

North Yorkshire Council

25 October 2023

Assessment of Assets of Community Value Nomination NYCACV0024 Grassland, Guisborough Road, Great Ayton Report to the Assistant Chief Executive for Localities

1.0 PURPOSE OF REPORT

- 1.1 To determine whether the Grassland on Guisborough Road, Great Ayton, (NYCACV0024) should be placed on the Council's List of Assets of Community Value (ACVs).

2.0 SUMMARY

- 2.1 This nomination covers the Grassland on Guisborough Road, Great Ayton. The recommendation is that the site should not be listed as Asset 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 the Grassland on Guisborough Road, Great Ayton as required by the Act.

4.0 CONSIDERATION OF THE NOMINATION

4.1 Description of the asset

This nomination is for Grassland on Guisborough Road, Great Ayton. The land is adjacent to land that is currently rented to Great Ayton Parish Council for allotments but is not currently used for any social or community purpose.

4.2 Nomination

The nominator, Great Ayton Parish Council, report that the grassland borders residential housing and the allotment site. It is surrounded on three sides by mature and established hedging, with some mature trees. This open area is essential to keep an open vista at this edge of the village and to ensure this is retained as grassland for the adjacent housing. The open grassland is at the edge of the village and is an area which would be of concern to residents if it was sold and used for any other purpose.

4.3 Comments received

In accordance with the local nomination guidelines the local ward councillor, Councillor Heather Moorhouse (Great Ayton Division) was consulted regarding the assessment of the nominated asset but has not submitted any additional comments.

4.4 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.

4.5 Evidence

The Grassland is not currently used or accessed by the community, and other than providing an open vista to the surrounding countryside, there is no evidence that this land furthers the social interests or social wellbeing of the local community or has had a community use in the recent past.

4.6 Conclusion

Having reviewed the evidence provided by Great Ayton Parish Council, North Yorkshire Council recommends that the Grassland on Guisborough Road, Great Ayton should not be listed as an Asset of Community Value as it does not meet the definition of an asset of community value as set out in Section 88 of the Localism Act 2011.

The nomination does not satisfy the legislative test that this asset has in the recent past furthered the social wellbeing and interests of the local community and that, in the next five years, there could be a non-ancillary use of the building that would further (whether or not in the same way as before) the social wellbeing or social interest of the local community.

5.0 CONSULTATION UNDERTAKEN AND RESPONSES

- 5.1 Local Councillor – Cllr Heather Moorhouse – Great Ayton Division has been notified of the Asset of Community Value nomination for the grassland on Guisborough Road, Great Ayton but has not submitted any additional comments

6.0 ALTERNATIVE OPTIONS CONSIDERED

- 6.1 None. Not to consider the nomination of the Grassland on Guisborough Road, Great Ayton would not fulfil the Council's responsibilities required by the Localism Act 2011 and The Assets of Community Value (England) Regulations 2012.

7.0 IMPACT ON OTHER SERVICES/ORGANISATIONS

- 7.1 If not successful the fact that land is not listed as an Asset of Community Value will have no impact on other services/organisations.
- 7.2 If successful the fact that land is listed as an Asset of Community Value may be taken into account as a material consideration for any future planning application.

8.0 FINANCIAL IMPLICATIONS

- 8.1 If the decision is to not list the property there are not financial implications – there is no appeals process for assets that are not listed.
- 8.2 If the decision is to list the land the owner can make a claim for compensation for which the Council is liable.

9.0 LEGAL IMPLICATIONS

- 9.1 If the land is not listed there are no legal implications as there is no appeals process for assets that are not listed.
- 9.2 If the 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.
- 9.2 If the 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).
- 9.3 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).

10.0 EQUALITIES IMPLICATIONS

- 10.1 The Grassland on Guisborough Road, Great Ayton, has not in the recent past had any community access or provide any social value. The land is privately owned and from a community perspective provides an open vista to the residential housing that is adjacent to the land.

11.0 CONCLUSIONS

- 11.1 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.

