

**Executive**

**29 September 2016**

**Report of the Director of Place  
Portfolio of the Executive Member for Finance and Performance**

**Application for Community Right to Bid under the Localism Act 2011 –  
White Rose House, Wheldrake**

**Summary**

1. This report presents an application to list White Rose House, 79 Main Street, Wheldrake York, YO19 6AA, owned by the Girlguiding Association (the Owners), as an Asset of Community Value (ACV) under the provisions of the Localism Act.
2. The application has been made by Wheldrake Parish Council and was initially reported to the Executive Member for Finance and Performance Decision Session in July. The Council received a submission from the owner, after the report had been published, which did not allow the full consideration of the evidence base. The report was therefore deferred to a subsequent meeting on the 15<sup>th</sup> August 2016. At that meeting the Executive Member felt that there was not sufficient detailed information on the extent of any community use to enable him to determine the application. The Executive Member asked the Owners to provide more information and the application be referred to Executive for consideration. The Owner has now provided this information and this is set out in the report.

**Recommendations**

3. Executive are asked to decide whether to list White Rose House, Wheldrake as an Asset of Community Value

Reason: To ensure full consideration of the community uses of the property.

**Background**

4. The Community Right to Bid legislation exists to ensure that property assets (land and buildings) which are currently used (or have recently been used) for 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. The right includes public, private and voluntary sector assets. The Council are responsible for deciding whether applications to list assets are valid and comply with the legislation.

5. Wheldrake Parish Council has nominated White Rose House for inclusion on the list. Parish Councils are statutorily entitled to make nominations. The nomination appears at Annex 1.
6. The property is owned and occupied by Girl Guiding North Yorkshire South, a charity supporting activities for girls and young women. In accordance with the Regulations, the freehold owner has been informed in writing that an application has been made. The initial response from them is at Annex 2.

### **The Legislation**

7. The statutory test against which the application needs to be judged is that either

An actual current principal use (rather than merely an ancillary 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 continue which furthers 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).

8. Regulation 3 and paragraph 1 of Schedule 1 to the ACV Regulations states that a property used wholly or partly as a 'residence' is 'land which is not of community value' (and therefore may not be listed). Paragraph 2 of Schedule 1 of the ACV Regulations defines residence as a building use or partly used as a residence which includes where it is a hotel or is principally used as accommodation by paying occupants. It is believed that the building is not principally used as residential

accommodation by paying occupants so it is considered that the property is not a 'residence' for the purposes of the relevant legislation.

9. The judgement of whether an asset meets these criteria is a subjective one. The legislation does not define the nature or extent of any qualifying community use but leaves this decision to the discretion of the responsible body (CYC).
10. If Executive decide to list White Rose House as an Asset of Community Value the legislation then requires the owners to notify the Council of their intention to sell the building. There would then be a 6 week moratorium on the sale during which time the Parish Council would need to register their intention to bid for the property. If they do so then the owner would need to allow them 6 months to make that bid. At the end of the moratorium, any community bid would be considered with any other bids received for the site by the landowners. At that point the landowner will be free to sell the property to whoever they wish.

## **Community Use**

11. The Parish Council (the Applicant) claims that the property should be listed as an ACV as it is available for hire for both day and residential use and provides a range of accommodation suitable for community use. They also state that the property has been used by the community in the recent past for a range of village activities including yoga classes, coffee mornings, Women's Institute meetings, birthday parties and community meetings.
12. The owners state that this community use has been minimal over the last few years and only increased slightly following closure of the Village Hall for extensive repairs in 2015. The primary use of the property is for Guiding groups, for residential and other meetings. These uses are from groups across the region and elsewhere in the country. There have been no residential stays from groups other than GirlGuiding in the last 4 years and the other use can be summarised as follows.
13. The property has been used by the local community over the last three years and this is broken down below
  - 2013 –** Regular local groups – 17 bookings per month
  - One off bookings by local groups – 11 in the year
  - One off bookings by others – 2 days during the year

**2014** – Regular local groups – 13 bookings per month  
One off bookings by local groups – 11 in the year  
One off bookings by others – 2 days during the year

**2015** – Regular local groups – 14 bookings per month (inc 5 due to Village Hall being closed)  
One off bookings by local groups – 8 in the year (inc 2 due to Village Hall being closed)  
One off bookings by others – 3 days during the year

### **Girl Guide Use**

14. The information provided by the owner identifies the main use of the property by Girlguiding groups, locally, county and wider and this is evidenced by Groups who use the site both during the day-time and for residential stays as follows

**2013** – 24 residential stays – (6 from units outside the County)

**2014** – 18 residential stays – (3 from outside the County)

**2015** – 29 residential stays – (9 from outside the County)

15. In addition the property is used for the following activities – all in connection with GirlGuiding

- Meetings of the Council Executive
- Training and competition events
- Storage for County and camping equipment and County Archives

16. The Building is clearly used by the local community but it is also clear that this is not its main purpose.

### **Consultation**

17. The Owners have commented on the application and their views are contained in the report.

### **Council Plan**

18. This report relates closely to the following corporate priority

A Council that listens to residents

## Implications

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- **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:
  - a) a parish council
  - b) a charity, non-profit making company or community interest company with a local connection to the nominated property
  - c) 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 7-8 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.

If the ACV listing is agreed the owner has a right to ask for a review of that decision and this must be undertaken by an officer of appropriate seniority who did not take any part in the original listing decision.

- **Property** - all property issues included in this report
- **Other** - none

## Risk Management

20. There are no significant risks.

## Contact Details

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**Chief Officer Responsible for the report:**  
**Neil Ferris**  
**Director of Place**

**Report  
Approved**

**Date** *20 September  
2016*

Specialist Implications Officers  
Gerard Allen – Senior Property Solicitor

**Wards Affected:** Wheldrake

**All**

**For further information please contact the author of the report**

## Annexes

**Annex 1** – White Rose House, Wheldrake – application to add to the list of community assets

**Annex 2** – Response from the Girlguiding North Yorkshire South