

# North Yorkshire Council

19 April 2023

## Assessment of Assets of Community Value Nomination NYCACV0003

Report of .....

### 1.0 PURPOSE OF REPORT

- 1.1 To determine whether Community House and public toilets associated with Wentworth Street Car Park, Malton, should be placed on the Council's List of Assets of Community Value (ACVs)

### 2.0 SUMMARY

- 2.1 This nomination is one of five made by Malton Town Council each relating to one of the constituent parts of Wentworth Street Car Park. This nomination relates to Community House and the public toilets associated with the car park. The two buildings are not directly related to one another but they are proximal; nevertheless, due to their differing characteristics, they have been considered separately. The recommendation is that both properties are listed as Assets of Community Value.

### 3.0 BACKGROUND

- 3.1 [The Localism Act 2011](#) requires the Council to consider all valid nominations for properties and/or land to be placed on the List of Assets of Community Value. This is also known as the 'community right to bid'. Land or property considered of community value can be nominated by a voluntary or community body that complies with [regulation 5](#)

When a listed asset comes up for sale a community interest group can trigger a delay (moratorium) in any sale process. The purpose is to create a "window of opportunity" to secure funding and bid for the property on the open market. The owner is not obliged to accept a bid from a community interest group and can sell to whomever they choose

The Assets of Community Value (England) Regulations 2012 provide a mechanism for the owner of land listed as an ACV to request an internal review and also appeal to the first-tier tribunal against the listing. Although first-tier tribunal decisions are not binding precedents any appeal decisions provide judicial guidance to the operation of the legislation. The guidance provided by these decisions is becoming increasingly useful to local authorities in the assessment of Assets of Community Value nominations

Private owners may claim compensation from the Council for loss and expenses incurred through their property being listed. More details are provided in the 2012 Regulations

This report ensures that the Council considers the nomination for Community House and public toilets associated with Wentworth Street Car Park, as required by the Act.

### 4.0 DETAILED PRESENTATION OF THE SUBSTANTIVE ISSUE

- 4.1 Five individual nominations have been made for each constituent part of Wentworth Street Car Park, Malton.

Wentworth Street Car Park is a large publicly-owned car park located in Malton, comprised mainly of a lower deck and an upper deck for the parking of vehicles, including coaches and HGVs, with four vehicular accesses. Two of these accesses also serve adjacent residential flats. One access is gated and not routinely available to motorists.

The car park's main use is as a Pay & Display car park and its ancillary uses include the siting of recycling containers and ad-hoc community events, such as pigeon liberations, car boot sales and an annual fun fair. Within the wider title plan for the site, there are premises which provide for other uses, namely: public toilets, a disused building most-recently occupied by Malton Scouts, a building occupied by the Malton Rifle Club and an office building currently tenanted to an art studio collective.

4.2 Community House and the public toilets, subject of this nomination specifically, are not part of the same building and are not dependent on one another (Community House has its own internal toilets). No evidence or explanation has been provided by the nominating party as to why the two properties have been submitted as part of the same nomination, however it is acknowledged that they are proximal to one another and have pedestrian accesses off Wentworth Street. As such, for the purposes of the assessment, the two properties have been considered separately. Community House is a two-storey office-like building whilst the public toilets are one of two sets of public facilities within the town centre.

4.3 The nomination was made by Malton Town Council.

#### 4.4 **Assessment**

##### ***Localism Act 2011 Section 88 if current use:***

(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,

- Evidence
  - Community House
    - Community House has been occupied by community-oriented organisations throughout its history, including: Citizens Advice Bureau, Ryedale Voluntary Action/CAVCA and Malton Town Council (clerk's office and meeting room). It is presently occupied by 'Art Happens Here' – a Community Interest Company which exists as an arts studio provider for local artists. Its community use is long-since established.
  - Public toilets
    - Similarly to the two nominations specifically for the Pay & Display car park; although the public toilets themselves might not be considered a venue that furthers the social wellbeing or social interests of the community, they have an indirect/enabling role in furthering social wellbeing. As stated within the nomination materials, the provision of good public toilets promotes health, access and social inclusion and are depended-upon by visitors to the town centre.
- Conclusion
  - Community House
    - The building has an actual current use which furthers the social wellbeing or social interests of the local community and therefore should be listed as an Asset of Community Value.
  - Public toilets
    - The existence of public toilets elsewhere in the town centre is not considered a reason for this building not to be listed as an Asset of Community Value. These toilets provide a nearby facility for any person

arriving into Malton via Wentworth Street Car Park, whereas the other public toilets are several minutes' walk away and not immediately obvious upon arrival via the car park.

- The toilets have an enabling role in providing members of the community to comfortably visit town centre spaces which directly further social wellbeing.
- The recommendation is that the building should be listed as an Asset of Community Value.

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.

- Evidence
  - Community House
    - The building has a history of only being used by community-oriented organisations.
  - Public toilets
    - There is no expectation that the public toilets would be removed or converted into another use by the current owners; meanwhile, the nominating party has stated their intentions to retain its use should it ever come under their ownership.
- Conclusion
  - Community House
    - There is no reason to believe that Community House cannot continue to be used as a building which will further the social wellbeing or social interests of the local community.
  - Public toilets
    - There is no reason to believe that Community House cannot continue to be used as a building which will further the social wellbeing or social interests of the local community.

