

North Yorkshire Council

4 November 2024

Assessment of Assets of Community Value Nomination *NYCACV0051 Minster Gardens/Kirkgate Park, Ripon, HG4 1QT*

Report to the Assistant Chief Executive Local Engagement

1.0 PURPOSE OF REPORT

1.1 To determine whether the Minster Gardens/Kirkgate Park, Ripon should be placed on the Council's List of Assets of Community Values (ACVs) under the Localism Act 2011, following a valid nomination form received on 9 September 2024 by 'Save the Trees' (an unincorporated group)

2.0 SUMMARY

2.1 The nomination is for Minster Gardens/Kirkgate Park, Ripon, HG4 1QT. The recommendation is that the Assistant Chief Executive Local Engagement:

- (i) Determines that the nomination for Minster Gardens/Kirkgate Park, Ripon is successful and meets the definition of community value as detailed in the Localism Act 2011
- (ii) Minster Gardens/Kirkgate Park, Ripon should be placed on the North Yorkshire Council Assets of Community Value List of Successful Nominations

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.

3.2 When a listed asset comes up for sale, an ACV is subject to a protected period (moratorium) during which a community interest group can bid for the asset. 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 at the end of the moratorium period.

3.3 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.

3.4 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.

3.5 This report ensures that the Council considers the nomination for Minster Gardens/Kirkgate Park, as required by the Act.

4.0 NOMINATION CONSIDERATION

1) Description of asset

4.1 Ripon is a small city in North Yorkshire, it has a cathedral and historic buildings. When measured at the 2021 Census, Ripon had a population of approximately 17,000 people.

4.2 The nomination is for a park adjacent to Ripon Cathedral. The park is green open space within the city centre of Ripon. The park is situated immediately next to the cathedral, across the cobbled street of Minster Road. The park has open grassy spaces, tall trees and includes a community garden with war memorial (including remembrance figurines) and fountain, there are sitting spaces with benches, cycle storage and footpaths. The park is well-used as a short cut to the city centre, to access car parking, the market square, shopping arcade and area around the bus station. There is also access to the Court Museum and there are public conveniences sited in the park, these are the only toilet facilities associated with the cathedral, as Ripon Cathedral is one of the only cathedrals without toilets available to visitors, therefore the facilities in the park could be used by anyone attending services/events.

2) Nomination and Validation

4.3 The nomination to list Minster Gardens/Kirkgate Park, Ripon as an Asset of Community Value was received on 9 September 2024 and validated on 10 September 2024. A copy of the nomination form is attached at **APPENDIX A** and in accordance with the Assets of Community Value (England) Regulations 2012 a decision is required by 4 November 2024. The nomination from Save The Trees was accepted as an un-incorporated group of at least 21 local people who appear on the electoral roll, whose activities take place in the local authority area or neighbouring area and do not distribute surplus profits to their members. The names and addresses submitted were verified through accessing the electoral roll.

4.4 It was established that the site covered is owned and managed by North Yorkshire Council. The nomination site covers three titles, NYK244204, NYK244205 and NYK244207.

4.5 For NYK244207 there is a conveyance as detailed in the Land Registry Charges Register:

- 1) A Conveyance of the land in this title and other land dated 1 June 1963 made between (1) The Dean and Chapter of The Cathedral Church of Ripon (2) Church

Commissioners for England and (3) The Mayor Aldermen and Citizens of the City of Ripon contains restrictive covenants.

- 2) The land is subject to the rights reserved by the Conveyance dated 1 June 1963 referred to above.
- 3) The land is subject to the rights granted by a Conveyance of other land dated 23 January 1978 made between (1) The Council of the Borough of Harrogate and (2) The Very Reverend Edwin Frederick Le Grice.

3) Nomination - Information Available

4.6 There is a current planning application for full planning permission, submitted by Ripon Cathedral, relating to part of the nominated site. 22/04808/FULMAJ: Construction of annexe to provide support facilities for Ripon Cathedral, including a refectory, a Song School and toilets, involving the demolition of a toilet block, outbuildings and a stone wall plus the replacement of trees which will be lost and the enhancement of part of Minster Road. The application has over 300 public comments and is due to be determined by 3 December 2024.

4.7 Ripon Cathedral submitted a letter of objection in response to the Asset of Community Value nomination. The letter from the cathedral described the nominated site as a "little-used, often-threatening area". The letter also stated, "The irony of this nomination is that it can be seen as an attempt to prevent Minster Gardens from becoming the community asset which, with the cathedral's proposed development, it could become."

