

Report of the Strategic Director of Regeneration and Culture to the meeting of Keighley Area Committee to be held on 22nd January 2015

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Subject:

**Nomination to list land and asset as an Asset of Community Value -
Changegate Car Park, Haworth**

Summary statement:

The Council has received a nomination to list land and property known as Changegate Car Park, Haworth as an Asset of Community Value under the Localism Act 2011. This report considers whether the nomination and nominated asset meet the Asset of Community Value Criteria set out in the Localism Act and contains a recommendation as to whether or not the nomination should be approved.

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Portfolio:
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Overview & Scrutiny Area:
Regeneration and Economy



Dermot Pearson, Assistant City Solicitor

1. SUMMARY

- 1.1 The Council has received a nomination to list land known as Changegate Car Park, Haworth as an Asset of Community Value under the Localism Act 2011. This report considers whether the nomination and nominated asset meet the Asset of Community Value Criteria set out in the Localism Act and contains a recommendation as to whether or not the nomination should be approved.

2. BACKGROUND

- 2.1 The Community Right to Bid provisions of the Localism Act 2011 came into effect on 21st September 2012. The purpose of the provisions is to allow communities time to prepare bids for land and property assessed as being of benefit to the community when those assets come up for disposal.

2.2 The Community Right to Bid

- 2.2.1 Local community groups and parish councils are able to nominate privately and publicly owned land and property for inclusion on a list of assets of community value. The list is maintained by CBMDC which is also responsible for managing the process for determining whether a nomination of a property as an asset of community value is successful. At its meeting of 6th November 2012 the Executive resolved that the determination of nominations be devolved to Area Committee.
- 2.2.2 The listing of land or property as an Asset of Community Value has the effect of preventing owners from disposing of their listed property without first notifying the Council of their intention to sell. The notification of intention to sell triggers a six week moratorium on disposal during which local community groups and parish councils are able to express an interest in bidding for the property. If no expressions of interest are received the owner is free to dispose of his property at the end of the six week period. If an expression of interest is received the initial six week moratorium extends to six months to allow community groups and parish councils to prepare to bid for the property or to negotiate with the property owner. At the end of the six month period the property is removed from the list and the owner is able to sell the property to who ever he wants and by whatever means he wishes.
- 2.2.3 The Community Right to Bid provisions **do not**;
- Give community groups or parish councils a right of first refusal when listed land and buildings come up for sale.
 - Give community groups or a parish council the right to purchase land and property listed as assets of community value at a reduced price i.e. less than market value.
 - Compel a property owner to sell to a community group or parish council. Once the procedures set out in the Act are complied with property owners are free to sell their property to whomever they wish.
 - Restrict how a property owner can use their property.

2.3 Definition of an Asset of Community Value

2.3.1 The Act provides that land or property falls within the definition of asset of community value where its current primary use furthers the social wellbeing or social interests of the local community, **and** where it is realistic to think that this use will continue. Social interests include culture, recreation and sport. A property will also qualify when its main use in the recent past meets the definition, **and** it is realistic to think that its use may again fall within the definition within the next five years (whether or not in the same way as before).

2.3.2 Social interests include a) cultural interests; b) recreational interests; c) sporting interests. Wellbeing is the things that people value in their life that contributes to them reaching their potential (economic, social or environmental).

2.3.3 The Act sets out details of certain types of land and property which are exempt from the Community Right to Bid provisions.

2.4 Who can nominate an asset to be listed

2.4.1 Nominations to list an asset as being of community value can be made by;

- A local voluntary or community group that is [incorporated](#) – this means it has a separate legal status from its members
- A local voluntary or community group that is [not incorporated](#) but has at least 21 members who appear on the electoral roll within CBMDC or a neighbouring authority.
- A parish council
- Neighboring parish councils – if a parish council borders an unparished area it may nominate asset within that area.
- Community interest groups with a local connection which has one of the following structures:
 - a) A charity
 - b) A community interest company
 - c) A company limited by guarantee that is non profit distributing
 - d) An industrial provident society that is non profit distributing.

For a local group to be able to nominate it must be able to demonstrate that its activities are wholly or partly concerned with the local authority area within which the asset is located or with a neighbouring authority (which shares a boundary with Bradford).

