



Delegated Decision

18th November 2020

Nomination of 9 Garages, Bakehouse Lane, Durham as an Asset of Community Value

Report of: Corporate Property and Land

Susan Robinson, Head of Corporate Property and Land

Electoral division affected:

Elvet and Gilesgate

Purpose of the Report

1. To consider a nomination received from City of Durham Parish Council to list 9 garages at Bakehouse Lane as an Asset of Community Value.

Executive summary

2. A nomination was submitted by the City of Durham Parish Council to list 9 garages at Bakehouse Lane as an Asset of Community Value.
3. The application was considered at the Panel Meeting held on the 9th November 2020.
4. The decision of the Panel was that there was not enough evidence to support the nomination of the 9 garages at Bakehouse Lane as an Asset of Community value.

Recommendation

5. Under the Councils Scheme of Delegations, the Head of Corporate Property and Land has responsibility to authorise an assets formal listing as an Asset of Community Value and it is recommended that power is not exercised to list the 9 garages at Bakehouse Lane as an Asset of Community Value.

Background

6. The Localism Act was enacted in November 2011 and the Assets of Community Value (England) Regulations, which together embodies the Community Right to Bid, were commenced at the same time as the Regulations came into force, both on 21st September 2012.
7. 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.
8. 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.

9. 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
10. 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
11. 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.
12. 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).
13. Unless an exemption applies, the owner will only be able to dispose of the asset after a specified window has expired.
14. 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.
15. 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.
16. 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.
17. 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

18. The Council has received a nomination from City of Durham Parish Council to list 9 garages at Bakehouse Lane, which is shown on the attached plan below, as an Asset of Community Value.
19. The Community Right to Bid Working Group ("the Panel"), which comprises of representatives from Corporate Property and Land, Legal Services and Transformation and Partnerships have considered the application. When making a decision in respect of any application the Council has to give due consideration to the legislative provisions.
20. 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.
21. 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.

22. Having considered the evidence before it, the Panel concluded that the nomination meets the requirements of a community nomination.
23. The Panel then considered whether the nominated land is an asset of community value considering those factors which are relevant to the statutory definition of land of community value.
24. 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.”
25. 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)).
26. Having considered the application, the Panel considers that there is not enough evidence of community use of the garages and consider that use of the garages does not further the social wellbeing and social interests of the local community.
27. It was therefore decided that the nomination should be rejected.

Main implications

28. The legislation requires that, in the event of an unsuccessful nomination, the Council must advertise the decision not to list. This will be undertaken on the Council website.

Conclusion

29. The nominee did not provide evidence that the 9 garages at Bakehouse Lane fulfilled the criteria for listing as an Asset of Community Value. As a result, the Panel meeting on the 9th November 2020 rejected the nomination.

Appendix 1: Implications

Legal Implications:

The decision not to list the 9 garages at Bakehouse Lane as an Asset of Community Value will be published on the Council's web site, as required by the legislation.

Finance

None.

Consultation

The Local Members were consulted.

Equality and Diversity / Public Sector Equality Duty

None.

Climate Change

None

Human Rights

None.

Crime and Disorder

None.

Staffing

None.

Accommodation

None.

Risk

None.

Procurement

None.