

# **Report of the Strategic Director of Regeneration and Culture to the meeting of Keighley Area Committee to be held on to be held on 22<sup>nd</sup> October 2015 at Keighley Town Hall.**

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## **Subject:**

**Nomination to list property as an Asset of Community Value – The Rose Garden, Oxenhope, Keighley**

## **Summary statement:**

**The Council has received a nomination to list property known as The Rose Garden, Oxenhope, Keighley 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:**

**Deputy Leader of Council and Housing,  
Planning and Transport  
Overview & Scrutiny Area:  
Regeneration and Economy**



## 1. SUMMARY

- 1.1 The Council has received a nomination to list property known as The Rose Garden, Oxenhope, Keighley 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 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 application is included at Appendix 1.

3.5.2 Officers have assessed the nomination 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	Not exempt	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.	Yes	The Rose Garden has been there in excess of five years	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		Yes

3.5.3 Accordingly, Council's Officers have assessed that the criteria for listing have been met and recommend that The Rose Garden, Oxenhope, Keighley is 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 as the nominated site does meet the criteria for listing set out in the Act.

## **11. RECOMMENDATIONS**

Recommended -

That in accordance with Option 1 the nomination of the property known as The Rose Garden, Oxenhope, Keighley as an Asset of Community Value is accepted.

## **12. APPENDICES**

Appendix 1 - Nomination form and Plan

## **13. BACKGROUND DOCUMENTS**

Report to the Executive meeting of 6<sup>th</sup> 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](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  
7<sup>th</sup> 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**

<b>Title</b>	
<b>First Name</b>	
<b>Surname</b>	
<b>Address</b>	
<b>Postcode</b>	
<b>Telephone number</b>	
<b>Email address</b>	
<b>Your relationship to the nominating organisation</b>	

**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.

<b>2.1 Name of organisation</b>	<b>Oxenhope Parish Council</b>	
<b>2.2 Organisation type</b>	<b>Place a cross against all those that apply</b>	<b>Registration number of charity and/or company (if applicable)</b>
Neighbourhood forum		
Parish Council	<b>X</b>	
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.

8 Elected councillors serving a 4 year term of office

**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.

**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.

NA

**2.7 More about your organisation**

What are the main aims and activities of your organisation?

Statutory authority / grass roots tier of local government

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>

<b>Name of the asset</b>	<b>Rose Gardens Memorial park</b>
<b>Address or location of the asset</b>	<b>Corner of West Drive, Station Road and Keighley Road, Oxenhope</b>
<b>Description of the asset and its boundaries</b>	<b>A small green space housing seating, the village Christmas Tree, Notice Board and various mixed beds of flowers, shrubs and trees.</b>

#### **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.

<b>Current owner's name and address (if known)</b>	<b>Bradford Metropolitan District Council City Hall, Bradford.</b>
<b>Current leaseholder(s) name and address</b>	<b>NA</b>
<b>Names and addresses of all current occupants of the land</b>	<b>NA</b>

#### **5. Reasons for nomination ; Why you think the land or building is of community value**

*Please note that the following are not able to be assets of community value:-*

- 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?**

*\* These could be cultural, recreational and/or sporting interests – please say which one(s) apply.*

The Rose Gardens being at the centre of the village of Oxenhope performs those functions normally associated with village greens. It acts as a place for memorial benches, a meeting place for young and old alike, a stop off point for walkers and cyclists to eat that well deserved pack lunch together with offering an important green buffer within a largely residential area. It houses the village Christmas tree together with the village festive lights around the perimeter and is the starting point for village activities like the Easter egg hunt. Due to the limited amount of new planting to the area in recent years the local gardening club has planted various bulbs and shrubs to maintain its appearance but it could however do with some further investment which the OPC would consider if it's future was more secure

**1.2. How could the building or land be acquired and used in future?**

*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*

*It could easily be sold off for housing, which due to the ongoing cuts to services from BMDC could become a distinct possibility.*

**6. Submitting your nomination**

**6.1 What to include**

- 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**.....

**Date**.....12/08/15.....