2.5 The Nomination

2.5.1 The nomination application is included at Appendix 1.

2.5.2 Officers have assessed the nomination and have found that :

Criteria	Finding	Comment	Criteria met?
The nominator is eligible to nominate Assets of Community Value?	Yes	Haworth, Cross Roads & Stanbury Parish Council	✓
Are the nominated assets exempt from listing?	No	None of them are exempt	✓
The land and buildings are used (and in the past 5 years) to further the social well-being and social interests of the local community (as defined by the Localism Act 2011) and this use is not ancillary.	No	The land is in use as a car park. Any community use is ancillary to its main use as a car park.	X
It is realistic to think that the building or land will continue to be used in a way which will further the social well-being and social interests of the community within the next 5 years.	No	It is not in use as a community asset at the moment.	X

2.5.4 Accordingly the Council's Officers have assessed that the criteria for listing have not been met and recommend that Changegate Car Park, Haworth is not listed as an Asset of Community Value.

3. OTHER CONSIDERATIONS

3.1 Property owners (but not occupiers) may appeal against the Council's decision to list their property as an asset of community value. In the first instance the property owner should ask the Council to review its decision. If the Council upholds its decision to list, the owner may appeal to the First Tier Tribunal.

3.2 There is no provision within the Act for nominators to challenge a decision not to list a property or decision to remove a property from the list following a review. However, the Council will be required to provide nominators with reasons why their application is unsuccessful or why a property has been removed from the list.

- 3.4 As mentioned at 2.2.3 above the listing of land or property as an Asset of Community Value does not prevent a land owner from changing the use of the listed asset. The Act provides that a listed asset can be removed from the list if the nature of the asset changes so that it is unrealistic to expect it to be used for social, sporting, environmental benefits in the near future. An example of substantial change would be the progression of development works.
- 4 The listing of an asset is not retrospective and has no effect on binding agreements for sale already in place at the date of listing.

4. OPTIONS

- 4.1 **Option 1:** Accept the nomination on the grounds it meets the criteria and definition of an Asset of Community Value as set out in the Localism Act 2011.
- 4.2 **Option 2:** Reject the nomination on the grounds that it does not meet the criteria and definition of an Asset of Community Value as set out in the Localism Act 2011.
- 4.3 Option 2 is the preferred option as the nominated asset does not meet the criteria for listing set out in the Act.

5. FINANCIAL & RESOURCE APPRAISAL

The right of a property owner to compensation for losses incurred as a result of listing does not apply to publically owned assets.

6. RISK MANAGEMENT AND GOVERNANCE ISSUES

None

7. LEGAL APPRAISAL

Land or property may only be listed as an Asset of Community Value where it meets the criteria and definitions set out in the Localism Act 2011.

Property owners' may appeal against the decision to list their property as an Asset of Community Value. In the first instance the decision to list the property will be subject to internal review within the council. If the council upholds the decision to list, the owner may appeal to the First Tier-Tribunal.

8. OTHER IMPLICATIONS

8.1 EQUALITY & DIVERSITY

None

8.2 SUSTAINABILITY IMPLICATIONS

None.

8.3 GREENHOUSE GAS EMISSIONS IMPACTS

None

8.4 COMMUNITY SAFETY IMPLICATIONS

None

8.5 HUMAN RIGHTS ACT

None

8.6 TRADE UNION

None

8.7 WARD IMPLICATIONS

None

8.8 AREA COMMITTEE ACTION PLAN IMPLICATIONS (for reports to Area Committees only)

None

9. NOT FOR PUBLICATION DOCUMENTS

None.

10. RECOMMENDATIONS

That, in accordance with Option 2, the nomination of land known as Changegate Car Park, Haworth, as an Asset of Community Value is not approved.

11. APPENDICES

Appendix 1 - Nomination form

12. BACKGROUND DOCUMENTS

Report to the Executive meeting of 6th November 2012; The Localism Act 2011 – The Community Right to Bid.

The Localism Act 2011 Community Right to Bid

Application to Nominate Assets of Community value



You will need to complete this application form if you wish to nominate an asset of community value for listing. The responses to the questions in your application will enable the Council to reach a decision about your nomination. In the event that the information you supply is insufficient to make a decision, your application will be rejected.

Before completing this application **please read** the information about the Assets of Community Value provisions available on the Council website at http://www.bradford.gov.uk/bmdc/leisure_and_culture/parks_and_open_spaces/assets_of_community_value

This information will help you to better understand whether the asset you propose to nominate meets with the definition of an 'asset of community value'. It also provides additional information about your rights to nominate and bid for assets as well as the rights of asset owners.

