalf by its secretary or conveyancer.

C: Charges Register

This register contains any charges and other matters that affect the land.

- 1 (22.09.2005) REGISTERED CHARGE contained in a Deed dated 9 August 2005 affecting also other titles.
NOTE: Charge reference DY245724.
- 2 (22.09.2005) Proprietor: HSBC TRUSTEE (C.I.) LIMITED (incorporated in Jersey) of 1 Grenville Street, St Helier, Jersey JE4 9PF.
- 3 (31.10.2006) The parts of the land affected thereby are subject to the leases set out in the schedule of leases hereto.
The leases grant and reserve easements as therein mentioned.

Schedule of notices of leases

- | | | | | |
|---|--|--|--|-----------|
| 1 | 31.10.2006
edged and
numbered 1 in
blue | The Blacksmiths Arms, Main
Street, Naburn | 28.07.2006
from 26.9.2005
until
25.9.2026 | NYK327801 |
|---|--|--|--|-----------|

End of register



Official copy of register of title

Title number NYK327801

Edition date 13.02.2008

- This official copy shows the entries on the register of title on 05 AUG 2016 at 11:54:01.
- This date must be quoted as the "search from date" in any official search application based on this copy.
- The date at the beginning of an entry is the date on which the entry was made in the register.
- Issued on 05 Aug 2016.
- Under s.67 of the Land Registration Act 2002, this copy is admissible in evidence to the same extent as the original.
- This title is dealt with by Land Registry, Durham Office.

A: Property Register

This register describes the land and estate comprised in the title. Except as mentioned below, the title includes any legal easements granted by the registered lease but is subject to any rights that it reserves, so far as those easements and rights exist and benefit or affect the registered land.

YORK

- 1 (31.10.2006) The Leasehold land shown edged with red on the plan of the above Title filed at the Registry and being The Blacksmiths Arms, Main Street, Naburn (YO19 4PN).
- 2 (31.10.2006) Short particulars of the lease(s) (or under-lease(s)) under which the land is held:
 Date : 28 July 2006
 Term : from 26 September 2005 until 25 September 2026
 Parties : (1) W & DB Pubs Limited
 (2) Andrew James Limbert and Maria Joanne Limbert
- 3 (31.10.2006) There are excepted from the effect of registration all estates, rights, interests, powers and remedies arising upon, or by reason of, any dealing made in breach of the prohibition or restriction against dealings therewith inter vivos contained in the Lease.
- 4 (31.10.2006) The land has the benefit of the following rights granted by but is subject to the following rights reserved by a Conveyance of the freehold estate in the land in this title dated 28 April 1931 made between (1) George Bryan Palmes (2) Guy St. Maur Palmes and Arthur Dalton Harrison and (3) Emma Eccles:-

"Together with the right at all times hereafter to use (in common with the Vendor and all persons having the like right) the pump hereinafter mentioned RESERVING nevertheless to the Vendor and such of his tenants on the Naburn Estate as may from time to time be authorised by him in writing the right (in common with the Purchaser) to take water from the well situate on the property hereby conveyed by means of the pump at the North Eastern corner of the said property (such pump and the site thereof being retained by the Vendor)".

The Conveyance contains the following covenant:-

"The Vendor hereby covenants with the Purchaser that the Vendor and the persons deriving title under him will at all times hereafter indemnify the Purchaser and the persons deriving title under her from and against

Title number NYK327801

A: Property Register continued

all costs charges and expenses in connection with the maintenance repairs and user of the said well occasioned by the user of the said Well by the Vendor or persons authorised so to do by the Vendor"

- 5 (31.10.2006) There are excepted from the effect of registration all estates, rights, interests, powers and remedies arising upon, or by reason of, any dealing made in breach of the prohibition or restriction against dealings therewith inter vivos contained in the Lease.
- 6 (31.10.2006) The landlord's title is registered.

B: Proprietorship Register

This register specifies the class of title and identifies the owner. It contains any entries that affect the right of disposal.

Title absolute

- 1 (31.10.2006) PROPRIETOR: ANDREW JAMES LIMBERT and MARIA JOANNE LIMBERT of The Blacksmiths Arms, Main Street, Naburn, York YO19 4PN.
- 2 (13.02.2008) RESTRICTION: No disposition of the registered estate is to be registered without a certificate signed by the applicant for registration or his conveyancer that written notice of the disposition was given to Alliance & Leicester Personal Finance Ltd at Shoosmiths, The Lakes, Northampton NN4 7SH being the person with the benefit of an Interim charging order on the beneficial interest of Marie J Limbert made by the Yorks County Court on 10 December 2007 in Claim Number 7XW60762.

C: Charges Register

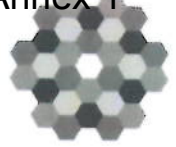
This register contains any charges and other matters that affect the land.

- 1 (31.10.2006) The land is subject to the rights reserved by the registered lease.

