City of BRADFORD METROPOLITAN DISTRICT COUNCIL

Report of the Strategic Director Corporate Resources to the meeting of Keighley Area Committee to be held on 21st November 2019 at 6pm at Keighley Town Hall. Q

Subject:

Nomination to list property as an Asset of Community Value – Oakworth Jubilee Garden

Summary statement:

The Council has received a nomination to list Jubilee Garden, a small landscaped area, 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. Committee are asked to make a recommendation to the Director of Corporate Resources to approve the nomination or not.

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Portfolio:
Regeneration, Planning and Transport

Overview & Scrutiny Area:
Corporate

1. SUMMARY

- The Council has received a nomination to list the area known as Jubilee Garden as an Asset of Community Value under the Localism Act 2011.
- The nomination was made on 26th July 2019. 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 the Director of Corporate Services should approve the Asset of Community Value nomination or not.

2. BACKGROUND

- 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.

3. OTHER CONSIDERATIONS

3.1 The Community Right to Bid

3.1.1 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 Area Committee should recommend a determination of the nomination to the Director of Corporate Services who makes the decision.

3.1.2 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 owner is able to sell the property to whoever they want and by whatever means they wish. If the property is not sold within 18 months of the notification of intention to sell the disposal process must start again. Once sold the property is removed from the list.

3.1.3 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.

3.2 Definition of an Asset of Community Value

3.2.1 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).

3.2.2 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).

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

3.3 Who can nominate an asset to be listed

3.3.1 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 neighboring 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).

3.4 **The Nomination**

3.4.1 The nomination application is included at Appendix 2.

3.4.2 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	Application from Oakworth Village Society	Yes
Is the nominated asset exempt from listing?	No		Yes
The land and buildings are used (in the past 5 years) to further the social wellbeing and social interests of the local community (as defined by the Localism Act 2011) and this use is not ancillary.	Yes	Landscaped area maintained to a high standard by the community. Consists hard and soft landscaped areas with a paved area with a bench next to a flowering cherry and bedding plants. The site improves the streetscape and provides a place to relax to enjoy the view over the Worth Valley thereby enhancing social well-being.	Yes
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?	Yes	Area maintained by the Village Society	Yes

3.4.3 Accordingly, Council's Officers have assessed that the criteria for listing has been met and recommend that the Jubilee Garden edged red on the plan attached (Appendix 1) is listed as an Asset of Community Value.

3.5 **Appeals & Listing**

3.5.1 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.

3.5.2 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.

3.5.3 As mentioned at 3.1.3 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.

3.5.4 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. FINANCIAL & RESOURCE APPRAISAL

4.1 None.

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

5. RISK MANAGEMENT AND GOVERNANCE ISSUES

5.1 None

6. LEGAL APPRAISAL

6.1 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.

6.2 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.

7. OTHER IMPLICATIONS

7.1 EQUALITY & DIVERSITY
None

7.2 SUSTAINABILITY IMPLICATIONS
None.

7.3 GREENHOUSE GAS EMISSIONS IMPACTS
None

7.4 COMMUNITY SAFETY IMPLICATIONS
None

7.5 HUMAN RIGHTS ACT
None

7.6 TRADE UNION
None

7.7 WARD IMPLICATIONS

There are no Community Safety, Trade Union or Ward Implications arising out of the recommendations in this report.

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

No specific implications

7.9 IMPLICATIONS FOR CORPORATE PARENTING

None

7.10 ISSUES ARISING FROM PRIVACY IMPACT ASSESMENT

None

8. NOT FOR PUBLICATION DOCUMENTS

None

9. OPTIONS

9.1 **Option 1:** Recommend that the Director of Corporate Resources 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.

9.2 **Option 2:** Recommend that the Director of Corporate Resources 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. RECOMMENDATIONS

Recommended –

Option 1, to Recommend that the Director of Corporate Resources 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.

11. APPENDICES

- Appendix 1 – Site Plan
- Appendix 2 – Nomination Form (redacted)
- Appendix 3 – Picture of site

12. BACKGROUND DOCUMENTS

None