

Delegated Decision

REGENERATION AND LOCAL SERVICES

29th August 2019

NOMINATION OF FORMER R.W.D. MOTOR BODY REPAIRERS AS AN ASSET OF COMMUNITY VALUE

Ordinary Decision No.:



Report of:

Susan Robinson, Head of Corporate Property and Land

Electoral division affected:

Neville's Cross

Purpose of the Report

1. To consider a nomination received from the Friends of Flass Vale to list the former R.W.D. Motor Body Repairers, Durham as an Asset of Community Value.

Executive summary

2. A nomination was received from the Friends of Flass Vale to list the former RWD Motor Body repairers, Durham as an Asset of Community Value.
3. Supporting evidence was provided in the nomination, which was considered at the Panel Meeting held on the 22nd August 2019.
4. The Panel considered the evidence submitted by the nominee and the objections received from the owner of the asset under consideration.
5. The decision of the Panel was that the nominee had failed to provide sufficient evidence to support the nomination of the former RWD Motor Body Repairers, Durham as an Asset of Community Value.

Recommendation

6. Under the Councils Scheme of Delegations, the Head of Corporate Property and Land has responsibility to authorise a formal listing as an Asset of Community Value and it is recommended that power is not exercised to list the former RWD Motor Body Repairers, Durham as an Asset of Community Value.

Background

7. The Localism Act was enacted in November 2011 and the Assets of Community Value (England) Regulations, which together embody the Community Right to Bid, were commenced at the same time as the Regulations came into force, both on 21st September 2012.
8. The provisions give local communities the opportunity to identify assets of community value that they believe to be of importance to their community's well-being and have them listed. When they are put up for sale, they will be given a time to raise finance and prepare a bid to buy that asset on the open market.
9. The legislation places a requirement on the County Council to consider requests and to include them on a list of Community Assets and maintain the list.
10. It is open to parishes and community organisations, including neighbourhood forums to nominate local assets to their local authority, to be included on the list of assets of community value. The body must have a local connection and can include and neighbouring Parish Councils.
11. It can be listed if a principal use of the asset furthers (or has recently furthered) their community's social well-being or social interests (which include cultural, sporting or recreational interests) and is likely to do so in the future.
12. If the nominated asset is properly nominated, is in the local authority's area, meets the definition, and is not excluded, the local authority must list it and inform all affected parties (and the parish council). They must also place the asset on the local land charges register and, if the land is registered, apply for a restriction on the Land Register.
13. Once an asset has been listed nothing further will happen unless and until the owner decides to dispose of it, either through a freehold sale, or the grant or assignment of a qualifying lease (i.e. originally granted for at least twenty-five years).
14. Unless an exemption applies, the owner will only be able to dispose of the asset after a specified window has expired.
15. The first part of this window is the six-week interim period, which will apply in all cases, and which will allow community interest groups to make a written request to be treated as a potential bidder. If none do so in this period, the owner is free to sell their asset at the end of the six weeks.
16. If a community interest group does make such a request during this interim period, then the full six-month moratorium will operate. During this period the owner may continue to market and negotiate sales, but may not exchange contracts (or enter into a binding contract to do so later). There is one exception. The owner may sell to a community interest group during the moratorium period.
17. After the moratorium period – either six weeks if there has been no community interest, or the full six months – the owner is free to sell to whomever they choose. No further moratorium will apply during an eighteen-month protected period.
18. These provisions do not restrict in any way who the owner of a listed asset can sell his property to, or at what price, nor do they confer a right of first refusal to community interest groups.

Current Position

19. The Council has received a nomination from the Friends of Flass Vale to list the former RWD Motor Body Repairers, Durham which is shown on the attached plan below, as an Asset of Community Value.
20. The Community Right to Bid Working Group ("the Panel"), which comprises of representatives from Assets, Legal Services and Partnerships and Community Engagement have considered the

application. When making a decision in respect of any application the Council has to give due consideration to the legislative provisions.

