

<b>Meeting:</b>	Decision Session – Executive Member for Finance, Performance, Major Projects and Equalities
<b>Meeting date:</b>	19/09/2024
<b>Report of:</b>	Director of Finance
<b>Portfolio of:</b>	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) The Golden Ball Public House, 2 Cromwell Road York. An application has been received from the Friends of The Golden Ball.
  - b) The Blue Bell Public House, 53 Fossgate, York. An application has been received from the 'Regulars at the Blue Bell'.
  - c) Hurst Hall Community Centre, Border Road, Strensall Camp. 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) The Golden Ball, 2 Cromwell Road, York;
- (ii) The Blue Bell Public House, 53 Fossgate, York; and
- (iii) Hurst Hall Community Centre, Border Road, Strensall Camp, 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. The Golden Ball was previously entered on the Council's list of ACV property on 15<sup>th</sup> July 2019 following an earlier ACV nomination received on 16<sup>th</sup> May 2019. 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 Golden Ball” onto the Council’s AVC list (for a further period of 5 years).

8. The Blue Bell was previously entered on the Council’s list of ACV property on 17th October 2017 following an earlier ACV nomination received on 10<sup>th</sup> August 2017. 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 Blue Bell” onto the Council’s AVC list (for a further period of 5 years).
9. Hurst Hall Community Centre, Strensall Camp was previously entered on the Council’s list of ACV property on 15<sup>th</sup> July 2019 following an earlier ACV nomination received on 4<sup>th</sup> February 2019. 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 Hurst Hall Community Centre 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 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.

### **The Golden Ball Public House, 2 Cromwell Road, York.**

15. The freehold of The Golden Ball is owned by Unique Pub Properties Ltd. The nomination is being made by the Friends of the Golden Ball. 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 Friends of the Golden Ball 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. The Friends of the Golden Ball state in the nomination form that the property has been a community co-operative run pub since 2012. They state that it offers a community space to socialise in a Grade 2 listed building, where they can take part in traditional bar billiards, darts and other games. They also state that the pub hosts a number of regular events such as music nights, a weekly quiz, art exhibitions and craft sales and the pub also provides a meeting space for various local community groups and private events.
17. No representations have been received from either the owner nor occupier regarding the renewal of the listing.
18. 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.
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 Blue Bell Public House, 53 Fossgate, York**

21. The freehold of The Blue Bell is owned by Punch Pubs and Company Limited. The nomination is being made by the 'Regulars of the Blue Bell'. 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 'Regulars of the

Blue Bell' 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 'Regulars of the Blue Bell state in the nomination form that The Blue Bell has been a community hub since 1798. They state that it serves the local residents of York and takes great pride in combating elderly loneliness. They also state that the pub is a unique listed building, which has been loved for generations and that the daily service provided and the regular events held throughout the year are well-loved by the local community.
23. No representations have been received from either the owner or occupier regarding the renewal of the listing.
24. Full details of the application are provided in the nomination form attached in Annex 2.
25. 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.
26. Based on the information provided, it is recommended that the property's listing as an Asset of Community Value is renewed.

### **Hurst Hall Communiy Centre, Strensall Camp.**

27. The freehold of Hurst Hall Community Centre 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.

28. Strensall Parish Council state in the nomination form that Hurst Hall Community Centre is a vital part of the local community and that the community centre provides a wide range of activities and clubs for children and families. Located within the community centre is Hive and Stepping Stones Pre-School. It received a good OFSTED rating in February 2018.
29. No representations have been received from the DIO on the proposed listing.
30. Full details of the application are provided in the attachment to the nomination form in Annex 3.
31. Based on the information provided, it is recommended that the property's listing as an Asset of Community Value is renewed.

## **Consultation Analysis**

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

## **Options Analysis and Evidential Basis**

34. The applications to renew the listing of The Golden Ball, The Blue Bell, and Hurst Hall Community Centre, Strensall Camp, 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.
35. 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

36.

- **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** – Data protection impact assessments (DPIAs) are an essential part of our accountability obligations and is a legal requirement for any type of processing under UK data protection and privacy

legislation. Failure to carry out a DPIA when required may leave the council open to enforcement action, including monetary penalties or fines. DPIAs helps us to assess and demonstrate how we comply with all our data protection obligations. It does not have to eradicate all risks but should help to minimise and determine whether the level of risk is acceptable in the circumstances, considering the benefits of what the council wants to achieve. The DPIA screening questions identified that whilst there is processing of personal and/or special categories of personal data and/or criminal offence data, it is not likely to result in a high risk to the rights and freedoms of individuals. Therefore, a simple DPIA was completed which identified the data protections risks as well as the mitigations either in place or that need to be put in place, to minimise these identified risks such as redacting or withholding personal identifiable information from the public report where we do not have a lawful basis to publish it, to review and update if needed the relevant published privacy notice covering ACV. The DPIA will also be reviewed following the decisions from this report if required.

- **Communications** - None
- **Economy** - None
- **Specialist Implications Officers** - None

## **Risks and Mitigations**

37. There are no significant risks to these applications.

## **Wards Impacted**

38. Micklegate, Guildhall and Strensall.

## **Contact Details**

For further information please contact the authors of this Decision Report.

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## Annexes

- Annex 1 – The Golden Ball Public House, 2 Cromwell Road, York – Application to add to the list of assets of community value.
- Annex 2 – The Blue Bell, 53 Fossgate, York – Application to add to the list of assets of community value.
- Annex 3 – Hurst Hall Community Centre, Strensall Camp - Application to add to the list of assets of community value.

- Annex 4 – Current list of assets of community value.

Abbreviations used in the used in the report.

ACV – Assets of Community Value

DIO – Defence Infrastructure Organisation

DPIA – Data Protection Impact Assessment