## 5.0 CONSULTATION UNDERTAKEN AND RESPONSES

- Ward Members

The nomination was made prior to Local Government Reorganisation so the three local Ward Members for Malton were consulted, in line with Ryedale District Council's discretionary procedure for handling Asset of Community Value nominations.

Cllr Paul Andrews stated that he supported the nominations but provided no further comments.

Cllr Angela Raine also supported the nominations and offered further comments: I firmly believe that Malton town council should take over any assets of community value as North Yorkshire council will not have a clue of the importance to the town. The information described, I absolutely support as a community value area and therefore feel RDC should fully support this application from MTC.

Cllr Lindsay Burr did not respond.

- Owners

The owners of the property, at the time being Ryedale District Council, were also informed of the nomination and invited to make comments, but no formal response was received. The individual informed was Tom Ireland, Property and Facilities Surveyor. Tom later confirmed to Officers that he would continue to be the appropriate individual further to Local Government Reorganisation.

- Legal colleagues

The Council's Solicitor, Alpha Love-Koh, was also consulted on the nominations and responded by providing legal advice. She advised that there was a precedent within case law for car parks becoming listed as Assets of Community Value, though specific circumstances would be relevant.

## **7.0 ALTERNATIVE OPTIONS CONSIDERED**

7.1 N/A.

## **8.0 IMPACT ON OTHER SERVICES/ORGANISATIONS**

8.1 If successful the fact that land/property is listed as an Asset of community Value may be taken into account as a material consideration for any future planning application.

## **9.0 FINANCIAL IMPLICATIONS**

9.1 If the decision is to list the property the owner can make a claim for compensation for which the Council is liable.

## **10.0 LEGAL IMPLICATIONS**

10.1 If the property/land is listed the council is required to apply to the Land Registry for entry of a restriction on the Land Register. This restriction will be in a form of wording in Schedule 4 to the Rules, as Form QQ. This is "No transfer or lease is to be registered without a certificate signed by a conveyancer that the transfer or lease did not contravene section 95(1) of the Localism Act 2011". An owner of previously unregistered listed land, who applies to the Land Registry for first registration (or a mortgagee who applies for first registration on behalf of the owner), is required at the same time to apply for a restriction against their own title. The local authority is also required to apply to the Land Registry for cancellation of the restriction when it removes an asset from its list.

10.2 If the property/land is listed and the owner/leaseholder wishes to dispose of it, he must notify the council. Once this has taken place an interim moratorium period (6 weeks) will apply where disposal of the property may not take place (except if sold to a community interest group which can take place at any time). If, before the end of the interim moratorium period the council receives a written request from a community interest group to be treated as a potential bidder then a full moratorium period applies. Disposal may then not take place within 6 months from the date the Council receives notification from the owner (except if sold to a community interest group).

10.3 When a listed asset is disposed of, and a new owner applies to the Land Registry to register change of ownership of a listed asset, they will therefore need to provide the Land Registry with a certificate from a conveyancer that the disposal (and any previous disposals if this is the first registration) did not contravene section 95(1) of the Localism Act (the moratorium requirements).

## **11.0 EQUALITIES IMPLICATIONS**

- Access to public toilets is an equalities issue because whereas some users may have the capacity to find alternative facilities, some people may not be in such a position, due to health or other personal issues. Although the public toilets subject of this nomination are not unique within the town centre, they are situated in an important location where there may be an abundance of users. The retention of such facilities within a town centre setting promotes health, access and social inclusion.
- It is noted that the principal access from the car park is via steps, however the steps do not represent the only access to the toilets.

## 12.0 CLIMATE CHANGE IMPLICATIONS

N/A

## 15.0 RISK MANAGEMENT IMPLICATIONS

- N/A

## 18.0 COMMUNITY SAFETY IMPLICATIONS

- Were Malton town centre to have insufficient public facilities, it is possible that fouling of streets could occur. In addition, a lack of adequate facilities might discourage certain users from visiting the town centre, particularly those with specific health issues.

## 19.0 CONCLUSIONS

- The recommendation is that the land should be listed as an Asset of Community Value.

## 20.0 REASONS FOR RECOMMENDATIONS

- 20.1 The evidence demonstrates that the nomination for Community House and the public toilets associated with Wentworth Street Car Park, Malton meets the definition of community value as detailed in the Localism Act 2011.

## 21.0 RECOMMENDATION(S)

It is recommended that the Assistant Chief Executive for Localities:

- (i) Determines that the nomination for Community House and public toilets associated with Wentworth Street Car Park, is successful and meets the definition of community value as detailed in the Localism Act 2011
- (ii) It should be placed on the North Yorkshire Council Assets of Community Value List of Successful Nominations

### APPENDICES:

None

### BACKGROUND DOCUMENTS:

Combined nomination materials (PDF)

Assistant Chief Executive for Localities  
County Hall

Northallerton  
(Insert date)

Report Author – Matthew Lishman  
Presenter of Report – Matthew Lishman

***PLEASE ALSO NOTE THAT IF ANY REPORTS / APPENDICES INCLUDE SIGNATURES THESE MUST BE REMOVED / DELETED PRIOR TO SENDING REPORTS / APPENDICES TO DEMOCRATIC SERVICES. Appendices should include an Equality Impact Assessment and a Climate Impact Assessment where appropriate***