21. The first consideration for the Panel is whether the application meets the requirements of section 89 (1) (a) of the Localism Act 2011 ("the Act") in that it is a community nomination. Section 89 (2) (b) (iii) provides that for the purposes of the Act a "community nomination" means inter alia a nomination by a person that is a voluntary or community body with a local connection. Regulation 5 (1) (c) of the Assets of Community Value (England) Regulations 2012 (the Regulations) further state that a voluntary or community body includes an unincorporated body whose members include at least 21 individuals and which does not distribute any surplus it makes to its members.
22. Regulations 4 (1) (c) of the Regulations also define having a local connection with land in a local authority's area in the case of an unincorporated association as having at least 21 local members.
23. Having considered the evidence before it, the Panel accepts that the nomination meets the requirements of a community nomination.
24. The Panel then considered whether the nominated land is an asset of community value taking into account those factors which are relevant to the statutory definition of land of community value.
25. Section 88 (1) of the Localism Act states that a building or other land is land of community value if in the opinion of the authority:
 - a. an actual or current use of the building or other land that is not ancillary use furthers the social wellbeing or social interest of the local community, and
 - b. it is realistic to think that there can continue to be non-ancillary use of the building or other land which will further (whether or not in the same way) the social wellbeing or social interests of the local community."
26. This definition creates a two-part test which considers the current and actual use of the building and/or land (Section 88 (1) (a)) and a forward-looking test which considers the future use of the nominated property (Section 88 (1) (b)).
27. As set out above, the nominated land can only meet the second forward looking test, if *in the opinion of the Council it is realistic to think* that there can continue to be a use which will further the social interests of the community. The submission by the Friends of Flass Vale did not include any evidence of current use of the buildings by a community group or provide any proof that the community has in the past used the building. The complete lack of any community-based activity of the buildings was confirmed by one of the joint owners of the buildings which also stated that the buildings ceased to be used in 2005.
28. The condition of the buildings on the site is poor and whilst not derelict would require considerable renovation before any re-occupation could commence. There is no reasonable prospect of any community-based group bringing these buildings back into use in the foreseeable future. In this situation the buildings fail the forward-looking test on the future use.
29. Having considered the nomination and the statement from the joint owner, the Panel considers that there is no evidence of any community use of the building and consider that the use of the buildings will not further the social wellbeing and social interests of the local community. It was therefore decided that the nomination should be rejected.

Main implications

30. Legislation requires in the event of a successful nomination that implementation and Legal Charge are registered for the property. This is not required as the nomination has been rejected. The

Council are still required under the legislation to advertise the decision and this will be undertaken on the Council's web site.

31. The legislation also requires that the Land Charges Section of Legal Services need to be advised that the nomination has been unsuccessful. The processes are already established to ensure Land Charges are aware of the decision.

Conclusion

32. The nominee has not provided sufficient evidence that the former RWD Motor Body Repairers, Durham fulfilled the criteria for listing as an Asset of Community Value. In this situation the Panel meeting on the 22nd August 2019 rejected the nomination.

Appendix 1: Implications

Legal Implications:

The decision not to include the former RWD Motor Body Repairers, Durham as an Asset of Value will be published on the Council's web site and the Land Charges Section of Legal Services will be advised that the nomination was not successful.

Finance

None.

Consultation

The Local Members were consulted and no response was received.

Equality and Diversity / Public Sector Equality Duty

None.

Human Rights

None.

Crime and Disorder

None.

Staffing

None.

