

North Yorkshire Council

15 May 2023

Assessment of Assets of Community Value Nomination NYCACV0006 Ashfield Car Park, NYCACV0007 Whitefriars Car Park and NYCACV0008 Greenfoot Car Park

Report to the Assistant Chief Executive for Localities

1.0 PURPOSE OF REPORT

- 1.1 To determine whether Ashfield Car Park (NYCACV0006), Whitefriars Car Park (NYCACV0007) and Greenfoot Car Park (NYCACV0008) should be placed on the Council's List of Assets of Community Value (ACVs).

2.0 SUMMARY

- 2.1 This nomination covers 3 car park sites which were part of a larger group of 8 sites nominated by Settle Town Council on 21 March 2023. The recommendation is that the three car park sites should not be 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 Ashfield Car Park (NYCACV0006), Whitefriars Car Park (NYCACV0007) and Greenfoot Car Park (NYCACV0008) as required by the Act.

4.0 CONSIDERATION OF THE NOMINATION

- **Description of asset**

This nomination covers 3 car park sites which were part of a larger group of 8 sites nominated by Settle Town Council on 21 March 2023. The car park sites are at different locations within Settle so have been assigned individual site numbers however the sites were submitted together on one form and comments received cover the sites as a group so the three sites are all considered within this single report.

The three car parks providing disabled parking, coach parking, HGV parking and motor home overnight stays. Whitefriars Car Park includes the only public convenience in the town which are owned by NYC and cleaned & maintained by Settle Town Council.

At the time the nomination was submitted the sites were owned by Craven District Council, following Local Government Reorganisation the sites are now owned by North Yorkshire Council.

- **Nomination**

In their submitted nomination for the sites Settle Town Council states that the public car parks are used frequently, all year round, by local people who live more than a short walking distance from the centre of town and by tourists from further afield.

They feel that the future of Settle as a Market Town is reliant on the amenity that the 3 car parks provide to sustain the economic and social wellbeing of the Town, its resident population and those of its visitors.

The car parks are used by people who are shopping and visiting the Health Centre, Dentist and Optician, enable access to a range of social venues such as the bowling club, the social club, Settle Victoria Hall, The Folly (containing the Museum of Craven Life), several pubs and restaurants.

The Town Council are heavily invested in further developing Settle as a destination town and would be looking to improve and increase public facilities in the car parks as part of that vision.

- **Comments received**

In accordance with the local nomination guidelines the local ward councillor, Councillor David Staveley, Settle & Penyghent division and the Spatial Planning Team were consulted regarding the assessment of the nominated site.

Neither Cllr Staveley or the Spatial Planning Team considered that the sites met the definition of assets of community value, their full responses are given at Section 5.

- **Assessment against Section 88 of the Localism Act 2011**

When we assess whether a particular building or piece of land is of community value, we must determine whether it meets the definition of an asset of community value as set out in Section 88 of the Localism Act 2011.

A building or piece of land is deemed to be of community value if:

a) The current main use of the building or land furthers the social interests or social wellbeing of the local community or a use in the recent past has done so and, it is realistic to think that there can continue to be a main use of the building or land which will further the social interests or social well-being of the local community, whether or not in the same way as before.

b) The main use of the land or building in the recent past furthered the social interests of the local community and, it is realistic within five years the land or building can be brought back into a use that furthers the social interest or wellbeing of the local community, whether or not in the same way as before.

The interpretation of the definition of a community asset creates a very wide range of possible assets to be considered as suitable for nomination. It is proposed to use the following categories as part of the nomination process

- Education, health and well-being and community safety to include, nurseries, schools, children's centres, health centres, day care centres or care homes, community centres, youth centres or public toilets.
- Sport, recreation and culture to include, parks and public open spaces, sports and leisure centres, libraries, swimming pools and theatres
- Economic use providing an important local social benefit which would no longer be available if that use stopped - to include village shops and pubs.

- **Evidence**

Settle Town Council state that they believe the sites further the social wellbeing of the local community and that the future of Settle as a Market Town is reliant on the amenity that the 3 car parks provide to sustain the economic and social wellbeing of the Town, its resident population and those of its visitors.

Cllr Staveley does not believe these sites meet the criteria of a community asset as set out in Section 88 of the Localism Act 2011 as they are all currently operating as their sole purpose of parking.

The opinion of the Spatial Planning Team is that as the car parks are available to the public generally, including a high level of use from tourists/visitors, and not just to those in the local community the car parks do not meet the definition of Assets of Community Value.