Your completed application should be sent to:

Assets of Community Value
The Operational Estate Manager
Estate Management
City of Bradford Metropolitan District Council
7th Floor Jacobs Well
Bradford
BD1 5RW

For information, the table below summarises the 'assets of community value' nominating and bidding process in four simple stages.

Stage one: Identify an asset for nomination

If an eligible community or voluntary group thinks that a local asset meets the definition of an 'asset of community value' they can fill in an application form and ask the Council to list the property as an 'asset of community value'. If the nomination meets the relevant criteria and is approved by the Council, the asset will be included on the list. A list will also be compiled for any unsuccessful nominations that do not meet the criteria.

Stage 2: The owner wants to sell their asset

If the owner wants to sell their asset they must notify the Council, which will then notify the community group that nominated the asset and publicise the proposed sale to the wider community. If within six weeks of informing the Council of their intention to sell their asset an eligible community interest group does not come forward, the owner is free to sell their asset for a period of eighteen months from the date that they notified the Council of their intention to sell the asset.

Step 3: A designated community group wants to bid for the asset

If an eligible community interest group *does* express an interest in bidding for the asset, this group or groups will be granted extra time to prepare a business plan and gather the finance needed to purchase the asset. All in all, the time-frame for groups to put together their bids is six months starting from the time the asset owner informs the Council of their intention to sell the asset.

Step 4: The point at which the asset is to be sold

The six month window of opportunity is only for eligible community interest groups to put their business plans together and gather necessary funding. Once the six month window has expired, the asset owner is free to sell their property to who they want. They are under no obligation to sell the asset to any eligible community interest group or groups who bid to purchase the asset.



Nomination Form

Ref.....
(for Council use)

Section 1: About You		
Title	Councillor	
First Name	Angel	
Surname	Kershaw	
Address	Haworth, Cross Roads & Stanbury Parish Council c/o Worth Valley Police & Community Contact Point 28 Changegate Haworth	
Postcode	BD22 8DY	
Telephone number	01535 644001	
Email address	clerk@haworthparishcouncil.gov.uk	
Your relationship to the nominating organisation	Vice Chair – Haworth Parish Council Chair of Environment Working Group Hon. Conservation and Wildlife Officer	
Section 2: About your Organisation		
Please provide evidence that you are eligible to make a nomination. See the Appendix for information about who can nominate.		
2.1 Name of organisation	Haworth, Cross Roads & Stanbury Parish Council	
2.2 Organisation type	Place a cross against all those that apply	Registration number of charity and/or company (if applicable)
Neighbourhood forum		
Parish Council	x	
Charity		



Community interest company		
Unincorporated body		
Company limited by guarantee		
Industrial and provident society		

2.3 Number of members registered to vote locally (unincorporated bodies)
 In the case of an unincorporated body, at least 21 of its individual members must be registered to vote locally. If relevant, please confirm the number of such members and provide the names and addresses of 21 members registered to vote locally. If they are registered to vote in the area of a neighbouring local authority, rather than in Bradford District, please confirm which area that is.

There are 12 Councillors on the Parish Council whose precept is paid for by householders in Haworth, Cross Roads & Stanbury Parish who we represent.

2.5 Local connection

Your organisation must have a local connection, which means that its activities are wholly or partly concerned with the administrative area of Bradford Council or a neighbouring local authority. In some cases this will be obvious, e.g. an organisation whose activities are confined to the city. If it is not obvious, please explain what your organisation's local connection is.

Parish Council

2.6 Distribution of surplus funds (*applicable to certain types of organisations only*)

If your organisation is an unincorporated body, a company limited by guarantee, or an industrial and provident society, its rules must provide that any surplus funds are not distributed to members, but are applied wholly or partly for the benefit of the local area (i.e. within the administrative area of Bradford or a neighbouring local authority). If relevant, please confirm that this is the case, and specifically which area this applies to.

N/A

2.7 More about your organisation

What are the main aims and activities of your organisation?

The Parish Council represents the people of the Parish, those who live or work within the Parish boundaries. The Parish Council is elected and authorised to act on behalf of members/residents of the Parish.

If your organisation isn't a registered charity or company please provide evidence of its status such as trust deed, Articles of Association, constitution where appropriate.

3. Details of the land or building(s) that you are nominating.

Please provide information which helps to clarify the exact location and extent of the asset being nominated. This could include:

- Where the land is registered, the Land Registry Title Information document and map with boundaries clearly marked in red (less than one month old). Provision of Land Registry information is not essential but it may help us to reach a decision on the nomination more quickly.
- A written description with ordinance survey location, and explaining where the boundaries lie, the approximate size and location of any building/s on the land and details of any roads bordering the site.