4.8 Seventy emails objecting to the ACV nomination were received. The comments within these were summarised as follows:

- 56 comments that the ACV nomination was an attempt to stop or slow down the cathedral's planned development at the site
- 55 comments that the current state of the site (including the public conveniences) is unsatisfactory in some way for the public (under-used, poor state, inadequate)
- 46 comments supported future community use/value of the site
- 15 comments that the site was unsafe
 - 6 of these were comments mentioning drugs (drug dealing, county lines and drug users)
- 11 comments supported current community use/value
- 10 responses were stated an affiliation to the cathedral
- 3 comments identified the site as ancient
- 3 comments identified the site as a walking route/cut-through

4.9 An assessment report by NYC provided the following information about the public conveniences on the nominated site:

- Footfall is "medium" (of low, medium or high)
- Condition is "good" condition (of excellent, good or poor)
- The facilities are open 8pm - 8pm in high season, and 8pm - 6pm in low season, as are all public conveniences in Ripon
- Accessible

- Cleaned twice a day, in high and low season.

4.10 NYC Community Safety and CCTV commented that there have been some anti-social behaviour issues at the site, however based on what has been reported, it was not considered unsafe by the Council.

4.11 NYC Parks provided a statement, and this is included at paragraphs 5.9 to 5.14.

c) Site Visit

4.12 A site visit was undertaken, with the following observations made:

- It was noted that the park was a well-used walking route for the local community to access the city centre, this included school children, shoppers, and people attending the cathedral
- The park had a community fountain and war memorial
- The community fountain has a sign with the following information, “This fountain was donated by the citizens of Ripon following an appeal by the Mayor of the City to commemorate the silver jubilee of her gracious majesty Queen Elizabeth II in the year 1977”
- The park/garden area include a stone sign with the following information “This garden was created to celebrate 100 years of Rotary, 2005-2006, by the Rotary Club of Ripon Rowels”
- The layout of the park around the war memorial/remembrance garden was designed to be used for remembrance day services
- Part of the memorial garden had steps that could limit accessibility to some sections
- People were using benches in different areas of the park
- There was pedestrian access to a museum at the back of the park, away from the road
- Public conveniences were open and people were using these facilities
- There were rails for secure bicycle storage

4.13 Information submitted by the nominating group is available at **APPENDIX A**.

d) Community Value Consideration

4.14 In terms of making a decision on this matter, the nomination, together with any additional information received within agreed timescales, has been used to assess if the property/land nominated meets the definition of community value as detailed in the Localism Act 2011 (Section 88) and shown below:

“A building or other land in a local authority’s area is land of community value if in the opinion of the authority-

- (a) an actual current use of the building or 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 land which will further the social wellbeing or social interests of the local community, although the use does not have to be the same.”

4.15 There are examples of parks, open spaces, and public conveniences as having community use and assets have been listed on this basis by local authorities. However, each nomination is assessed individually, and it is for local authorities to determine whether each one meets the definition of community value as detailed in the Localism Act 2011.

4.16 In assessing the community value of Minster Gardens/Kirkgate Park, Ripon all information received has been considered.

4.17 The area nominated is currently in use and therefore it is the current use of the building that is being assessed (section 88(1)).

(a) an actual current use of the building or land that is not an ancillary use furthers the social wellbeing or social interests of the local community

I. Actual current use that is not an ancillary use

4.18 The actual uses were specified in the nomination and were typical of an urban park or open public space close to the centre of a town. The term “ancillary use” is not defined in the Act, and it is left to each local authority to determine. In the context of assessment, the frequency, regularity and whether uses are still in place have been identified as factors for consideration. It was thought that this condition meant that the community use had to be the primary use of the asset, but this was dispelled by Judge Warren in *Firoka (Oxford United Stadium) Limited v Oxford City Council* (9 May 2014), and the test is whether the use is significant, which does not require it to be the predominant use.

4.19 The nomination states that the area nominated is “open public space” and names the asset as “Minster Gardens, otherwise known as Kirkgate Park”. The nomination describes the park as a place, “many people enjoy for the sanctuary within a busy city”.

4.20 The park is maintained by North Yorkshire Council and enhanced by community groups such as Ripon in Bloom and the Rotary Club. The information submitted by the nominating group identified the following:

- Has been public space since the 19th Century (including past use as a bowling green)
- Theatre festivals take place in the park
- Many people enjoy the park and trees as a sanctuary within a busy city
- Community picnics and festivals
- Retaining urban trees is beneficial because it reduces heat
- The space, being cool and calm, is welcomed by different groups of people, including vulnerable people
- Part of the park is a War Memorial Garden
- Events take place there:
 - Ripon Theatre Festival - recreational, annually, 400 people plus (2-7 July 2024)
 - Kirkgate Street Party - recreational, annual, 200 people plus (6th July 2024)
 - Picnic in the Park - recreational, annual, 40 people (8 June 2024)
 - Armistice services - cultural, annual, 200 plus people (11 November 2023)

- Silhouette Soldiers Trail - cultural, ongoing throughout the year, 50 plus people
- Rotary Way Marker Trial - cultural, ongoing throughout the year, 50 plus people
- Outdoor space for lunch - recreational, daily, 20 plus people
- Recent furthering of the community's social wellbeing - recreational - during the recent Covid lockdowns, when allowed residents of Ripon used Minster Park to help with their mental health to engage with nature, especially elderly and vulnerable residents who couldn't journey to green spaces further away. The lockdown was not foreseen in 2019. It is realistic to think that lockdowns could happen again (daily, 40 plus people)
- Public toilet facilities in Minster Park, used daily, 20 plus people. These are public toilets, owned and managed by NYC.