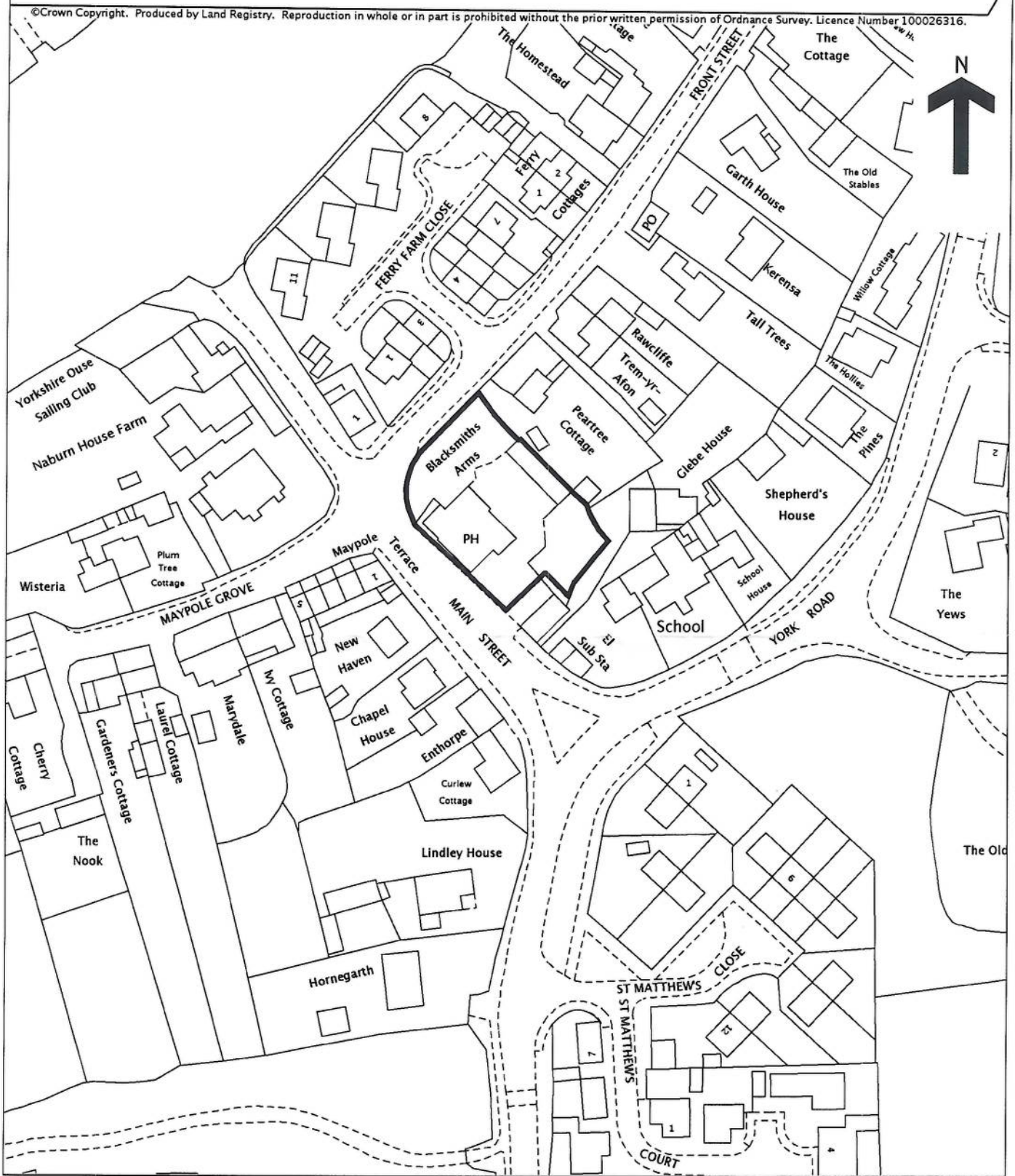
End of register

Land Registry
Official copy of
title plan

Title number **NYK327801**
Ordnance Survey map reference **SE5945NE**
Scale **1:1250 enlarged from 1:2500**
Administrative area **York**



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Current list of Assets of Community Value

1. The Golden Ball Public House, 2 Cromwell Road, York - approved March 2014.
2. The Fox Inn, 166 Holgate Road, York – approved July 2014
3. The Mitre Public House, Shipton Road, York – approved July 2014
4. The Winning Post Public House, 127-129 Bishopthorpe Road, York – approved November 2014
5. New Earswick and District Bowls Club, Huntington Road, York – approved November 2014.
6. Holgate Allotments, Ashton Lane, Holgate – approved June 2015
7. The Swan, Bishopthorpe Road, York – approved October 2015
8. The Bay Horse, Murton Way, Murton, York – approved February 2016.
9. The Derwent Arms, 29 Osbaldwick Village, Osbaldwick – approved March 2016.
10. The Jubilee Hotel Public House, Jubilee Terrace, York – approved July 2016.
11. The Minster Inn, 24 Marygate, York – approved July 2016.
12. The Wenlock Arms Public House, 73 Main Street, Wheldrake – approved July 2016.
13. Costcutter Shop, 58 Main Street, York – approved July 2016.
14. Wheldrake Woods, Broad Highway, Wheldrake – approved July 2016.

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