- **Conclusion**

Having reviewed the evidence provided by Settle Town Council and considered the assessment of the local Councillor and Spatial Planning Team I recommend the three car park sites should not be listed as Assets of Community Value as they do not meet the definition of an asset of community value as set out in Section 88 of the Localism Act 2011.

5.0 CONSULTATION UNDERTAKEN AND RESPONSES

- **Local Councillor – Cllr David Staveley, Settle & Penyghent division**

I do not believe these sites meet the criteria of a community asset as set out in Section 88 of the Localism Act 2011 as they are all currently operating as their sole purpose of parking.

I would not support the transfer of the three car parks in the town as I feel the Town council have neither the experience, organisational or financial resilience to run these essential facilities effectively without potentially exposing residents to a substantial financial risk.

The high ongoing maintenance and running costs of car parks have been challenging enough for the outgoing District Council, where they formed part of a wider asset portfolio of a larger better resourced organisation. To be taken on by an organisation with no operational experience would be to invite trouble I fear.

The car parks do as has been mentioned in the application, form a vital part of the towns economic viability, whose continued and efficient running is essential to the local economy. And this function is best served as part of the new Councils extensive asset management team backed by the Economic development remit which lays with NYC not STC.

- **Spatial Planning Team**

The information provided in the nomination form states that three sites in Settle, located at Ashfield Car Park, Whitefriers Car Park and Greenfoot Car Park are nominated as assets of community value.

In planning terms, it should be noted that the western part of Greenfoot Car Park is allocated for housing in the adopted Craven Local Plan.

Section 1 of the Council's Guidelines for the Nominations and Listing Community Assets explains that when assessing whether a particular building or piece of land is of community value, the Council must determine whether it meets the definition of

an asset of community value set out in Section 88 of the Localism Act 2011 as follows:

“A building or piece of land in Craven district is deemed to be of community value if:

a) The current main use of the building or land furthers the social interests or social wellbeing of the local community or a use in the recent past has done so and, it is realistic to think that there can continue to be a main use of the building or land which will further the social interests or social well-being of the local community, whether or not in the same way as before.

b) The main use of the land or building in the recent past furthered the social interests of the local community and, it is realistic within five years the land or building can be brought back into a use that furthers the social interest or wellbeing of the local community, whether or not in the same way as before.”

The Guidance explains that the interpretation of the definition of a community asset creates a very wide range of possible assets to be considered as suitable for nomination and sets out a number of categories of the types of land and buildings to be considered as assets. These categories do not include car parks.

The nomination form submitted by Settle Town Council sets out that the three car parks currently further the social wellbeing or social interests of the local community due to the fact that they are public car parks with access for residents and tourists/visitors to the town. Information provided by the Town Council state that the car parks are used frequently (all year round) by local people who live more than a short walking distance from the centre of town to access shops and other services. It also states that the car parks serve tourists/visitors from further afield, all year round but with a heavier influx from spring to the end of autumn. Of particular attraction are Settle Victoria Hall and The Folly, both of which rely heavily on parking provision for their customers.

In terms of how the car parks could further the social wellbeing or social interest of the local community, the Town Council state that they are heavily invested in further developing Settle as a destination town and would look to improve and increase public facilities in the car parks as part of that vision.

It is accepted that the three pieces of land nominated are currently used as public car parks by both residents and visitors. However, the information submitted with the nomination states that these car parks are available to the public generally, including a high level of use from tourists/visitors, and not just to those in the local community. Car parks are not considered an asset as their primary purpose is for car parking generally, including for visitors and those supporting the local economy, not just for those in the local area.

As such it is considered that these uses do not fulfil the criterion of Section 88(2)(a), as set out above.

7.0 ALTERNATIVE OPTIONS CONSIDERED

7.1 None. Not to consider the nomination for Ashfield Car Park (NYCACV0006), Whitefriars Car Park (NYCACV0007) and Greenfoot Car Park (NYCACV0008) would not fulfil the Council's responsibilities required by the Localism Act 2011 and The Assets of Community Value (England) Regulations 2012.

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

- The car parks provide spaces for people with disabilities

12.0 RISK MANAGEMENT IMPLICATIONS

- Council owned property

13.0 CONCLUSIONS

- If unsuccessful all parties will be advised of the outcome of the decision, and the Council's reasoning for it. The nominating group will be advised that there is no provision within The Regulations (The Asset of Community Value (England) Regulations 2012) for them to seek a review of the Council's decision.

