

**Report of the Strategic Director of Corporate Services  
to the meeting of Bradford West Area Committee to be  
held on to be held on 5<sup>th</sup> July 2017 at 6pm in Committee  
Room 1 at City Hall**

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**Subject:**

**NOMINATION TO LIST PROPERTY AS AN ASSET OF COMMUNITY VALUE - 91  
SAFFRON DRIVE, ALLERTON, BRADFORD**

**Summary statement:**

The Council has received a nomination to list an asset known as - 91 Saffron Drive, Allerton, and Bradford 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 nominations should be approved.

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**Overview & Scrutiny Area:**



## 1. SUMMARY

- 1.1 The Council has received a nomination to list the asset known as 91 Saffron Drive, Allerton, and Bradford as an Asset of Community Value under the Localism Act 2011. This report considers whether the nomination and nominated asset meets 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 Section 88 Localism Act 2011 states **Assets of Community Value**

(1) For the purposes of this Chapter but subject to regulations under subsection (3), a building or

Other land in a local authority's area is land of community value if in the opinion of the authority—

(a) an actual current use of the building or other land that is not an ancillary use furthers the social wellbeing or social interests of the local community, and

(b) 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 wellbeing or social interests of the local community.

(2) For the purposes of this Chapter but subject to regulations under subsection (3), a building or other land in a local authority's area that is not land of community value as a result of subsection (1) is land of community value if in the opinion of the local authority—

(a) there is a time in the recent past when an actual use of the building or other land that was not an ancillary use furthered the social wellbeing or interests of the local community, and

(b) it is realistic to think that there is a time in the next five years when there could be non-ancillary use of the building or other land that would further (whether or not in the same way as before) the social wellbeing or social interests of the local community.

(3) (4) (5) (exclusion of certain land and buildings as assets of community value by regulations i.e. residential buildings and associated land)

(6) In this section—

“legislation” means—

(a) an Act, or

(b) a Measure or Act of the National Assembly for Wales;

“social interests” includes (in particular) each of the following—

(a) cultural interests;

(b) recreational interests;

(c) sporting interests;

“statutory provision” means a provision of—



- (a) legislation, or
- (b) an instrument made under legislation.

### 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 the Council 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 of social well being or interest 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 none 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		Yes
Is the nominated asset exempt from listing?	No		Yes
The land and buildings are in actual use (or in the recent past) to further the social well-being or social interests of the local community (as defined by the Localism Act 2011) and this use is not ancillary.	No  The use was not for cultural recreational or sporting interests.	The property was sold by the Council to Barnardo's in December 1991 who covenanted to "erect and complete on the said land a building or buildings fit for occupation and use as a community project office base together with the usual outbuildings ancillary thereto". The premises operated as "Allergrange Community Centre" and were used primarily for education and training for young people but were sold in July 2016.	No
It is realistic to think that the assets may be used in a way which will further the social well-being and social interests of the community within the next 5 years?	No	The property is currently boarded up and not being used. However application for change of use from community centre to place of worship was granted on 22 <sup>nd</sup> February 2017. Application has been made to Building Control for internal alterations which have a "building work started" status.	No



3.5.3 Accordingly, Council's Officers have assessed that the criteria for listing have not been met and recommend that the asset 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 section 88 of 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.

An appeal against the Council's decision not to list is by way of judicial review.

In this case given the definition of "social interest" a conclusion has been reached



that the former use and likely future use of the asset does not fall within the definition of “furthering the social well being or social interests of the local community” by way of cultural, recreational or sporting interests.

The proposed future use is for worship (which is likely to be in excess of 5 years if not longer).

Given the background circumstances of this application the asset does not appear to be capable of being lawfully listed.

## **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 The only lawful option is as set out in the recommendation below.

**11. RECOMMENDATIONS**

That the nomination of the property known as 91 Saffron Drive, Allerton, Bradford 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.

