

CITY OF BRADFORD METROPOLITAN DISTRICT COUNCIL

RECORD OF STRATEGIC DIRECTOR'S DECISION
FOR ASSETS OF COMMUNITY VALUE

Property

Date of recommendation:	27/04/2021
Recommendation made by:	Neil Charlesworth - Strategic Asset Management Manager
Decision maker:	Joanne Hyde – Strategic Director, Corporate Resources
Nominee:	Burley Parish Council, nomination dated 25/03/2021
Specific delegation:	Resolution of the Executive, 8th September 2020.
Brief description of recommendation:	To list the above asset as Asset of Community Value on the grounds that the nomination meets the criteria and definition of an Asset of Community Value as set out in the Localism Act 2011.
Reports or parts of reports considered:	Recommended – To recommend that the nomination of the property known as Hermit Public House, Burley Woodhead be approved.

Signed by the decision maker:



Name: Joanne Hyde

Job Title: Strategic Director, Corporate Resources

Date: 30/04/2021

Briefing Note

<p>Subject: To consider whether the Hermit Public House, Moor Road, Burley Woodhead should be added to the list of Assets of Community Value</p>	<p>Confidential: No</p>
	<p>Date: 27/04/2021</p>

1. Summary of main issues

- 1.1 In line with the legislation and regulations set out in the Localism Act 2011, this report considers the nomination to add The Hermit Public House, Moor Road, Burley Woodhead, Ilkley, LS29 7AS to the List of Assets of Community Value.
- 1.2 The Council has received a nomination from Burley Parish Council. They are eligible to nominate the property, trigger the moratorium period, bid for the property and purchase the property.
- 1.3 Officers conclude that the property had a use in the recent past which furthered the social wellbeing and social interests of the local community, and that it is realistic to think it can be brought back into such a use within the next five years. The property should therefore be added to the List of Assets of Community Value.

2. Recommendations

- 2.1 The Director of Corporate Resources is recommended to add The Hermit Public House, Moor Road, Burley Woodhead, Ilkley, LS29 7AS to the List of Assets of Community Value.

3. Purpose of this report

- 3.1 The purpose of this report is for the Director of Corporate Resources to consider whether Hermit Public House, Moor Road, Burley Woodhead, Ilkley, LS29 7AS shown edged and hatched red on plan number ACV0088 should be included on the List of Assets of Community Value or whether it should be included on the List of Land Nominated by Unsuccessful Community Nominations in accordance with Part 5 Chapter 3 of the Localism Act 2011.

4. Background

- 4.1 Part 5 Chapter 3 of the Localism Act 2011 (the Act) details the legislation for Assets of Community Value and sets out the Community Right to Bid. The right came into force on 21st September 2012 and its purpose is to give communities a right to identify a property or land that is believed to further their social interests or social wellbeing and gives them a fair chance to make a bid to purchase the property or land on the open market if the owner decides to sell. From the date the landowner informs the Council of their intention to sell, eligible community groups have a period of six weeks to confirm whether or not they wish to submit to bid to purchase the property or land. If they do inform the Council that they want to bid, the landowner is prevented from disposing of the property for a period of six months (from the date they originally informed the Council of their intention to sell) unless it is to a community organisation. The landowner is free to dispose of the property at the end of the six-month period to whomsoever they see fit.

- 4.2 Section 90 of the Act states if a local authority receives a “community nomination”, the authority must consider the nomination. The authority must accept the nomination if the land nominated is in the authority’s area and is of community value.
- 4.3 Only specified bodies with a local connection are able to submit nominations for property or land to be included in the List of Assets of Community Value:
- A Neighbourhood Forum;
 - A Parish Council;
 - An unincorporated body with 21 local people on the electoral roll that does not distribute any surplus it makes to its members;
 - A company limited by guarantee which does not distribute any surplus it makes to its members;
 - An industrial and provident society which does not distribute any surplus it makes to its members;
 - A community interest company.
- 4.4 The nominator must be able to demonstrate and satisfy all of the listing criteria as laid down in the legislation. Section 88(1) states that buildings or land with a current use is considered to be of community value, if, in the opinion of the authority, there is:
- 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.
- Section 88(2) states that land does not meet the criteria laid out in 88(1) is of community value if in the opinion of the 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.
- 4.5 It is important to note that if either of the criteria in Section 88(1) or (2) are met, then the Council must add the site to the List of Assets of Community Value.