12.0 REASONS FOR RECOMMENDATIONS

- 12.1 The evidence does not demonstrate that the nomination for the Grassland on Guisborough Road, Great Ayton, meets the definition of community value as detailed in the Localism Act 2011.

13.0 RECOMMENDATION(S)

It is recommended that the Assistant Chief Executive for Localities:

- (i) Determines that the nomination for the Grassland on Guisborough Road, Great Ayton is not successful and does not meet the definition of community value as detailed in the Localism Act 2011
- (ii) It should not be placed on the North Yorkshire Council Assets of Community Value List of Successful Nominations

APPENDICES:

Appendix A – Nomination Form for NYCACV0024 Grassland on Guisborough Road, Great Ayton including a Site Plan of the land.

BACKGROUND DOCUMENTS:

Localism Act 2011

The Assets of Community Value Regulations (England) 2012

Assistant Chief Executive for Localities
County Hall
Northallerton
25/10/23

Report Author – Lisa Wilson – Service Manager (Communities HAM)
Presenter of Report – Lisa Wilson – Service Manager (Communities HAM)

Appendix A - Nomination Form for NYCACV0024 Grassland on Guisborough Road, Great Ayton and site plan



Community Right to Bid: Assets of Community Value

Nomination Form

(Office use only) ACV Ref: _____

Section 1: About your organization

1A. Contact Details

Please provide basic contact details for your organisation

Name of the organization	Great Ayton Parish Council
<u>Organisation postal address</u>	Parish Council Centre, High Green, Great Ayton, TS9 6BJ
<u>Organisation website</u>	www.great-ayton.org.uk
<u>Named contact for the organisation</u>	<u>Mrs</u> Angela Livingstone
<u>Position of named contact within the organisation</u>	Parish Clerk
<u>Telephone number for named contact</u>	01642 274283
<u>Email address for named contact</u>	clerk@great-ayton.org.uk

1B. Organisation type

Please place an 'X' in the middle column against the appropriate organisation type

Organisation Type	X	Registration number of charity/company (if applicable)
<p>Parish Councils</p> <p>This may be for an asset in its own area, or in the neighbouring Parish Council area</p>	X	
<p>Neighbouring Parish Councils</p> <p>If the Parish Council borders an un-parished area, then they may nominate an asset within the neighbouring District Council or Unitary Council.</p>		
<p>Un-incorporated groups</p> <p>Nominations can be accepted from any un-incorporated group with membership of at least 21 local people who appear on the electoral roll within the local authority, or a neighbouring local authority. This will for instance enable nomination by a local group formed to try to save an asset, but which has not yet reached the stage of acquiring a formal charitable or corporate structure.</p> <p>Please complete additional form in Appendix 1 if this applies to you.</p>		
<p>Neighbourhood Forums</p> <p>There can only be one neighbourhood forum for an area and the way they are set up is clearly defined by the Council as a planning authority. The procedure for becoming a neighbourhood forum is set out in Section 61F of the Town and Country Planning Act 1990.</p> <p>Please complete additional form in Appendix 1 if this applies to you.</p>		
<p>Community interest groups with a local connection</p> <p>These must have one or more of the following structures:</p> <ul style="list-style-type: none"> • A charity • A community interest company • A company limited by guarantee that is non-profit distributing • An Industrial and Provident Society that is non-profit distributing/Community Benefit Society <p>Please complete additional form in Appendix 1 if this applies to you.</p>		

1C. Local connection

Additionally, your organisation is required to have a local connection. This means that its activities are wholly or partly concerned with the administrative area of North Yorkshire or a neighbouring local authority. Please provide details about your organisation's local connection.

Details regarding local connection
Great Ayton Parish Council is responsible for the management of green spaces throughout the village. This includes grass cutting, maintaining hedges/rivers/trees and treating any vermin issues.

Finally, please provide, if available, a copy of your organisation's rules/constitution. Please indicate which documents you intend to provide below by placing an 'X' against the relevant document type.

