

# **Report of the Strategic Director of Corporate Services to the meeting of Shipley Area Committee to be held on to be held on 28<sup>th</sup> June 2017 at 7.30pm at Shipley Town Hall**

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### **Subject:**

**Nomination to list properties as Assets of Community Value –**

- 1. Myrtle Park**
- 2. Bingley Town Hall**
- 3. Bingley Swimming Pool**

### **Summary statement:**

**The Council has received a nomination to list assets known as -**

- 1. Myrtle Park**
- 2. Bingley Town Hall**
- 3. Bingley Swimming Pool**

**as Assets of Community Value under the Localism Act 2011. This report considers whether the nominations and nominated assets meet the Asset of Community Value criteria set out in the Localism Act and contains a recommendation as to whether or not the nominations should be approved.**

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### **Portfolio:**

Stuart McKinnon-Evans  
Strategic Director of Corporate  
Services

Report Contact: Stephanie Moore,  
Estate Manager  
Phone: (01274) 432256  
E-mail: [steph.moore@bradford.gov.uk](mailto:steph.moore@bradford.gov.uk)

### **Overview & Scrutiny Area:**



## **1. SUMMARY**

1.1 The Council has received nominations to list assets known as -

1. Myrtle Park
2. Bingley Town Hall
3. Bingley Swimming Pool

as Assets of Community Value under the Localism Act 2011. This report considers whether the nominations and nominated assets meet the Asset of Community Value Criteria set out in the Localism Act and contains recommendations as to whether or not the nominations should be approved.

## **2. BACKGROUND**

2.1 The Community Right to Bid provisions of the Localism Act 2011 came into effect on 21<sup>st</sup> 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.

## **3. OTHER CONSIDERATIONS**

3.1 The Community Right to Bid provisions of the Localism Act 2011 came into effect on 21<sup>st</sup> 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.

### **3.2 The Community Right to Bid**

3.2.1 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 6<sup>th</sup> November 2012 the Executive resolved that the determination of nominations be devolved to Area Committee.

3.2.2 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.



### 3.2.3 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.

### 3.3 Definition of an Asset of Community Value

3.3.1 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).

3.3.2 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).

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

### 3.4 Who can nominate an asset to be listed

3.4.1 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).

### 3.5 The Nomination

3.5.1 The nomination applications are included at Appendix 1.

3.5.2 Officers have assessed the nominations and have found that :

Criteria	Finding	Comment	Criteria met?
The nominator eligible to nominate Assets of Community Value?	Yes	Bingley Town Council	Yes
Are the nominated assets exempt from listing?  Myrtle Park Bingley Town Hall Bingley Swimming Pool	No Yes No	The Town Hall is used by the Council for offices and is therefore an operational building	Yes No Yes
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. Myrtle Park Bingley Town Hall Bingley Swimming Pool	Yes No Yes	Myrtle Park and the Swimming Pool have been in community use for many years. The Town Hall has been in operational use as offices in excess of 50 years	Yes No Yes
It is realistic to think that the assets 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? Myrtle Park Bingley Town Hall Bingley Swimming Pool	Yes No Yes	There is no reason to think that the use of any of the assets will change in the next 5 years.	Yes No Yes



3.5.3 Accordingly, Council's Officers have assessed that the criteria for listing have been met and recommend that Myrtle Park and Bingley Swimming Pool are listed as Assets of Community Value and that Bingley Town Hall is not listed as an Asset of Community Value.

#### **4. OTHER CONSIDERATIONS**

4.1 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.

4.2 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.

4.3 As mentioned at 3.2.3 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.

4.4 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.

#### **5. FINANCIAL & RESOURCE APPRAISAL**

A property owner has a right to compensation for losses incurred as a result of listing.

#### **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. OPTIONS**

10.1 **Option 1:** Accept the nomination on the grounds that it meets the criteria and definition of an Asset of Community Value as set out in the Localism Act 2011.

10.2 **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.

10.3 Option 1 is the preferred option for Myrtle Park and Bingley Swimming Pool as the nominated assets do meet the criteria for listing set out in the Act.

10.4 Option 2 is the preferred option for Bingley Town Hall as the asset nominated asset does not meet the criteria for listing set out in the Act.



## **11. RECOMMENDATIONS**

Recommended -

That in accordance with Option 1 the nominations of the assets known

Myrtle Park  
Bingley Swimming Pool

as Assets of Community Value is accepted.

And that –

Recommended –

That in accordance with Option 2 the nomination of the property known as Bingley Town Hall as an Asset of Community Value is rejected.

## **12. APPENDICES**

Appendix 1 - Nomination forms and Plans

## **13. BACKGROUND DOCUMENTS**

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