14.0 REASONS FOR RECOMMENDATIONS

14.1 The evidence demonstrates that the nomination for Ashfield Car Park (NYCACV0006), Whitefriars Car Park (NYCACV0007) and Greenfoot Car Park (NYCACV0008) does not meet the definition of community value as detailed in the Localism Act 2011.

15.0 RECOMMENDATION(S)

It is recommended that the Assistant Chief Executive for Localities:

- (i) Determines that the nomination for the Ashfield Car Park (NYCACV0006), Whitefriars Car Park (NYCACV0007) and Greenfoot Car Park (NYCACV0008) is unsuccessful and does not meet 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 Unsuccessful Nominations

APPENDICES:

Appendix A – Nomination Form for Ashfield Car Park (NYCACV0006), Whitefriars Car Park (NYCACV0007) and Greenfoot Car Park (NYCACV0008)

Appendix B – Site Plans for Ashfield Car Park (NYCACV0006), Whitefriars Car Park (NYCACV0007) and Greenfoot Car Park (NYCACV0008)

BACKGROUND DOCUMENTS:


Localism Act 2011

The Assets of Community Value Regulations (England) 2012

Assistant Chief Executive for Localities
County Hall
Northallerton
11/05/23

Report Author – Kate Senior Partnerships Officer
Presenter of Report – Kate Senior Partnerships Officer

Appendix A – Nomination Form for Ashfield Car Park (NYCACV0006), Whitefriars Car Park (NYCACV0007) and Greenfoot Car Park (NYCACV0008

 <p>Craven IN THE YORKSHIRE DALES DISTRICT</p>	<p>Craven District Council</p> <p>Assets of Community Value – The Community Right to Bid</p> <p>Nomination Form</p>
--	--

Before completing this form, please read the guidance notes found at:
www.cravencd.gov.uk/communityrighttobid

If you need any help completing this form please contact Partnerships Officer, Kate Senior on 01756 706414 or ksenior@cravencd.gov.uk

Section A: About your organisation

A1 Organisation's name and address

Name of organisation*	Settle Town Council
Address including postcode	Town Hall Market Place Settle BD24 9EJ

**full name as written in your constitution or rules (if appropriate)*

A2 Contact details

Name	Rebecca Hill
Position in organisation	Town Clerk RFO
Address including postcode	Town Hall Market Place Settle BD24 9EJ
Daytime telephone no.	01729823617
Email address	clerk@settle town council.gov.uk
How and when is it best to contact you?*	Email Mon Tues Wed Friday 9:30 -5:30

**by email or phone, and days of the week and/or times of day you would prefer*

A3 Type of organisation

Description	Put a cross against all those that apply	Registration number of charity and/or company (if applicable)
Neighbourhood forum		
Parish Council	x	
Charity		
Community interest company		
Unincorporated body		
Company limited by guarantee		
Industrial and provident society		

A4 Number of members registered to vote locally (unincorporated bodies only)

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 names and addresses of such members. If they are registered to vote in the area of a neighbouring local authority, rather than in Craven, please confirm which area that is.

A5 Local connection

In addition, your organisation must have a local connection, which means that its activities are wholly or partly concerned with the administrative area of Craven District Council or a neighbouring local authority. In some cases this will be obvious, eg. a neighbourhood forum for an area within Craven, or an organisation whose activities are confined to the one of the towns/villages in the District. If it is not obvious, please explain what your organisation's local connection is.

A6 Distribution of surplus funds (certain types of organisation 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 (ie. within the administrative area of Craven or a neighbouring local authority). If relevant, please confirm that this is the case, and specifically which area this applies to.

A7 More about your organisation

What are the main aims and activities of your organisation?

To make Settle a better place to live and work and visit.
To provide a sustainable future for the Market Town of Settle and its residents and visitors

A8 Your organisation's rules

Please send us the relevant type of document for your organisation, and put a cross in the next column to indicate which one this is	Put a cross against the type of document that applies
Memorandum and Articles of Association (for a company)	
Trust Deed (for a trust)	
Constitution and/or rules (for other organisations)	

Part B: About the land or building(s) you are nominating

B1 Description and address

What it is (eg. pub, local shop) The 3 Car Parks in Settle
Name of premises (eg. Royal Oak / Littletown stores) Whitefriars Car Park - Greenfoot Car Park - Ashfield Car Park -
Address including postcode (if known) Whitefriars Car Park - Church Street Settle BD24 9JD Greenfoot Car Park - Lower Greenfoot Settle BD24 9HL Ashfield Car Park - Kirkgate Settle BD24 9DX
B2 Sketch plan Please include (here or on a separate sheet) a sketch plan of the land. This should show:- <ul style="list-style-type: none">• The boundaries of the land that you are nominating see attached plan• The approximate size and position of any building(s) on the land.• 500 Sqm• Any roads bordering the site.