4.21 The nomination for Minster Gardens/Kirkgate Park, Ripon identifies a variety of current recreational and cultural uses of for the site. There are references supporting these uses to be frequent, regular and recent, including in summer 2024, and catering for different age groups and interests. The site visit identified a variety of sections of the park, including:

- Park/garden
- Community fountain
- Remembrance garden
- Footpaths (providing access to city centre, access to museum)
- A place to secure bicycles
- Public conveniences
- Seating areas

4.22 The existing use class of the site nominated, in terms of planning policy is, "public open space". An NYC assessment of footfall for the public conveniences indicates medium footfall at the public conveniences included in the nomination.

4.23 The current uses are typical of those associated with a public open space that is also used for events and community activities. These are detailed in the nomination and information available. The current uses are varied, frequent and regular. ***There is therefore sufficient information provided to demonstrate significant actual use as public open space and a community facility for cultural and recreational activities that are non-ancillary, and therefore this criteria is met.***

II. Furthering the social wellbeing/interests of the local community

4.24 There are no clear definitions provided in the legislation as to what constitutes 'social wellbeing/interests' except that social interests can include 'cultural, recreational and sporting interests. Similarly, there is no definition or guidance as to what constitutes the 'local community'. The judgment in **Pullan v Leeds City Council** (25 April 2016) was that, in relation to the Old Cock public house, the entire town of Otley was considered to be the local community.

4.25 The nomination provides the following evidence of furthering the social wellbeing and interests of the local community:

- Is a well-used public park with green space and trees and provides a sanctuary in the city centre, it is a well-used walking route for a variety of groups
- Used for cultural activities and community events that take place annually, including by a local theatre group for festival performances, a picnic and a street party
- Includes a community garden and war memorial that is used for Remembrance Day
- The location is convenient and benefits elderly and/or vulnerable people who may not be able to easily travel to other open spaces
- Was used by the public as a bowling green in the nineteenth century
- The park is a marker on walking trails
- People use it to sit outside and eat lunch

4.26 The actual uses listed at para. 4.20 provide varied examples of cultural and recreational interests by groups that are local to the nominated site. The nominated asset includes a community garden and public open space, it includes bike storage and benches, is used by local people across age groups and there is evidence of benefit for the whole community. Evidence includes community uses such as theatre performances, picnics, parties, armistice memorials, and public conveniences are located here (used by people attending the cathedral as the cathedral has none). It is also used as a walking route providing a pedestrian-only link to two parts of the city. Comments received about the nomination mention that it is an ancient site and community uses have been for a significant period of time.

4.27 On a site visit it was noted that facilities at the park were a well-used particularly as a walking route for the local community, including young people attending local schools, shoppers, and people attending the cathedral. The benches were being used by people as a place to sit. The public conveniences were being used by passers-by.

4.28 There is wider community benefit due to the inclusion of the site on walking trails, the public conveniences that could be used by visitors as well as than the local community, including visitors to the cathedral.

4.29 A letter of objection to the ACV nomination from Ripon Cathedral said that the nominated site was a “little-used, often-threatening area”. There were 55 comments within letters of objection that were categorised as a comment that the site was under-used, in a poor state/inadequate. Whilst the letters received objected to this ACV nomination some supported current and future community use of the site. Many of the letters referenced the current planning application, and a link between the ACV nomination and the planning application. If the ACV nomination was successful, the fact that land/property is listed as an Asset of community Value may be taken into account as a material consideration, however an ACV listing would not automatically prevent, or block planning permission being granted. Should planning permission be approved and implemented there could continue to be community use of the site.

4.30 It is recognised in the ACV regime that “social interests” includes in particular cultural, recreational and sporting interests. The nomination identifies a number and variety of uses that further social wellbeing/interests. The uses identified are typical of public open space in a town/city centre. The nominated asset also includes a community fountain, war memorial, footpaths, and public conveniences. The wider community benefit is detailed with other specific uses, including theatre performances, picnics, parties and

its inclusion as a point of interest on walking trails. The asset is regularly used by local people, including young people (to walk to and from school), shoppers and people attending the cathedral.

4.31 Letters objecting to the nomination made general comments that the space may be under-used, poorly maintained and unsafe. NYC Community Safety and CCTV confirmed the site was not considered unsafe by the Council, although there had been some reports of anti-social behaviour. The public conveniences were considered “good” in an NYC assessment of facilities. NYC own and maintain the site, NYC Parks and Grounds provided comments on the nomination (para. 5.9 To 5.14) and were supportive of Minster Park being listed as an Asset of Community Value. Many of the objection letters made general comments that the ACV nomination was a mechanism to disrupt the current planning application.

