

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

To: Councillor Steward

Date: Monday, 16 January 2017

Time: 4.45 pm

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

AGENDA

Notice to Members – Post Decision 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 **4:00 pm on Wednesday 18 January 2017.**

*With the exception of matters that have been 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 **Thursday 12 January 2017 at 5.00pm**

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 19 December 2016.

3. Public Participation

At this point in the meeting, members of the public who have registered their wish to speak at the meeting can do so. The deadline for registering is **Friday 13 January 2017 at 5.00 pm.**

Members of the public may register to speak on:-

- an item on the agenda
- an issue within the Executive Member's remit;

Filming, Recording or Webcasting Meetings

Please note this meeting will 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 - 16) under the Localism Act 2011 - Lord Nelson Public House, Nether Poppleton

This report presents an application to list the Lord Nelson Public House, Nether Poppleton, York as an Asset of Community Value (ACV).

5. Urgent Business

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

Democracy Officer:

Name- Jayne Carr

Telephone No.- 01904 552030

Email-jayne.carr@york.gov.uk

For more information about any of the following please contact the Democracy 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

This page is intentionally left blank

City of York Council

Committee Minutes

Meeting	Decision Session - Executive Member for Finance and Performance
Date	19 December 2016
Present	Councillor Steward

20. **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 respect of business on the agenda. No additional interests were declared.

21. **Minutes**

Resolved: That the minutes of the Decision Session held on 23 November 2016 be approved and signed by the Executive Member as a correct record.

22. **Public Participation**

Councillor Warters had registered to speak at the meeting under the Council's Public Participation Scheme in respect of the Asset of Community Value (ACV) application for Osbaldwick School playing fields (agenda item 5). Councillor Warters urged the Council, as landowner, to give reassurance to the community by listing the playing fields as an ACV. He drew attention to issues that may arise if the school gained academy status and stated that the application met many of the criteria for ACV listing.

The Executive Member stated that Councillor Stuart Barnes had registered to speak at the meeting in respect of agenda item 4 (Petition regarding Former Manor School Playing Fields). Councillor Barnes was, however, now unable to be present but had submitted written representation which had been noted. *[A copy of the written representation is included with the online agenda papers for the meeting].*

23. Petition regarding Former Manor School Playing Fields

The Executive Member considered a report which acknowledged receipt of a petition concerning the future use of the former Manor School playing fields and which outlined the Council's position concerning the current situation and future proposals for this site.

The Executive Member stated that he had noted the comments that had been made and would raise these with the Executive. He was, however, being asked only to note receipt of the petition at this stage.

Resolved: That the petition be received and the contents of the report noted.

Reason: To show that the Council is listening to residents.

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

The Executive Member considered a report which presented applications to list the following as Assets of Community Value (ACV), for consideration by the Council:

- The Grey Horse Inn, Main Street, Elvington, YO14 4AA
- Osbaldwick Primary School Playing Fields, The Leyes, York, YO10 3PR

The Executive Member noted that the application in respect of the Grey Horse Inn had been submitted by Elvington Parish Council. The application met the basic criteria for listing and no objection had been raised by the owner or occupier.

It was noted that the freehold of Osbaldwick Primary School playing fields was owned by City of York Council and the nomination had been made by Osbaldwick Parish Council.

The Executive Member stated that he had noted the issues raised by Councillor Warters. He stated that he had sought legal guidance from officers as to whether the application for ACV listing had been met and it was their view that this was not the case. Officers confirmed that consideration had been given to three appeals which had come before the First Tier Tribunal concerning school playing fields and, where the use of the

playing fields was solely educational, the criteria for listing was not met. The Executive Member also noted that there were specific statutory procedures protecting school playing fields and that these would apply even if a school had academy status.

Resolved: (i) That the application to list the Grey Horse Inn, Elvington as an asset of community value be approved.

(ii) That the application to list Osbaldwick Primary School playing fields as an Asset of Community Value be rejected.

Reasons: (i) The application meets the required criteria. By approving the application the Council is meeting the legislative requirements of the Localism Act 2011 and promoting community access to community facilities.

(ii) The application does not meet the definition of an Asset of Community Value as set out in the legislation.