B4 Why you think the building or land is of community value

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.*

Does it currently further the social wellbeing or social interests* of the local community, or has it done so in the recent past? If so, how? Yes. Settle is a busy market town serving many surrounding villages and hamlets. It is also an attractive tourist centre. The town has three car parks providing disabled Coach and HGV parking. One has the only public convenience in the town and one specifically caters for popular motor home overnight stays. The car parks are used frequently, all year round, by local people who live more than a short walking distance from the centre of town. As well as for shopping and visiting the Health Centre, Dentist and Optician, they enable access to a range of social venues such as the bowling club, the social club and several pubs and restaurants. Visitors from further afield, also come year round, albeit with a heavier influx from Spring through to the end of Autumn. Of particular attraction are Settle Victoria Hall and The Folly (containing the Museum of Craven Life), both of which rely heavily on parking provision for their customers. They are public car parks with public access for residents and tourists/visitors to the Town.

Could it in future further the social wellbeing or social interests* of the local community? If so, how? (This could be different from its current or past use.)

The future of Settle as a Market Town is reliant on the amenity that the 3 car parks provide to sustain the economic and social well being of the Town, its resident population and those of its visitors. The Town Council are heavily invested in further developing Settle as a destination town and would be looking to improve and increase public facilities in the car parks as part of that vision.