If the boundary is not clearly defined you may be required to submit further evidence prior to your nomination application being accepted.

- A drawing or sketch map with boundaries clearly marked in red – websites which might help you in plotting boundaries include: <http://maps.google.co.uk>

Name of the asset	Land at the junction of Changegate and North Street, Haworth
Address or location of the asset	Junction of Changegate and North Street, Haworth,
Description of the asset and its boundaries	Area of land on the junction of North Street and Changegate, Haworth, currently operated principally as a private car park throughout most of the year

4. Owners and others with an interest in the building or land

Please supply the following information. If any information is not known to you please say so.

Current owner's name and address (if known)	The Edinburgh Woollen Mill Ltd, Waverley Mills, Langholm, Dumfriesshire, DG13 0BE
Current leaseholder(s) name and address	Not known
Names and addresses of all current occupants of the land	Not known

5. Reasons for nomination ; Why you think the land or building is of community value	
<p>Please note that the following are not able to be assets of community value:-</p> <ul style="list-style-type: none">• A building wholly used as a residence, together with land “connected with” that residence. This means adjoining land in the same ownership. Land is treated as adjoining if it is separated only by a road, railway, river or canal.• A caravan site.• Operational land. This is generally land belonging to the former utilities and other statutory operators.	
5.1 Does the use of the asset currently further the social wellbeing or social interests* of the local community, or has it done so in the recent past? If so, how? <i>* These could be cultural, recreational and/or sporting interests – please say which one(s) apply.</i>	
<p>Although operated most days as a car park primarily,(although the lease for the same seems to have expired) it is also used as an assembly point for re-enactors and other participants for events held in Haworth annually, such as the 1940s weekend, and other events.</p> <p>Also used as a point of interest for visitors and participants during such events, having parked on it 1940s Canteens, Ice Cream Vans and other facilities used during events. Its location provides a central and safe point of assembly for such events, especially for children and the less mobile.</p>	
5.2 How could the building or land be acquired and used in future? <i>If it is listed as an asset of community value, community interest groups (not limited to your organisation) will get the opportunity to bid for it if it comes up for sale. Please set out how you think such a group could fund the purchase of the building or land, and how they could run it for the benefit of the community.</i>	
<p>This could be used as a car park to benefit the community, by providing funding for other facilities. Could also be used as an assembly point for Remembrance events, and other events throughout the year, on which the economy and community of Haworth depends, such as a market or assembly point for the 1940s weekend, Steam Punk Weekend and Christmas events. Its position particularly lends itself to being used by those who cannot, due to disability or mobility issues, traverse up the steep hills of Main Street or Rawdon Road to allow them to assemble and gain access to the events on Main Street, in and around the Church, and to access pubs and other facilities at the top part of the village, including those arriving by coach, thus enabling the village to be more accessible to those with disabilities.</p>	
6. Submitting your nomination	
6.1 What to include	
<ul style="list-style-type: none">• Your organisation’s constitution, Articles of Association or Trust Deed (section 2.7)• Your sketch plan of the asset that you are nominating (section 3).	

6.2 Signature

By signing your name here (if submitting by post) or typing it (if submitting by email) you are confirming that the contents of this form are correct, to the best of your knowledge.

Signature.....**Angel Kershaw**.....

20th October 2014

Date.....

Assessment of Validity – nomination to list land & property as an ACV under the Community Right to Bid. Localism Act 2011

Property Changegate Car Park, Haworth

Nominator Haworth, Cross Roads & Stanbury Parish Council

Test	Comments	Test met
<p>Eligible to nominate;</p> <p>Incorporated local voluntary group</p> <p>Unincorporated voluntary group with 21 members registered to vote locally</p> <p>Parish council</p> <p>Neighbouring parish council</p> <p>Community interest group with a local connection which is;</p> <ul style="list-style-type: none"> - a charity or, - a community interest company or - company limited by guarantee - an industrial provident society 	<p>Haworth, Cross Roads and Stanbury Parish Council - local</p>	<p>Yes</p>
<p>Activities of the nominator are wholly or partly concerned with the Bradford District</p>	<p>A privately owned car park with ancillary community uses. The main use is car parking.</p>	<p>No</p>
<p>Land and property exempt from listing?</p>		<p>No</p>

Assessment made by Andrew Horrocks and Carole Coates Date : 29.10.14