

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 Lord Collingwood Public House, The Green, Upper 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 '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
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 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 Lord Collingwood, Upper Poppleton, York

8. The freehold of the Lord Collingwood is owned by Marstons Pubs Ltd. The nomination is being made by the Friends of The Collingwood. 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 Collingwood 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. None have been received.

9. The Friends of The Collingwood state in the nomination form that the Lord Collingwood is a long established pub on the village green at Upper Poppleton. It is a community hub for people in the village to meet and socialise in a pleasant environment, including those who have little social contact with other people. The pub is used by community groups and sports clubs as a meeting place and has in the past hosted men's and women's darts teams. Live sporting events are also screened at the pub.
10. The pub is family friendly that welcomes children during the day. There is a garden and play area at the rear, which is well used during the summer months. Events hosted at the pub include regular quiz nights, live music and charity fund raising events. The pub also manages an information point which supports local organisations and businesses.
11. The pub is a 17th Century Grade 2 listed building in the Upper Poppleton Conservation Area and as such is an important part of the village's historic and cultural identity.
12. Full details are provided in 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 to the nomination. It is therefore recommended that the Lord Collingwood Public House, Upper Poppleton, York should be listed on the ACV register.

Consultation

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

Options

16. The application to list the Lord Collingwood 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.

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 Lord Collingwood Public House, Upper Poppleton, 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

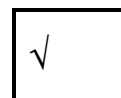
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Report Approved



**26 April
2018**

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

List of Abbreviations Used in this Report

ACV - Assets of Community Value