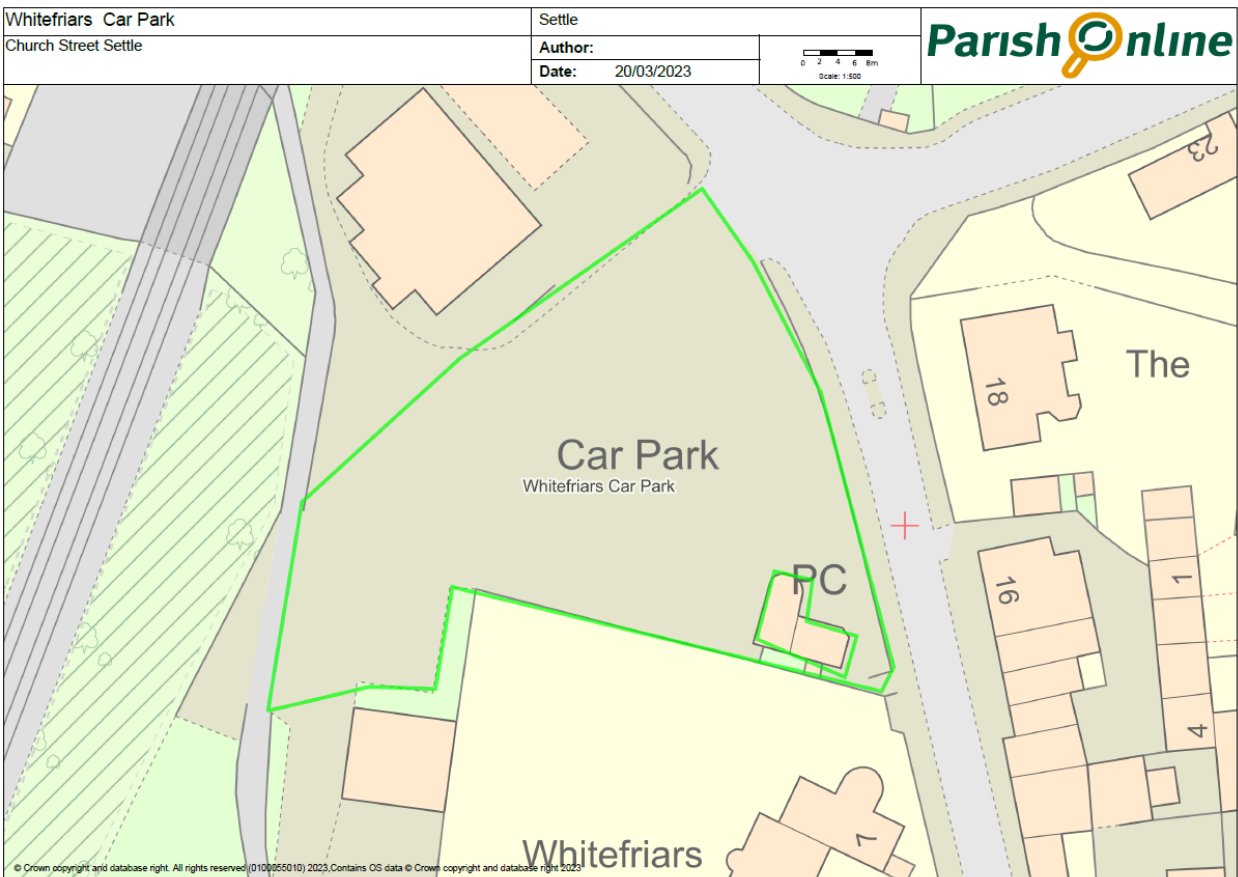
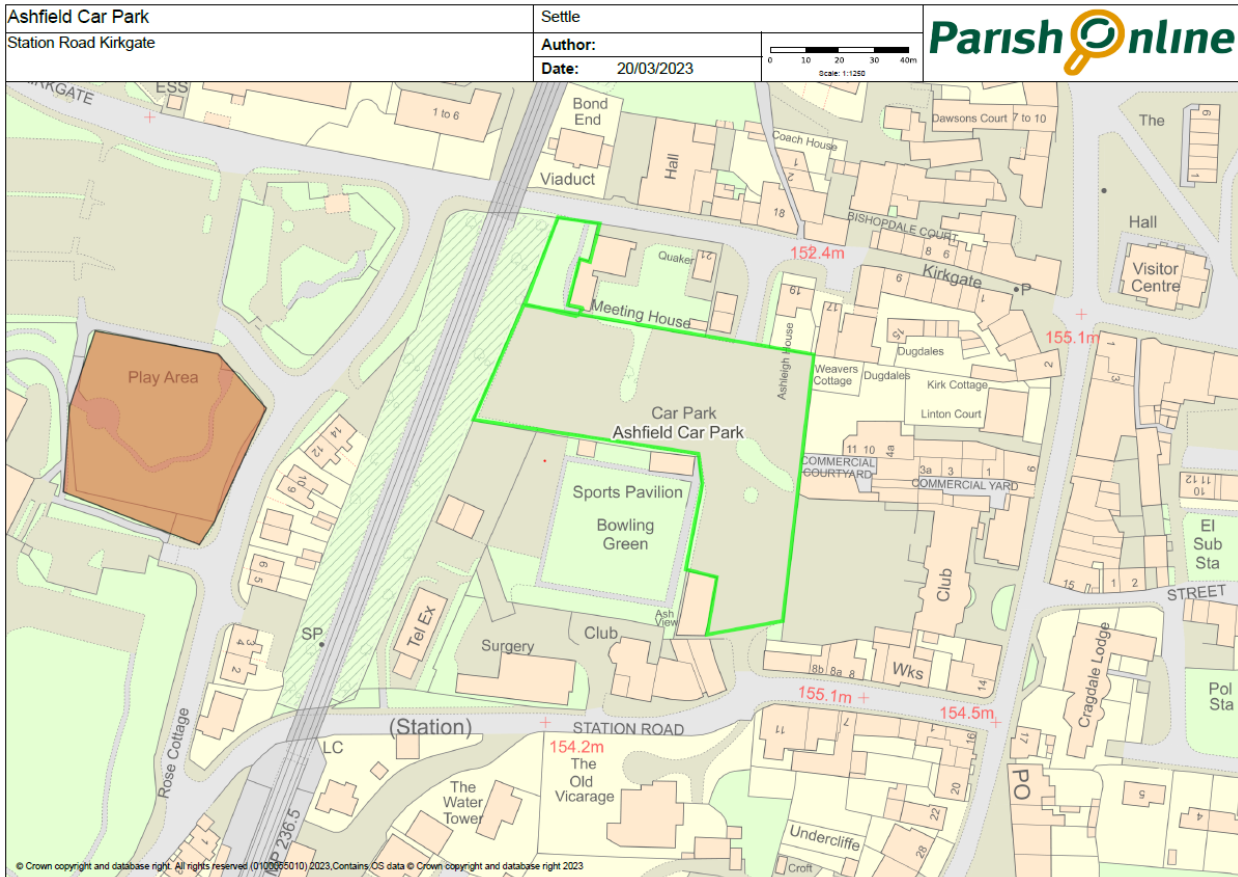
**These could be cultural, recreational and/or sporting interests, so please say which one(s) apply.*