4.32 Some of the letters received in response to the ACV nomination supported future and current community use, as below:

"Minster Gardens are a tranquil spot where visitors often pause to photograph the Cathedral or simply to enjoy the view. We see people sitting on a bench beside the path which crosses the area diagonally and connects the town centre with the eastern part of the city. School children, shoppers and dog walkers all use this. Closer to the Cathedral is the Garden of Remembrance where the seats are in regular use."

4.33 The evidence suggests that Minster Gardens/Kirkgate Park, Ripon supports many activities, recognised as social interests, over a significant period of time. ***The uses detailed are therefore considered to further the social wellbeing or social interests of the local community and this criteria is therefore met.***

III. Local Community

4.34 In terms of local community there are references in the nomination including:

- “Residents enjoy the sanctuary of an enclosure of urban trees away from the hustle and bustle of city life”
- Local people attending ceremonies for the armistice
- Ripon Theatre Festival
- Kirkgate Street Party
- Picnic in the Park
- Silhouette Soldiers Trail and Rotary Way Marker Trail

4.35 The nomination says the park is particularly important to elderly and vulnerable residents who may have limited opportunities to travel to green spaces further away.

4.36 On a site visit it was noted that the park was a well-used walking route, with benches for sitting on, and public conveniences used by the local community, including any person who spends time in Ripon city centre. In particular for young people attending local schools, shoppers, and people attending the cathedral.

4.37 There was information on signs within the site that demonstrated the link to local community groups, which included that:

- The community fountain was donated by the citizens of Ripon
- The park/garden was created to celebrate 100 years of Rotary, by the Rotary Club of Ripon Rowels

4.38 NYC Parks noted that the site provides a useful oasis of green space for residents and visitors between the City Centre and the Cathedral area. It is well-used for a range of formal and informal community events and is enhanced by community groups such as Ripon in Bloom, the Rotary Club and Ripon in Bloom.

4.39 ***The evidence available indicates it is reasonable to determine that the identification of the local community required by the legislation is the city of Ripon, including young people attending local schools and people who live and spend time near Ripon city centre, including people attending the cathedral.***

(b) It is realistic to think that there can continue to be a non-ancillary use of the building or land which will further the social wellbeing or social interests of the local community, although the use does not have to be the same.

4.40 The test does not require the likely future use of the relevant building to be determined but rather to determine whether future community use is one of a number of realistic options for the building (**Patel v London Borough of Hackney and Worthy Developments v Forest of Dean DC**).

4.41 The test is also not whether such future use is wholly unrealistic but whether it is realistic to think that there could be a relevant non-ancillary use in the next five years (Judge Lane at Para. 26 in **General Conference of the New Church v Bristol CC** supra. 12 February 2015). In addition, “what is realistic may admit a number of possibilities none of which needs to be the most likely outcome” (**Evenden Estates v Brighton and Hove City Council**).

4.42 It has been established that the threshold to satisfy the “realistic to think” test is low. The First Tier Tribunal in **King v Chiltern District Council** commented that “the test is not a demanding one. “Parliament has chosen to set the bar low”.

4.43 This criteria requires the realistic assessment that there can continue to be non-ancillary use of the building or land which will further (whether or not in the same way) the social wellbeing or social interests of the local community. In the case of Minster Gardens/Kirkgate Park, Ripon this would be predominantly a variety of community uses, typical of a public open space close to a town/city centre.

4.44 The nomination identified current uses that further the social interests/wellbeing of the local community and these current uses could reasonably continue.

4.45 Letters were received objecting to the ACV nomination, many noted they supported the current planning application. These letters included 55 comments that supported future community use of the site, comments included that if the plans submitted were implemented the area would be enhanced and the local community would benefit from this.

- 4.46 NYC own and manage the site nominated and are also the local planning authority who will determine the planning application decision.
- 4.47 Minster Gardens/Kirkgate Park, Ripon has been used by the residents of Ripon for a significant period of time. With mention of it being an ancient site. The nomination notes use as a public bowling green in the nineteenth century. The garden/park area was dedicated in 2006 and the community fountain was dedicated in 1977.
- 4.48 There is a current planning application for full planning permission, the status of this is pending decision, the planning application is for part of the nominated site. If approved, this could lead to development on a section of the site. Based on the details of the planning application this could include the loss of trees and the replacement of the existing toilets with a building that has different uses. 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 current or future planning application.
- 4.49 NYC Planning noted that the existing use of the nominated site from planning policy is open public space.
- 4.50 As stated previously the test for this condition does not require the likely future use of the relevant building to be determined but rather to determine whether future community use is one of a number of realistic options. The test is also not whether such future use is wholly unrealistic but whether it is realistic to think that there could be a relevant non-ancillary use in the next five years. In addition, “what is realistic may admit a number of possibilities none of which needs to be the most likely outcome” and the test is not a demanding one. “Parliament has chosen to set the bar low” (See paragraphs 4.40-4.42).
- 4.51 The nomination provides evidence of a variety of community uses that further the social wellbeing or social interests of the local community. There is a current planning application that has the potential to impact how part of the site is used, but this would not negate continued community use. There is no evidence that the current, or similar, uses could not continue. Future community use is therefore one of a number of realistic options. ***It is therefore reasonable to determine that there can continue to be a non-ancillary use of the building or land which will further the social wellbeing or social interests of the local community, although the use does not have to be the same.***