Type of document	X
Memorandum and Articles of Association (for a company)	
Trust Deed (for a trust)	
Constitution and/or rules (for other organisations)	
Other	

Section 2: About the asset

Section 2A: Basic details

Please provide basic details about the asset

Type of land/building (for example, pub, shop)	Grassland
Name of the premises	Grassland
Address of the premises	Guisborough Road, Great Ayton, TS9 6DR

In addition to the above information, please attach a clear plan which identifies the land/buildings you wish to nominate with a line drawn around the boundary of the area you wish to nominate. This could be a Title Plan from Land Registry, or any other map which gives us enough detail to identify the site.

Section 2B: Ownership

Please provide details about the asset's ownership, if it is known to you

Name of the owner	Marwood Estate
Address of the owner	The Barn, Hall Farm, Carlton in Cleveland, Middlesbrough, TS9 7BB
Contact details for the owner	davemarwood@btinternet.com
Name of any other occupier	
Name of any other person with an interest in the premises	
Address of any other person with an interest in the premises	
Contact details for any other person with an interest in the premises	

Section 2C: The premises as an Asset of Community Value

Please explain why you feel the land/premises meets the definition of an Asset of Community Value. Provide as much information as possible. Please note, it is likely that these comments will be shared with the asset owner.

ACV Definition

A building or other land in a local authority's area is considered land of community value if, in the opinion of the authority:

- (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 a 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.

If there is no current use:

- (c) The definition is extended to land which has furthered the social wellbeing or social interests of the local community in the recent past, and which it is realistic to consider will do so again during the next five years.



How does the current main use of the building/land – or a use in the recent past – further the social interests or social well-being of the local community?

The grassland borders residential housing and the allotment site. It is surrounded on three sides by mature and established hedging, with some mature trees. This open area is essential to keep an open vista at this edge of the village and to ensure this is retained as grassland for the adjacent housing.

Please explain how there can continue to be a main use of the building/land which will further the social interests or social wellbeing of the local community, whether or not this is in the same way as before.

The open grassland is at the edge of the village and is an area which would be of concern to residents if it was sold and used for any other purpose.

If not currently used for the purposes listed above, is it realistic to think that within five years the building/land can be brought back into a use that furthers the social interests or wellbeing of the local community, whether or not in the same way as before?

The land is and would continue to be grassland.

Section 3: Checklist and Declaration

In addition to the form, please confirm any attachments if provided.

Document	X
Copy of organisation's constitution/rules/other	N/A
A clear plan defining the land/premises being nominated	X

Finally, ~~in order to~~ confirm that the information contained within this nomination form is correct and complete and that the required documents are attached, an appropriate ~~authorised~~ officer must sign the below declaration.

We can accept electronic signatures.

Full name	Angela Livingstone
Signature	<i>A Livingstone</i>

Assets of Community Value nominations are coordinated by area-based teams, when complete, please return this form and any accompanying materials to the appropriate e-mail address below:

Harrogate Area	AssetsofCommunityValue.Harrogate@northyorks.gov.uk
Craven Area	AssetsofCommunityValue.Craven@northyorks.gov.uk
Scarborough Area	LegalServices.sca@northyorks.gov.uk
Ryedale Area	Localplan.rye@northyorks.gov.uk
Richmondshire Area	AssetsofCommunityValue.Richmondshire@northyorks.gov.uk
Hambleton Area	Communities.ham@northyorks.gov.uk
Selby Area	AssetsofCommunityValue.Selby@northyorks.gov.uk

Before completing this form, please check the guidance notes at the end of the document. If you require any assistance, please contact AssetsofCommunityValue.NYC@northyorks.gov.uk

Privacy notice

Please retain a copy of this form for your records and should your circumstances or contact details change then please let the appropriate contact officer know.

This information will be held in accordance with NYC Privacy Notices.

APPENDIX 2 – clear plan which identifies the land/buildings you wish to nominate with a line drawn around the boundary of the area you wish to nominate. LAND AREA SHOWN AS LOT 2 ON THE BELOW MAP.