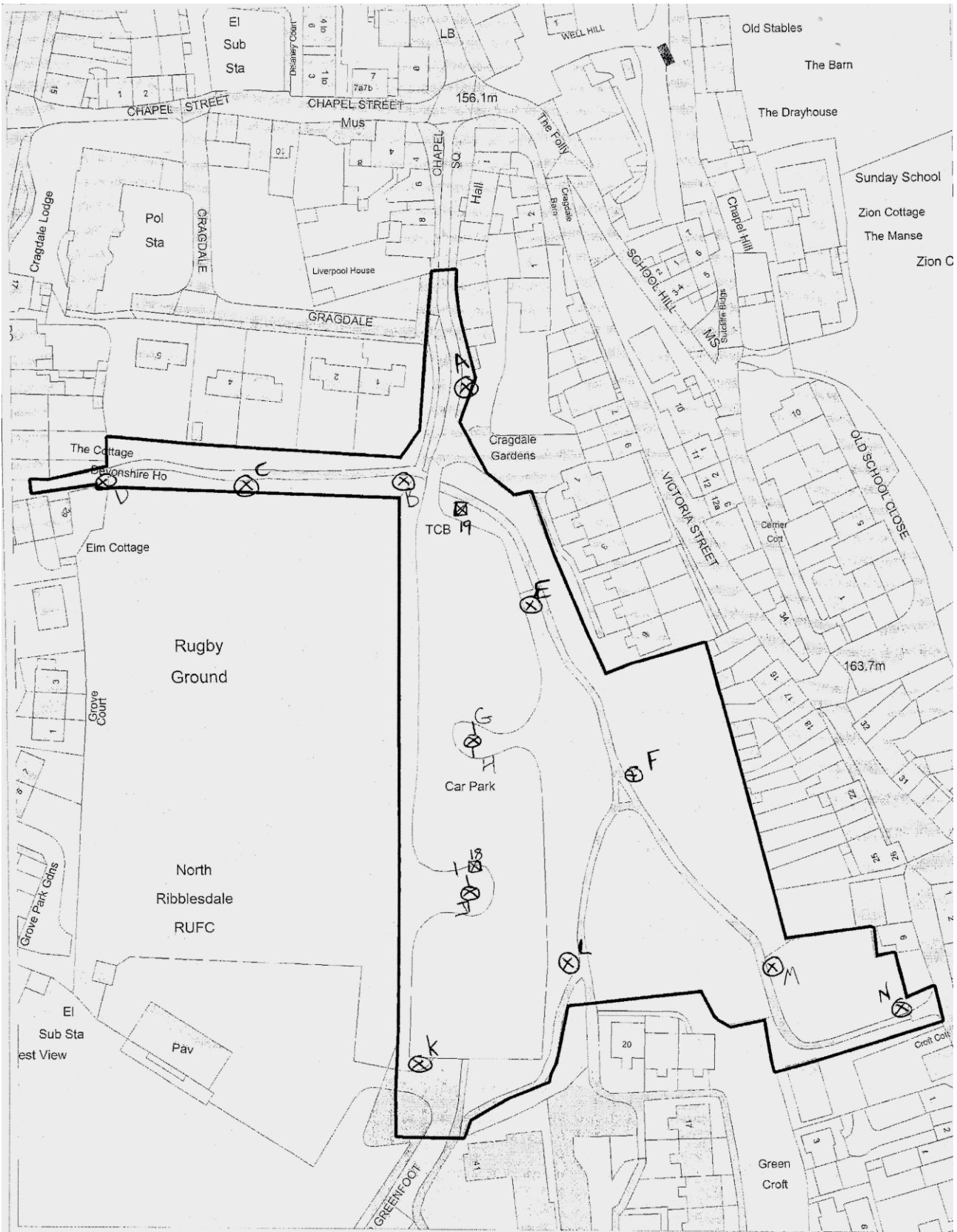
B5 How could the building or land be acquired and used in future?

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.

The Town Council expects detailed discussion with North Yorkshire Council regarding the income generated by the car parks and the upkeep costs of the same. Any profit loss identified in such an asset transfer would be recompensed by private/community financing.

Appendix B – Site Plans for Ashfield Car Park (NYCACV0006), Whitefriars Car Park (NYCACV0007) and Greenfoot Car Park (NYCACV0008)





GREENFOOT CAR PARK, SETTLE, BD24 9RW

GRID REF: 382044, 463397

SCALE : 1:800

Based on Ordnance Survey Mapping

Drawing Issued By: IR