

**Decision Session – Executive Member for  
Finance and Performance**

**15 July 2019**

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 applications to list the following assets as Assets of Community Value (ACV), for consideration by the Council:
  - a. Hurst Hall Community Centre, Border Road, Strensall Camp, York, YO32 5SR.
  - b. Golden Ball Public House, 2 Cromwell Road, York, YO1 6DU.

**Background**

1. 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.
2. 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.
3. 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
4. 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

5. 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).

### **Hurst Hall Community Centre, Strensall, York**

6. 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 is 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.
7. Strensall Parish Council state in the nomination form that the community centre provides a wide range of activities and clubs for children and families. Located within the centre is HIVE and Stepping Stones Pre School, which received a good Ofsted rating in February 2018.

8. Full details are provided in the nomination form in Annex 1.
9. No representations have yet been received from the Defence Infrastructure Organisation on the proposed listing.
10. The application meets the basic criteria for listing. It is, therefore, recommended that the Hurst Hall Community Centre, Strensall, York, should be listed on the ACV register.

### **The Golden Ball Public House**

11. 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 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.
12. The Friends of The Golden Ball state in the nomination form that the Golden Ball has been operated as a viable co-operative pub for the last five years and is now facing a bright new future on a 'free of tie' basis. The pub offers opportunities to socialise and play darts or games in a traditional Grade II listed surroundings. A programme of regular music nights, pub quizzes and other events. There are also spaces for a range of community groups to meet in.
13. Full details are provided in nomination form in Annex 1.
14. 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. This property has previously been listed as an asset of community value.

15. 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 Golden Ball, 2 Cromwell Road, York should be listed on the ACV register.

## **Consultation**

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

## **Options**

17. The applications to list Hurst Hall Community Centre, Strensall and The Golden Ball, as Assets 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**

18. As the applications meet the basic criteria for listing the recommendation is that the applications are approved. If the assets are listed then the legislation states that the owners can, within 8 weeks of the decision date apply for a review of the listing as set out in paragraph 7 of this report.
19. Although there is no right of review by the applicants, if the decision was made not to list these properties 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 6 – 15 in this report, it is considered that they have been met.

## **Council Plan**

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

## **Implications**

21. **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**

22. There are no significant risks to this application.

### **Recommendations**

23. The Executive Member is asked to consider:

- a. The listing of Hurst Hall Community Centre, Strensall, as an Asset of Community Value (ACV) for the reasons outlined above.
- b. The listing of the Golden Ball Public House, 2 Cromwell Road, York, as an Asset of Community Value (ACV) for the reasons outlined above.

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

## Contact Details

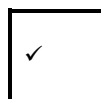
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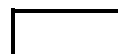
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Assistant Director  
Regeneration and Asset Management  
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Report  
Approved



4 July 2019

All



**Wards Affected: Strensall and Micklegate**

**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 – The Golden Ball Public House, York – Application to add to the list of community assets*

*Annex 3 – Current list of assets of community value*

Abbreviations used in the report

ACV Assets of Community Value