d) Conclusion

- 4.52 The aim of Part 5 Chapter 3 of the Localism Act 2011 and the Assets of Community Value (England) Regulations 2012 is to encourage community-focused, local-led action to save and take over assets which are significant to them. The scheme is intended to give communities the opportunity to identify assets of community value and have them listed and, when they are put up for sale, have more time to raise finance and prepare a bid for them. These assets could include the village shop, community centre or pub but assessment is based on the evidence available, and it is for the local authority to determine each nomination.
- 4.53 A valid nomination to register Minster Gardens/Kirkgate Park, Ripon as an Asset of Community Value was received for assessment. The assessment is whether the details

within the nomination, together with any additional information received, satisfy the two criteria as detailed in the Localism Act 2011(Section 88(1)) see below:

Condition one - There is an actual current use of the building or land that is not an ancillary use furthers the social wellbeing or social interests of the local community

(See paragraphs 4.18 - 4.38)

4.54 The information provided demonstrates significant actual uses of Minster Gardens/Kirkgate Park, Ripon, that are non-ancillary, and further the social wellbeing or social interests of the local community, that is defined as the city of Ripon, including young people attending local schools and people who live and spend time near Ripon city centre, including people attending the cathedral. ***This Condition is therefore met.***

Condition Two - It is realistic to think that there can continue to be a non-ancillary use of the building or land which will further the social wellbeing or social interests of the local community, although the use does not have to be the same

(See paragraphs 4.40 - 4.51)

4.55 Future community use is one of a number of realistic options. It is therefore reasonable to determine that there can continue to be non-ancillary use of the building or land which will further the social wellbeing or social interests of the local community, noting that the use does not have to be the same as existing uses. ***This Condition is therefore met.***

4.56 The evidence demonstrates that the nomination meets the definition of community value as detailed in the Localism Act 2011. It is therefore recommended that Minster Gardens/Kirkgate Park, Ripon, HG4 1QT is listed as an Asset of Community Value and placed on the North Yorkshire Council List of Successful Nominations.

4.57 The Council must keep the list under review and remove assets as soon as practicable considering any circumstances that may change the opinion that land/property listed is of community value.

5.0 CONSULTATION UNDERTAKEN AND RESPONSES

5.1 Consultation with the following stakeholders and internal NYC services was undertaken:

- NYC Planning
- NYC Community Safety/CCTV
- NYC Licensing and Environmental Protection
- NYC Land Charges
- NYC Property
- NYC Parks and Grounds
- Ripon City Council
- Ripon Cathedral
- Elected Member

Planning (NYC)

- 5.2 There is a current planning application for full planning permission, submitted by Ripon Cathedral, relating to part of the nominated site, the planning reference for this is 22/04808/FULMAJ. Details of the application are, construction of annexe to provide support facilities for Ripon Cathedral, including a refectory, a Song School and toilets, involving the demolition of a toilet block, outbuildings and a stone wall plus the replacement of trees which will be lost and the enhancement of part of Minster Road.
- 5.3 The planning application is due to be decided by 3 December 2024. When reviewed on 8 October 2024, the planning application had received 323 public comments. Of the public comments 186 supported the application and 126 were objections. There had been 18 comments from consultees published. There were 630 documents available relating to the planning application (this total included each of the public and consultee comments).
- 5.4 Planning Services made the following observations:

Planning Officer Comments:

- The existing use is 'public open space'. It is noted as an important open space in the Ripon Conservation Area Character Appraisal.
- The site sits within the Ripon Conservation area. The Grade I Listed Ripon Minster is located to the south of the site with several Grade II listed buildings to the west.
- Policies listed within the Harrogate District Local Plan 2014-2025 (adopted 2020) and The Ripon Neighbourhood Plan (adopted 2019) would apply to the subject site.
- The site is identified as 'Amenity Open Space and Other Open Land' in the Ripon Neighbourhood Plan (2019).
- There is currently a planning application (reference: 22/04808/FULMAJ) pending consideration on the subject site.

Planning Constraints:

- Area of Special Control
- Conservation Area
- Within Development Limit
- Ripon Gypsum Area C
- Scheduled Monument
- Grade II Listed Building
- Within 100m of LBII
- Within 100m of LBII Star
- Within 100m of LBI
- World Heritage Site Buffer

Relevant Planning Policy:

- The adopted development plan (ADP) for this application site is the Harrogate District Local Plan 2014 – 2035, adopted 2020.

- The Ripon neighbourhood plan was adopted on 10 April 2019 and forms part of the development plan for the Harrogate area.