5. Main Issues

- 5.1 A nomination to list The Hermit as an Asset of Community Value was received on 25th March 2021, submitted by Burley Parish Council.
- 5.2 This report has been based on an assessment of the nomination form, a site visit by the case officer, information provided by the owner and the response received from a Ward Member.
- 5.3 Burley Parish Council is a parish council and therefore eligible to nominate land or buildings as Assets of Community Value as specified in paragraph 5(1)(d) of the Assets of Community Value (England) Regulations 2012 (the Regulations) and a voluntary or community body with a local connection as specified in Section 89(2)(b)(iii) of the Act.

- 5.4 The Hermit Public House is located in the Wharfedale Ward. The land is currently owned by a married couple who purchased the freehold of the property in January 2021 and prior to that operated the pub under a lease from the company that previously owned it.
- 5.5 The nomination from Burley Parish Council states that the married couple sold the property in late 2020. Our investigations have found this to be incorrect and that they purchased the property on the 29th of February 2021 from the previous owner from which they leased the property.
- 5.6 The asset has been listed for disposal via sale at auction on 12th May 2021 by the owners. The owners and their conveyancer have been made aware of the Asset of Community Value nomination and the potential implications of such a sale if the asset is listed set out in Part 5 Chapter 3 of the Localism Act 2011.
- 5.7 Ward Members, the local Parish Council, the local ward officers and the owners have been made aware of the nomination. Councillor Dale Smith replied declaring an interest in this matter because he has been encouraging the community to make such an application. The response went on to say that Councillor Smith endorses the nomination and justification for doing so.
- 5.8 One of the owners commented on behalf of them both. The response sets out that the current owners were previously tenancy holders but had decided to purchase the freehold due to financial difficulties caused by them being charged full rent throughout the COVID pandemic. The response goes on to detail that when they were tenancy holders they had tried to sell and even give away their lease, but could not attract a new tenant. The response goes on to detail how, following exclusion of The Hermit as a community facility in the local plan a decision was taken to submit a planning application for a conversion to residential dwellings. However, following negative feedback to the application it was subsequently withdrawn. A decision was then taken to auction the premises due to the financial commitment from a commercial loan. It goes on to question the rationale for submitting this nomination and the belief that it has been done to cause further hurt and anguish to the owners. The response then makes clear that if a disposal is delayed due to the property being listed as an asset of Community Value then there would be ongoing financial implications and hardship for the owners without any assurance that the community would be in a position to purchase it.
- 5.9 For a property to be added to The List of Assets of Community Value, the Local Authority must be of the view that a current non-ancillary use furthers the social interests and social wellbeing of the local community and that it is realistic to think that it can continue to do so, or that there has been such a use in the recent past and that it is realistic to think it can be brought back into such a use, whether or not in the same way, within the next five years.

Does a current non-ancillary use further the social interests or social wellbeing of the local community?

- 5.10 The Hermit Public House closed in late 2020. The pub was closed during the site visit and the owner has since confirmed that it has remained closed. The pub is there currently disused doesn't have a current eligible use.

Has there been 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?

