

HIGH PEAK BOROUGH COUNCIL

Report to Executive

15 February 2018

TITLE:	Community Right To Bid – Nomination of a Community Asset (The Serpentine Plant Nursery)
PORTFOLIO HOLDER:	Councillor Emily Thrane (Executive Member for Finance and Operational Services)
CONTACT OFFICER:	Mark Forrester, Democratic & Community Service
WARDS INVOLVED:	Corbar

Appendices Attached:

Appendix 1 - Assets of Community Value Assessment Form

Appendix 2 – The Serpentine Nursery – Location Plan attached to the nomination

1. **Reason for the Report:** The Borough Council has received a nomination for the old Council Plant Nursery, Serpentine Walks, off-Burlington Road, Buxton, to be registered as an asset of community value and in accordance with the Council's policy must decide whether to approve or refuse the nomination.

2. **Recommendation**
 - 2.1 To refuse the listing of the old Council Plant Nursery, Serpentine Walks, off-Burlington Road, Buxton as an asset of community value.

3. **Executive Summary**
 - 3.1 The Serpentine Community Farm CIC has made a nomination under the Localism Act 2011 (provisions relating to the community right to bid) for the old Council Plant Nursery, Serpentine Walks, off-Burlington Road, Buxton to be listed by the Council as an asset of community value.

3.2 Officers, following the Council's policy, have assessed the application using the agreed criteria (**Appendix 1: Assets of Community Value Assessment Form**) and make the recommendation to the Executive at 2.1 of the report.

4. **How this report links to Corporate Priorities**

4.1 The community rights measures in the Localism Act 2011 have the potential to support the delivery of the Council's corporate aims and priorities.

5. **Options and Analysis**

5.1 That the nomination is not approved (recommended).

5.2 That the nomination is approved (not recommended).

6. **Implications**

6.1 Community Safety - (Crime and Disorder Act 1998)

No implications.

6.2 Workforce

No implications.

6.3 Equality and Diversity/Equality Impact Assessment

No implications.

6.4 Financial Considerations

No implications.

6.5 Legal

The Council is required under the Localism Act 2011 to consider nominations from eligible organisations to register land/property as an asset of community value. The Council has a Community Right to Bid Policy (approved in December 2012) which sets out the process the Council will follow.

6.6 Sustainability

No implications.

6.7 Internal and External Consultation

Ward councillors have been informed about the nomination. No further matters have been raised by the other ward councillor. Councillor Kemp has declared an interest in the matter and taken no part in its consideration.

6.8 Risk Assessment

Owners of properties listed by the Council can appeal against the decision of the Council to list their property as an asset of community value and, if successful, recover their costs. There are no provisions in the Localism Act for the nominating organisation to appeal a decision to refuse their nomination.

7. **Background and Detail**

- 7.1 The Community Right to Bid provides a mechanism for parish councils and voluntary bodies to request that buildings and/or land in their community is registered with the Council as an 'Asset of Community Value'. The owner of any land and buildings registered with the Council is then required to inform the Council of their intention to dispose of these assets. Should eligible organisations express an interest in acquiring the land or buildings a moratorium on the sale is triggered during which time community groups or parish councils can seek to raise funds to make a bid to purchase the asset. The right does not restrict in any way decisions by the owner of a listed asset about whom they can sell their property to, or at what price, and they do not confer on parish councils or voluntary bodies a right to buy. In 2015 the Government provided additional protection for property registered as an Asset of Community Value by removing permitted development rights such that planning permission is required if an owner wishes to demolish or change the use of a registered property.
- 7.2 The Council received a nomination on 7th December 2017 from the Serpentine Community Farm CIC requesting that the old Council Plant Nursery, Serpentine Walks, off-Burlington Road, Buxton should be listed as an Asset of Community Value under the community right to bid measure of the Localism Act 2011 (Part 5 Chapter 3: Assets of Community Value).
- 7.3 The land is identified on the attached map (**Appendix 2**).
- 7.4 Officers have assessed the nomination (**Appendix 1**) and confirm that:
 - 7.4.1 The Serpentine Community Farm CIC is eligible to make the nomination.
 - 7.4.2 The land and buildings are not exempt from listing.
 - 7.4.3 Part of the nominated property has been used in the recent past and currently is used to further the social well-being and social

interests of the local community (as defined by the Localism Act 2011) and this use is not ancillary.

Significantly part of the nominated property has not been used to further the social well-being or social interests of the local community and was included in the nomination because the Serpentine Community Farm CIC would like to extend its activities.

It is not clear in the Localism Act how to treat the nomination of a property where part but not all of the nomination meets this criterion for listing. The options would appear to be to either refuse the whole nomination or accept the nomination but exclude the area which does not meet the criteria.

- 7.4.4 The final consideration is whether it is realistic to think that the building or land will continue to be used in a way which will further the social well-being and social interests of the community within the next 5 years.

The Serpentine Community Farm CIC occupies a portion of the old Plant Nursery under a temporary licence which can be ended with two weeks notice. The owner, High Peak Borough Council, is considering the disposal of the whole site. It is considered not to be realistic to think that the owner will dispose of the site in lots based on the current internal site boundary lines.

It is, therefore, considered unrealistic to think that the land will continue to be used in a way which furthers the social interests or social well-being of the community.

- 7.5 Accordingly, the Council's officers have assessed that the criteria for listing have not been met and recommend that the old Council Plant Nursery, Serpentine Walks, off-Burlington Road, Buxton should not be listed as an Asset of Community Value.

Mark Trillo

Executive Director (People) and Monitoring Officer

**Web Links and
Background Papers**

Location

Contact details