Relevant Planning History:

- 80/11866/FUL Erecting a small water fountain. PERMITTED 27.06.1980
- 84/02673/FUL MINSTER CLOSE, RIPON Constructing public toilets to replace existing. PERMITTED 12.02.1985
- 84/03311/LLB MINSTER CLOSE, RIPON demolishing existing public toilets and constructing new toilets PERMITTED 12.02.1985
- 22/04808/FULMAJ RIPON CATHEDRAL, MINSTER ROAD Construction of annexe to provide support facilities for Ripon Cathedral, including a refectory, a Song School and toilets, involving the demolition of a toilet block, outbuildings and a stone wall plus the replacement of trees which will be lost and the enhancement of part of Minster Road. PENDING CONSIDERATION

Community Safety/CCTV (NYC)

- 5.5 NYC Community Safety and CCTV commented that there had been some anti-social behaviour issues at the nominated site, however, based on what had been reported it was not considered unsafe by the Council.

Licensing and Environmental Protection (NYC)

- 5.6 NYC Licensing and Environmental Protection teams confirmed there were no comments on the nomination.

Land Charges (NYC)

- 5.7 NYC Local Land Charges team were consulted and confirmed the following from the Land Charges register:
- Ancient Monument - Ripon Minster Close, Ripon
 - Conservation Area – Ripon Conservation Area
 - Listed Building – Wall to The Old Court House, running from No 23 Kirkgate along south and east sides the garden or The Old Court House, as far north as The Court House
 - Adjacent to Listed Building – The Court House, Minster Road (North Side)

Property (NYC)

- 5.8 NYC Property comment was that the nomination should only be successful if it can be clearly demonstrated that the site is or has recently been used for the benefit of the community.

Parks and Grounds (NYC)

- 5.9 Minster Park is classified as Parks and Gardens and is owned and maintained by North Yorkshire Council. As such it attracts developer funding for site improvements in line with S106 agreements and Planning Policy.

- 5.10 The site is also enhanced by community groups such as Ripon in Bloom and the Rotary Club. The Rotary Club installed the remembrance poppies and commemorative silhouette soldiers display. Also, Ripon in Bloom plant bulbs on site annually and the site is included in Ripon in Bloom's submission for Yorkshire in Bloom.
- 5.11 This site is of historic interest. The area was held as part of the Archbishop of York's manor of Ripon from the 11th century and is known to have been the site of the Archbishop's manor house and court. Some medieval elements survive specifically stonework reused in the western boundary of Minster Gardens South. The current Courthouse Museum is known to have replaced a medieval building that would have formed part of the manorial complex. Little is known of the layout and character of the medieval manor house but much of this area has remained as open ground including a bowling green in the 19th century.
- 5.12 The Park is well used for a range of formal and informal community events and activities such as theatre, picnics and Morris dances and provides a useful oasis of green space for residents and visitors between the City Centre and the Cathedral area.
- 5.13 The area also includes a number of trees, in particular mature specimens which are the most valuable in terms of carbon sequestration, oxygen production etc. and are of significant environmental value in an area of high carbon emissions.
- 5.14 On this basis NYC Parks and Grounds were supportive of Minster Park being listed as an Asset of Community Value.

Ripon City Council

- 5.10 The Parish Council was consulted and responded that, due to timings, the nomination would be considered at a future meeting of Ripon City Council, which would be outside of the consultation window.

Ripon Cathedral

- 5.11 Ripon Cathedral submitted a letter of objection in response to the Asset of Community Value nomination. The letter from the cathedral described the nominated site as a "little-used, often-threatening area". The letter also stated, "The irony of this nomination is that it can be seen as an attempt to prevent Minster Gardens from becoming the community asset which, with the cathedral's proposed development, it could become."

Elected Member

- 5.10 The Elected Member was notified of the nomination, no comments on the nominated asset were received.

6.0 ALTERNATIVE OPTIONS CONSIDERED

- 6.1 None. Not to consider the nomination for Minster Gardens/Kirkgate Park, Ripon 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 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 current or future planning application.

8.0 FINANCIAL IMPLICATIONS

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

9.0 LEGAL IMPLICATIONS

- 9.1 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.

- 9.2 If the property/land is listed and the owner/leaseholder wishes to dispose of it, they 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 Equalities implications are considered within this report.

11.0 CLIMATE CHANGE IMPLICATIONS

- 11.1 Climate change implications are considered within this report.

12.0 CONCLUSIONS

- 12.1 If successful, the owner will be informed of the decision review process and 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.
- 12.2 If unsuccessful, all parties will be advised of the outcome of the decision, and the Council's reasoning for it.

13.0 REASONS FOR RECOMMENDATIONS

- 13.1 The evidence demonstrates that the nomination for Minster Gardens/Kirkgate Park, Ripon, HG4 1QT meets the definition of community value as detailed in the Localism Act 2011.