Accommodation

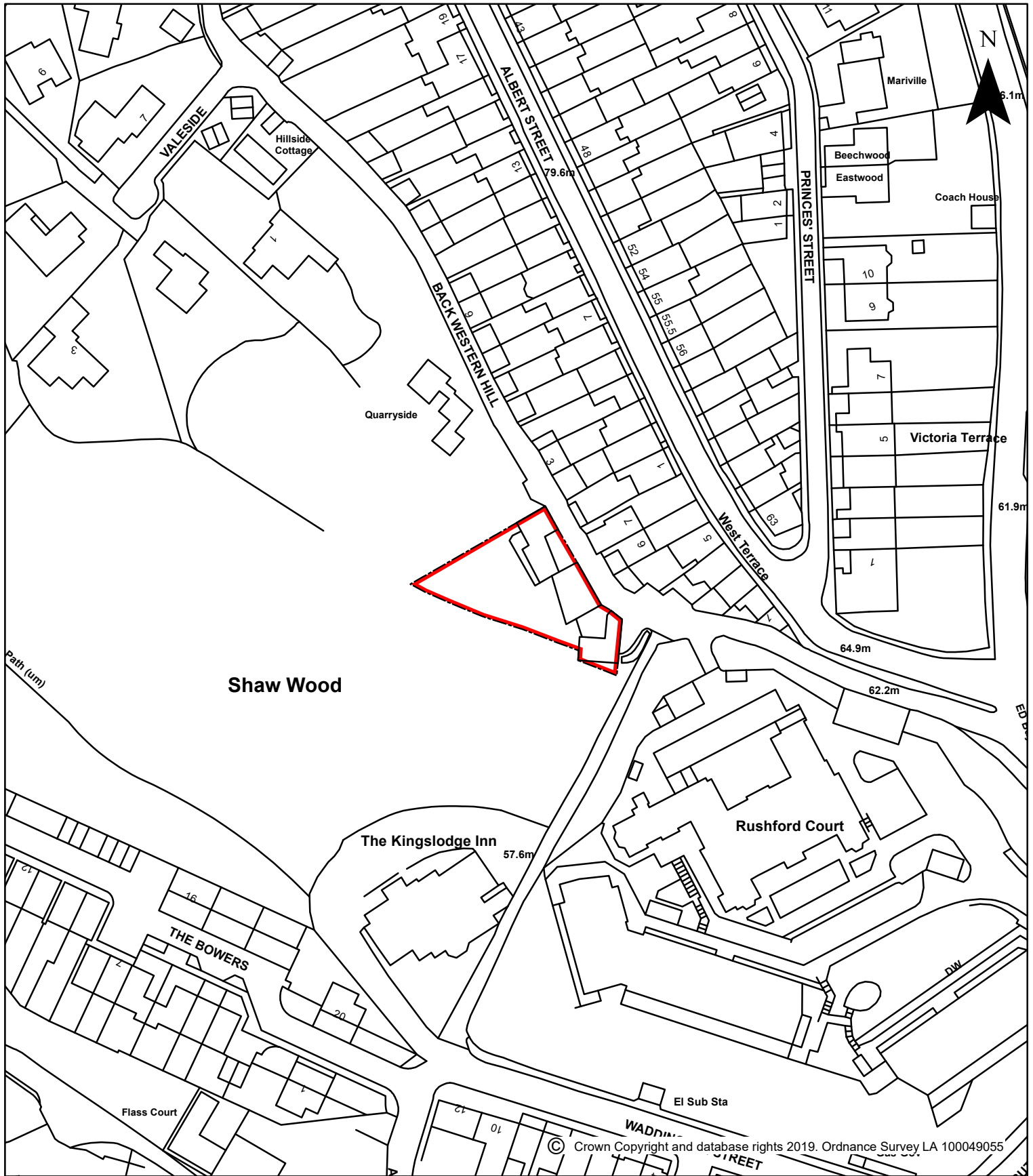
None.

Risk

None.

Procurement

None.



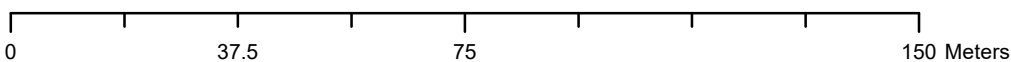
Former RWD Motor Body Repairers - nomination as an Asset of Community Value

Plan Ref : ARC-19-255. Paper Size: A4. Scale : 1:1,250

Total Area Coloured Red : 937.56 m², 0.232 Acres or thereabouts.

Based Upon O.S Map : NZ2642. Date: 29/08/2019.

UPRN : N/A.



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