

Executive Leader (inc. Finance and Performance) Decision Session

17 September 2018

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 Garrison Church of St Wilfrid, Strensall, York, as an Asset of Community Value (ACV), for consideration by the Council.

Background

2. 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.
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 '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. 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
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. 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 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 Garrison Church of St Wilfrid, Strensall, York

7. The freehold of the Garrison Church is owned by The Secretary of State for Defence (the nomination form received from Strensall Parish Council named the owner as being Defence Infrastructure/MoD). 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 an eligible organisation. In accordance with the regulations, the freehold owner occupier of the property has been informed in writing that the application has been made. They have been invited to make representations regarding the nomination.
8. Strensall Parish Council state in the nomination form that the Garrison Church is a vital part of the local community. It is used for Sunday Worship in order to cater for an enlarged local population, which has outgrown the parish church of St Mary, which can only seat 90 comfortably and up to 120 at a squeeze. Special services such as Christingle Services (with candles) can be accommodated at St Wilfrids. They are not permitted at St Mary's for Health and Safety reasons. Village Carol Services and lessons are also held at the church

9. The building has the capacity to hold large weddings and funerals as well as being a concert venue. In addition fund raising events are held there, organised by the local community.
10. Full details are provided in the nomination form in Annex 1.
11. No representations have been received from the Defence Infrastructure Organisation on the proposed listing.
12. The application meets the basic criteria for listing. It is, therefore, recommended that the Garrison Church of St Wilfrid, Strensall, York, should be listed on the ACV register.

Consultation

13. Consultation has taken place with owners and occupiers of the property.

Options

14. The application to list the Garrison Church, Strensall 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

15. As the application meets the basic criteria for listing 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.
16. 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 – 10 in this report, it is considered that they have been met.

Council Plan

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

Implications

18. **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

19. There are no significant risks to this application.

Recommendations

20. The Executive Member is asked to consider:

The listing of the Garrison Church of St Wilfrid, Strensall, 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.

Contact Details

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**Report
Approved**

5 Sept 2018

All

Ward Affected: Strensall

For further information please contact the author of the report

Annexes

Annex 1 – The Garrison Church, Strensall, York – Application to add to the List of community assets

Annex 2 – Current list of assets of community value

Abbreviations

ACV - Assets of Community Value