14.0 RECOMMENDATION(S)

It is recommended that the Assistant Chief Executive Local Engagement:

- (i) Determines that the nomination for Minster Gardens/Kirkgate Park meets the definition of community value as detailed in the Localism Act 2011 and is successful
- (ii) Minster Gardens/Kirkgate Park should be placed on the North Yorkshire Council Assets of Community Value List of Successful Nominations

APPENDICES:

Appendix A – Nomination Form (signatures redacted), Additional Information Provided by Nominating Group and Site Plan

BACKGROUND DOCUMENTS:

Localism Act 2011
The Assets of Community Value Regulations (England) 2012
Community Right to Bid: Non-statutory advice note for local authorities

Website/references:
<https://riponcathedral.org.uk/>

Assistant Chief Executive Local Engagement
County Hall
Northallerton
4 November 2024

Report Author – assetsofcommunityvalue.NYC@northyorks.gov.uk
Presenter of Report – assetsofcommunityvalue.NYC@northyorks.gov.uk



Community Right to Bid: Assets of Community Value

Nomination Form

(Office use only) ACV Ref: _____

Section 1: About your organisation

1A. Contact Details

Please provide basic contact details for your organisation

Name of the organisation	Save Our Trees
Organisation postal address	[REDACTED]
Organisation website	https://www.facebook.com/profile.php?id=61557729684337
Named contact for the organisation	[REDACTED]
Position of named contact within the organisation	Spokesperson and Treasurer
Telephone number for named contact	[REDACTED]
Email address for named contact	[REDACTED]

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>		
<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>	X	
<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
<p>This is a group of residents of Ripon and surrounding villages, including people who own businesses within the city, who have lived in the city for many years.</p> <p>The activity is focused on a plot of land within the city centre which dates back hundreds of years - Minster Gardens and has been a Bowling Green for the public as early as the 19th century. This is also a site where local theatre festivals take place and many people enjoy for the sanctuary within a busy city.</p>

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)	X
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)	Open public space
Name of the premises	Minster Gardens, otherwise known as Kirkgate Park
Address of the premises	HG4 1QT

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	Owned by North Yorkshire Council
Address of the owner	Civic Centre Stonecross Rotary Way, Northallerton, DL6 2UU Jesmond House, 31-33 Victoria Avenue, Harrogate, HG1 5QE
Contact details for the owner	01609 780780 0300 131 2131
Name of any other occupier	NA
Name of any other person with an interest in the premises	Chapter of Ripon Cathedral who have applied for a planning application to use the land. NYC has said that they have had no communication with the Cathedral on this matter.
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?

This park is in current use and provides an opportunity for residents and visitors to enjoy the sanctuary of an enclosure of urban trees away from the hustle and bustle of city life.

It is used for community picnics and community festivals and has a long distinguished record of been used by the public as a bowling green in the 19th century. It contains a war Memorial Garden which is to the front, which allows everyone, regardless of disability to access and pay respects to the military dead. It is a Scheduled Monument and is a conservation area.

It delivers social wellbeing for the community, as it is used for the theatre festival and is an oasis of calm and serenity. The social and psychological benefits of this healthy, urban, green space will be more pronounced as the climate crisis intensifies and urban trees will prove to be of huge benefit in reducing the heat, especially to vulnerable persons and other demographics. There is an emotional benefit to being in this area, as the hectic life and stress of the city fades away.

This public, green space will therefore be of vital importance in the coming decades.

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.

This park is in current use and provides an opportunity for residents and visitors to enjoy the sanctuary of an enclosure of urban trees away from the hustle and bustle of city life.

It is used for community picnics and community festivals and has a long distinguished record of been used by the public as a bowling green in the 19th century. It contains a war Memorial Garden which is to the front, which allows everyone, regardless of disability to access and pay respects to the military dead. It is a Scheduled Monument and is a conservation area.

It delivers social wellbeing for the community, as it is used for the theatre festival and is an oasis of calm and serenity. The social and psychological benefits of this healthy, urban, green space will be more pronounced as the climate crisis intensifies and urban trees will prove to be of huge benefit in reducing the heat, especially to vulnerable persons and other demographics. There is an emotional benefit to being in this area, as the hectic life and stress of the city fades away.

This public, green space will therefore be of vital importance in the coming decades.

Any change in usage could negatively impact on social wellbeing, social interests and there would be a loss of environmental benefits if this space is not used in the same way as before.

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?

NA

It is used for the public good presently.

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	X
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	
Signature	

