

**Executive Leader (Finance and Performance)
Decision Session**

12 June 2017

Report of the Assistant Director of Regeneration and Asset
Management

Application for Community Right to Bid under the Localism Act 2011

Summary

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

Recommendations

2. The Executive Member is asked to consider:

The listing of the Royal Oak, Copmanthorpe, York, as an Asset of Community Value (ACV), because it meets the required criteria.

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

Background

3. An 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.
4. 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.

5. 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 be satisfy either of the following criteria:
 - a. 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. 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
6. 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.
7. 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 process

8. 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. 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 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.
 - **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 it's 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)..

The Royal Oak, Copmanthorpe, York

9. The freehold of the Royal Oak is owned by Unique Pub Properties Ltd. The nomination is being made by the Friends of The Royal Oak. 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 Royal Oak are an eligible body as they are an unincorporated body whose activities are concerned with the Council's area, which does not distribute any surplus/profits to its members and which has at least 21 members who live in the local area . 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. They have been invited to make representations regarding the nomination and no representations have been received.
10. The Friends of The Royal Oak state in the nomination form that the Royal Oak is the only pub in the village of Copmanthorpe. It is situated in the village centre and as such is an integral and intrinsic part of the village and has been so for many generations. The pub forms a central hub, which is vital to the community. Part of the pub is sublet to Little Acorns, which is a very popular cafe which attracts locals and visitors alike. It has an important role within the village and needs to be protected as an important community asset, as well as the public house itself.
11. Full details are provided in nomination form in Annex 1.
12. 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.
13. The application meets the basic criteria for listing and no objection has been raised by the owner to the nomination. It is therefore recommended that the Royal Oak, Copmanthorpe, should be listed on the ACV register.

Consultation

14. Consultation has taken place with owners and occupiers of the property, and Copmanthorpe Parish Council. To date no objections have been received to the proposed listing.

Options

15. The application to list the Royal Oak as an Asset Of Community Value can either be accepted or rejected. There are no other options as sufficient information has been provided to make a decision.

Analysis

16. As the application meets the basic criteria for listing and no objections have been received then the recommendation is that the application is approved. If the asset is listed then the legislation states that the owner can, within 8 weeks of the decision date apply for a review of the listing as set out in paragraph 7 of this report.
17. Although there is no right of review by the applicants, if the decision was made not to list this property this would have to be on the basis that the qualifying criteria as set out in the Localism Act 2011 had not been met. For the reasons set out in paragraphs 8 – 11 in this report then it is considered that they have been met.

Council Plan

18. A Council that listens to residents through working with communities and partners.

Implications

19. **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 – Legal advice has been incorporated within this report.

Property – All property issues included in the report

Other – none

Risk Management

20. There are no significant risks to this application.

Contact Details

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**Report
Approved**

Date 31 May 2017

Ward Affected: Rural York West

All

For further information please contact the author of the report

Annexes

Annex 1 – The Royal Oak Public House – Application to add to the List of community assets

Annex 2 – Current list of assets of community value

Abbreviations

ACV – Assets of Community Value