

## **Decision Session – Executive Member for Finance, Performance, Major Projects and Equalities**

Report of the Director of Housing, Economy & Regeneration.

### **Application for Community Right to Bid under the Localism Act 2011**

#### **Summary**

1. This report details applications to list the following properties as Assets of Community Value (ACV), for consideration by the Council.
  - a. The Rose and Crown Public House, Main Street, Askham Richard, York. An application has been received from Askham Richard Parish Council.
  - b. Vernon House, Vernon Close, Bishopthorpe, York. An application has been received from Bishopthorpe Parish Council.

#### **Recommendations**

2. The Executive Member is asked to consider the officer recommendation to:

Approve the renewal of the listing of the Rose and Crown, Askham Richard, York, and Vernon House, Bishopthorpe, York as Assets of Community Value (ACV) for the reasons outlined within this report.

Reason: To ensure the Council meets its legislative obligations (pursuant to the Localism Act 2011 and the Assets of Community Value (England) Regulations 2012) and promotes community access to community facilities.

#### **Background**

3. 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.

4. The purpose behind these provisions is to ensure that property (land and building) assets which are currently used for principal/non-ancillary use(s) which benefit the local communities are not disposed of without the local community being given an opportunity to bid for these assets if and when the owner wishes to dispose of the asset. 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 satisfy either of the following criteria:
  - a. 88(1) 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. 88(2) 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.

### **The process**

7. The regulations set out how potential assets can be listed which in brief are as follows:

- **Nomination** – this can be by a voluntary or community body with a local connection. This includes parish councils, neighbourhood forums, charities, community interest groups but excludes public or local authorities (except parish councils).
- **Consideration** – the local authority has 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 further details in the report – 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. Neither the Localism Act nor the ACV Regulations give the nominating organisation any right to appeal a decision of the local authority that the nominated property is not an asset of community value/does not satisfy the necessary S.88 criteria referred to above.
- **Disposal of assets on the list** – if a building or piece of land which is on the list is going to be disposed of (by way of either a freehold sale or granting of a lease for a Term of 25 years or more) 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. If they do, then a 6 month period (commencing from the date on which the Council had received notice of the owner's intention to dispose of the asset) is provided for that group to prepare its 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 Rose and Crown Public House, Askham Richard**

8. The freehold of the Rose and Crown is believed to be owned by Samuel Smith's Brewery (the property is not registered at the Land Registry so it has not been possible to definitely check the ownership by reviewing title deeds). The public house has been closed since the beginning of March 2020. The nomination is being made by Askham Richard Parish Council (ARPC). 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. ARPC, as Parish Council for the area in which the nominated land is situated, are an eligible body entitled to submit a nomination for the purposes of the ACV regulations.
9. In accordance with regulations requiring that the owner of the nominated property be notified of a nomination, Samuel Smith's Brewery has been informed in writing that the application has been made. They have been invited to make representations regarding the nomination.
10. The public house is currently closed and unoccupied.
11. ARPC state in their nomination the following information as detailed within the following paragraphs 12-15 of this report;
12. They state that the Rose and Crown has been closed since the beginning of March 2020 following Covid lockdown. Prior to that, due to various changes in management, it was closed intermittently over the previous three years.
13. Askham Richard is a small village of approximately 70 households, where adults have no place to meet and socialise in the evening. There are only very occasional functions in the (unlicensed) village hall at which local people may meet up.
14. Of the pubs in the nearby villages, the Three Hares at Bilbrough and the Ebor in Bishopthorpe are closed, the Tankard at Rufforth (since re-opened following a period of closure) and the Buckles on the A64.

15. In most British villages, the local pub remains the hub of community life. In Askham Richard that's all there is. ARPC believe that there would be sufficient local interest for the Rose and Crown to be run as a community pub.
16. Full details of the application are provided in the nomination form attached in Annex 1.
17. No representation has been received from the owner.
18. 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.

### **Vernon House, Bishopthorpe, York**

19. The freehold of Vernon House is owned by City of York Council. The nomination is being made by Bishopthorpe Parish Council (BPC). 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. BPC, as Parish Council for the area in which the nominated land is situated, are an eligible body entitled to submit a nomination for the purposes of the ACV regulations.
20. In accordance with regulations requiring that the owner of nominated property be notified of a nomination, City of York Council have been informed in writing that the application has been made. They have been invited to make representations regarding the nomination. The property is currently occupied by the applicant pursuant to a lease of the property granted by City of York Council to Bishopthorpe Parish Council.
21. BPC state in their nomination that Vernon House is a vital community asset to the village of Bishopthorpe and furthers the social well-being of, mainly, the elderly members of the residents of Bishopthorpe. The building is furnished with comfortable chairs and tables and is equipped with a fully functional kitchen. In addition, the premises include Ladies and Gentlemen's toilets. Currently, the local GP practice are investigating using the small room for a satellite surgery.
22. BPC also state that the property is occupied Monday to Friday by the following groups – Ukelele Class, Knit and Natter, Dance Band

Practice, Art Class, Tai Chi, Men's Shed, Catalyst, History Group Keep Fit, Sketching Class, First Responders Group, Guitar for Fun and Poetry Group. It is also booked for several weekends during the year for family get-togethers and parties.

23. BPC advise that most of the groups operate inside the main room, but occasionally use the garden, which is maintained by Men's Shed.
24. The property sits within the City Council's Housing Revenue Account (HRA) and is managed by City of York Council's Housing Services. They have confirmed that they have no objection to the proposed listing.

### **Analysis**

25. If the decision is to approve the ACV nomination applications, then the owners of the properties have a statutory right to request a review of that decision by submitting a review request to the Council within 8 weeks of the decision date. (If the decision is to reject the ACV nomination application, the legislation does not give the nominating group any right to appeal that request, though they could potentially seek a judicial review of the decision by submitting a J.R. claim to the High Court).

### **Options & Recommendations**

26. The applications to renew the listing of the Rose and Crown Public House, Askham Richard and list Vernon House, Bishopthorpe, as Assets of Community Value, can either be accepted or rejected. There are no other options, as it is considered that sufficient information has been provided to make a decision.
27. Based upon the information provided, it is recommended that both of the properties are listed as ACVs.

### **Council Plan**

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

## Implications

### 29. 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).

### 30. Human Resources (HR) – none

### 31. Equalities, Crime and Disorder and IT - none

32. **Legal** – Advice and comments have been sought from Legal Services and incorporated within this report.

33. **Property** – All property issues included in the report

34. **Other** – none

## Risk Management

There is no significant risk to this application.

## Contact Details

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Report  
Approved

All

**Wards Affected:** Rural York West and Bishopthorpe

**For further information please contact the author of the report**

## **Annexes**

*Annex 1 – The Rose and Crown Public House, Askham Richard, York – Application to add to the list of assets of community value.*

*Annex 2 – Vernon House, Vernon Close, Bishopthorpe, York - Application to add to the list of assets of community value.*

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

Abbreviations used in the report

ACV - Assets of Community Value

ARPC – Askham Bryan Parish Council

BPC – Bishopthorpe Parish Council