Councillor Steward – Executive Member

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

This page is intentionally left blank



16th January 2017

Executive Member for Finance and Performance Decision Session

Report of the Corporate Director of Economy and Place

Applications for Community Right to Bid under the Localism Act 2011

Summary

1. This report presents an application to list the Lord Nelson Public House, Nether Poppleton, 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 '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
 - Realistically this use can continue for the next 5 years
 - There was a time in the recent past where actual use furthered these aims.

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.
6. 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

7. 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 Lord Nelson Public House, Nether Poppleton, York

8. The freehold of The Lord Nelson Public House is owned by Enterprise Inns plc. 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.
9. The nomination is being made by Nether Poppleton 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. The Parish Council are an eligible body
10. The Parish Council state that The Lord Nelson is of significant community value, as it the only public house that serves the traditional centre of Nether Poppleton Village. It makes a real contribution to the local community and is a well frequented social and leisure facility. Local sports teams meet in the pub, and it is a meeting place for local community groups. Events are often held to raise funds for charities
11. The Lord Nelson is situated within the Nether Poppleton Conservation Area and is around 300 years old. As such it is an important part of the village and adds character to the Main Street.

12. Full details are provided in the attachment to the nomination form in Annex 1.
13. 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.
14. The application meets the basic criteria for listing and no objection has been raised by the owner or occupier to the nomination. It is therefore recommended that the Lord Nelson Public House, Nether Poppleton should be listed on the ACV register.

Implications

15. **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

16. There are no significant risks to this application.

Recommendations

17. The Executive Member is asked to.

Agree to the to the listing of The Lord Nelson Public House, Nether Poppleton, York as an Asset of Community Value (ACV) as 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

Author:

Tim Bradley
Asset Manager
Asset and Property Management
Tel No.01904 553355

Chief Officer Responsible for the report:

Tracey Carter
Assistant Director Regeneration and
Asset Management
Tel. No. 01904 551004

**Report
Approved**



Date 6 January 2017

Ward Affected: Rural West York

For further information please contact the author of the report

Annexes

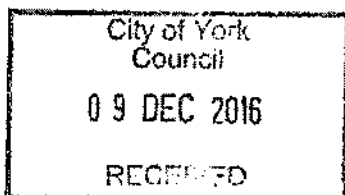
Annex 1 – The Lord Nelson Public House – Application to add to the List of community assets

Annex 2 – Current list of assets of community value

Abbreviations used in the report

ACV Assets of Community Value

This page is intentionally left blank



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:	The Lord Nelson
Address of Property:	9 Main Street, Nether Poppleton, York, North Yorks.
Postcode:	YO26 6HS

Property Owner's Name:	Enterprise Inns Plc
Address:	Enterprise Inns Plc, 3 Monkspath Hall Road, Solihull, West Midlands.
Postcode:	B90 4SJ
Telephone Number:	0121 272 5000
Current Occupier's Name:	Keith Gelderd

Section 2

About your community organisation

Name of Organisation:	Nether Poppleton Parish Council
Title:	Mr
First Name:	James
Surname:	Mackman
Position in Organisation:	Clerk
Email Address:	jmackman3@gmail.com
Address:	39 Calder Avenue, Nether Poppleton, York.
Postcode:	YO26 6RG
Telephone Number:	01904 399277

Organisation type:

Click in field for options

PARISH COUNCIL

Organisation size

How many members do you have?

7

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.

The Lord Nelson is of significant community value, this is the only public house that serves the traditional centre of Nether Poppleton Village.
It makes a real contribution to the local community and is a valuable and well frequented social and leisure facility. This is a much appreciated facility which is particularly family friendly in the warmer months due to its large rear garden. This facility is also popular with caravanners. It is a meeting point for local residents, community groups and sports teams and often holds events to raise funds for charities.
It is situated within the Nether Poppleton Conservation area and is around 300 years old, as such it is an important part of the village and adds character to Main St.
The Parish Council considers that the The Lord Nelson boosts the social wellbeing of the community, and as such, is valued as an asset to this locality.

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.

See attached plan.
The public house faces Main St. There is an entrance at one side, a car park, a large garden plus a small caravan site at the rear.