- 5.11 Burley Parish Council state in the nomination that “Over the years Burley Woodhead has lost the school, Methodist chapel and meeting rooms, the Fellowship Room and shop. The sole surviving place left for inhabitants to meet is the pub”. They believe that pubs are key to tackling loneliness among people of all ages and backgrounds and offer a social value above and beyond the contribution they make to the economy and are an important part of a community’s infrastructure. They go on to say that The Hermit Public House has been an integral part of the local community’s social infrastructure and has been utilised to further the social wellbeing of that community by being a venue for family celebrations, hosting community events such as Diamond Jubilee garden party, Bonfire night celebrations and Christmas Carols. The Hermit Pub has also played host to various group meetings including Local Farmers, Running Clubs, Language Schools and the Burley in Wharfedale ‘Walkers are Welcome’ Club. The Hermit pub’s beer garden has been enjoyed and used by local families, including children, some of whom walk to the pub from neighbouring villages of Burley and Menston thus taking exercise and experiencing the open countryside.
- 5.12 Although it is not true to say that all pubs are necessarily Assets of Community Value, they are the most common type of asset to be listed as such nationally. Pubs are generally places where people go to socialise and to be with other people. The alternative view would be that pubs are places where people go to drink and take alcohol and whilst it may be true to say there are some such establishments, in the case of The Hermit it was clearly a valued local pub which provided services for people in the village and surrounding areas. Officers are therefore of the view that the use of a pub furthered the social wellbeing and social interests of the local community.
- 5.13 Consideration must therefore be given as to whether or not the use was within the “recent past”. There is no definition of such in either the Act, Regulations or any supporting information. In this case the pub closed November 2020 as a result of COVID related restrictions being imposed. A decision was taken by the owner not to re-open the pub when those restrictions were again relaxed and pubs were allowed to open to serve people seated outdoors. It is considered reasonable to think that use as recently as November last year should be considered as the recent past, particularly when the use ended as a result of COVID restrictions and the pub was prevented from re-opening.

Is it 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?

- 5.14 The site visit indicated that all fixtures and fittings remain in good order and this is further demonstrated in the information provided in the pre disposal information provided by the auctioneer on behalf of the owner.
- 5.15 Within the nomination form the nominator states that they are of the view that The Hermit could be brought back into use as a community facility for retention as a pub with restaurant and potentially letting rooms. They go on to say that the pub could be purchased by a pub operator, a community interest body or an incorporated body of investors.
- 5.16 Although a planning application was submitted to convert the property into residential dwellings, this application has subsequently been withdrawn. Whilst it may be realistic to think that a future purchaser may submit a planning application and subsequently convert the premises into a residential use, particularly given the higher than district average residential property values in Burley Woodhead, given the facts that: layout of property and the presence of fixtures and fittings are still as they were when it was last used as a pub; the case for social value of its use as a pub made by the parish council, and; the lack of planning consent for anything other than use as a pub, then officers conclude that it is also realistic to think that the property could be brought back into use as a pub and, as set out

- 5.17 previously in this report, that such use would be considered to further the social wellbeing and social interests of the local community.
- 5.18 No information has been provided from any party to consider whether or not it is realistic to think such a use could commence within five years. It is clear from the fact that the property has been included in an upcoming auction that the current owner intends to dispose of the property imminently. It therefore makes sense to realistically think that ownership will change and that a new owner will want to put the property into a use at the earliest opportunity, which is likely to be within the next five years.
- 5.19 Officers are of the view that a use of the property furthered the social wellbeing and social interests of the local community within the recent past, and that it is realistic to think that the subject property could be brought back into such a use within the next five years.
- 5.20 The criteria for adding a property to the List of Assets of Community Value as set out in paragraph 88(2) of the Localism Act 2011 is considered to have been met in this case and the property should be added to the List of Assets of Community Value.

6. Financial, HR, Communications issues (including value for money)

- 6.1 There are no financial, HR, communication or value for money issues other than in certain circumstances the owner of a listed property can claim compensation from the local authority.
- 6.2 Should an appeal be made to the First-Tier tribunal by the owner against a listing this can have an impact on costs and staff resources.

7. Other Implications

- 7.1 There are no equality & diversity, sustainability, greenhouse gas emissions, community safety, Human Rights Act or Trade Union implications.

8. Recommendations

- 8.1 The Director of Corporate Resources is recommended to add The Hermit Public House to the List of Assets of Community Value.

9. Background documents

- 9.1 ACV plan number AC0088V.
- 9.2 Application to Nominate Assets of Community Value – The Hermit Public House.

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