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

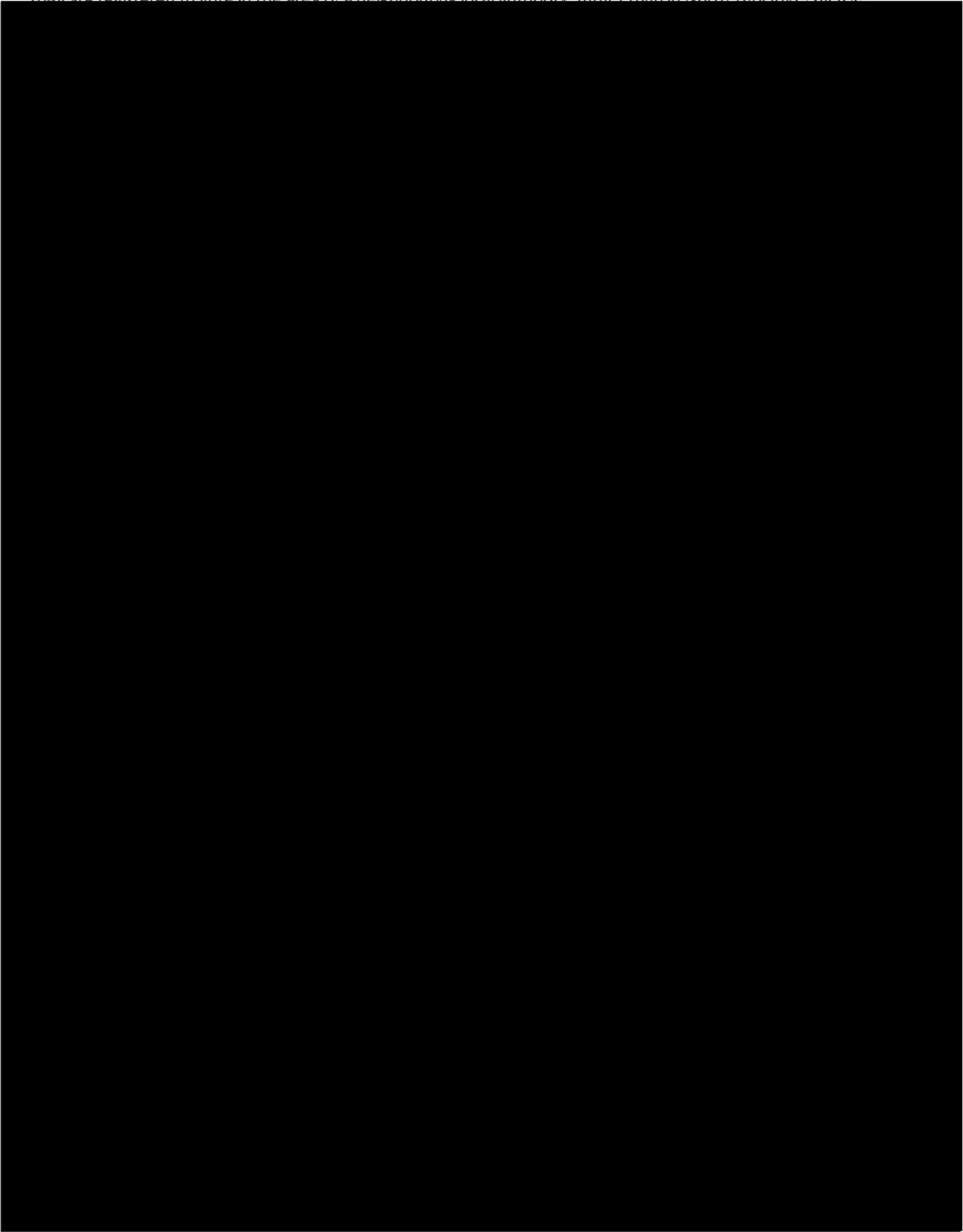
Please retain a copy of this form for your records and should your circumstances or contact details change then please let the appropriate contact officer know.

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

Appendix 1. For unincorporated groups and community interest groups

Please skip this section if you are a Parish Council

In the case of an unincorporated body, at least 21 of its individual members must be registered to vote locally in order to make an ACV nomination. Please confirm the names and addresses of these members with a signature. If they are registered to vote in the area of a neighbouring local authority, rather than in North Yorkshire, please



Use of Minster Park

Ripon Theatre Festival- recreational

annually-
400 people plus
2-7 July 2024

Kirkgate Street Party- recreational

Annual
6th July 2024
200 people plus

Picnic in the Park- recreational

Annual
40 people
8 June 2024

Armistice services- cultural

Annual
200 plus people
11 November 2023

Silhouette Soldiers Trail- cultural

Ongoing throughout the year
50 plus people

Rotary Way Marker Trial -cultural

Ongoing throughout the year
50 plus people

Outdoor space for lunch- recreational

Daily
20 plus people

Recent furthering of the community's social wellbeing- recreational

During the recent Covid lockdown, when allowed out, residents of Ripon used Minster Park to help with their mental health to engage with nature, especially elderly and vulnerable residents who couldn't journey to green spaces further out in the city. The lockdown was not foreseen in 2019. It is realistic to think that lockdowns could happen again, especially as climate change breakdown exacerbates zoonotic disease crossover. If the land use changes to proposed plans of concrete paving over- the connection to urban green space will be lost and elderly/ vulnerable people will not be access nature as easily- a psychological barrier will exist. The land use staying the same will therefore further the use of social wellbeing.

Daily
40 plus people

Public toilet facilities in Minster Park- recreational

Daily.

20 plus people.

These are public toilets, owned currently by NYC. If land use were to be changed in the future, they would be owned by a private developer and the facilities could be locked, then the social interests of the local community would be negatively impacted and not furthered.