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: _____

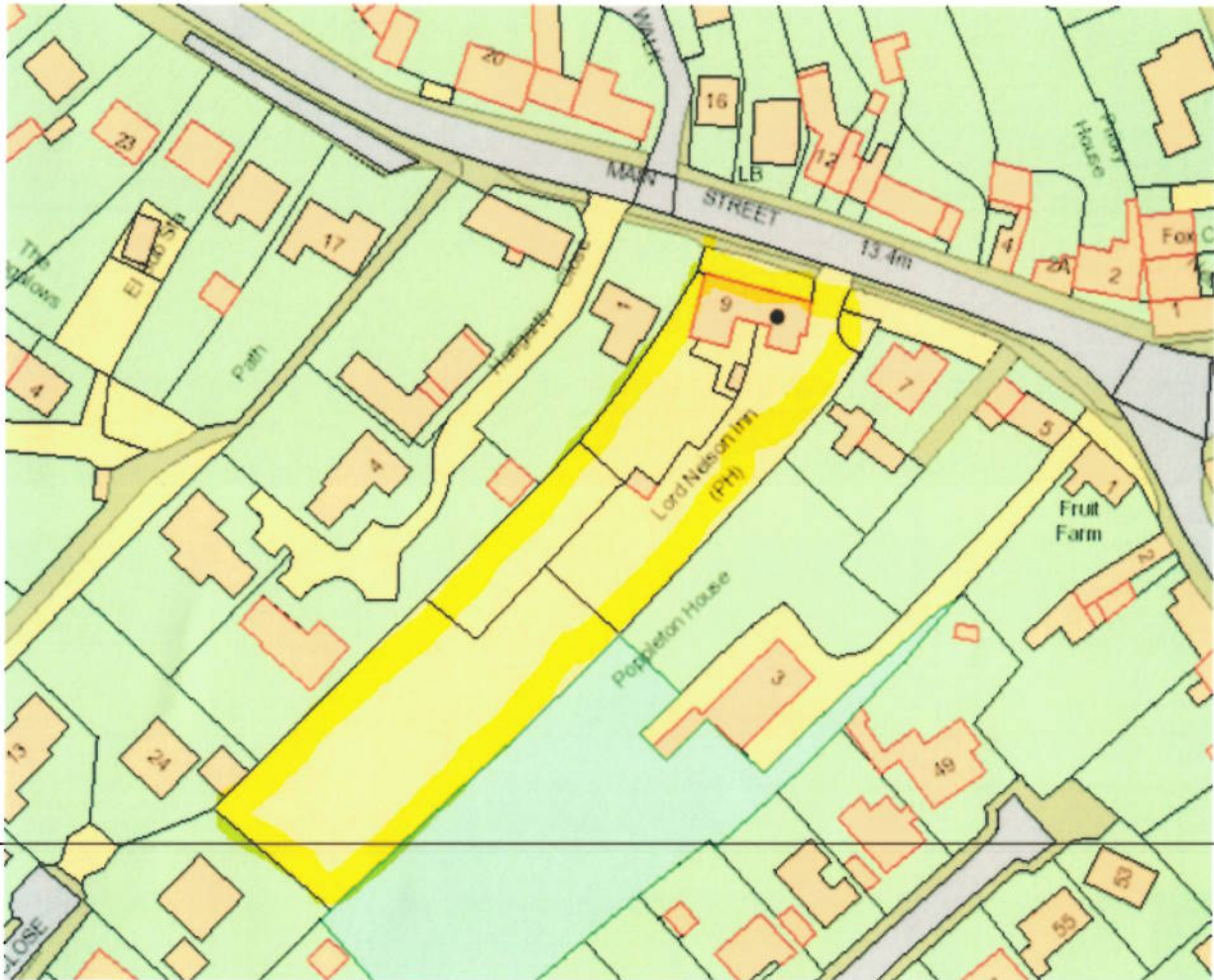
Dated: _____

8 December 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 Lord Nelson, 9 Main Street, Nether Poppleton. YO26 6HS

Location and Site Boundary:



This page is intentionally left blank

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, Wheldrake, York – approved July 2016.
14. Wheldrake Woods, Broad Highway, Wheldrake – approved July 2016.
15. The Blacksmiths Arms, Naburn York – approved September 2016.
16. The Grey Horse Public House, Main Street, Elvington – approved December 2016.

This page is intentionally left blank