Assets of Community Value
Decision to list / not list

Property	**Newholme Hospital, Baslow Road, Bakewell DE45 1AD**
Listing Officer	**Tim Braund, Head of Regulatory Services**
Decision	**That Newholme Hospital should not be listed as an Asset of Community Value**
Date of Decision	**14 December 2016**

1. Relevant Legislation

Chapter 3, Part 5 of the Localism Act 2011 and the Assets of Community Value (England) Regulations 2012.

2. List of Documents reviewed

Document	Date
Community Right to Bid Nomination Form from Newholme Hospital Support Group	25 October 2016
Map showing the boundary of the asset, provided by the applicant	25 October 2016
Evidence from Land Registry	25 October 2016
Constitution of Newholme Hospital Support Group	25 October 2016
Newholme Hospital Support Group Register of Members	25 October 2016
Plan of Newholme Hospital Site provided by DCHS	17 November 2016
Letter from Bevan Brittan Solicitors	7 December 2016
Site Location Plan provided by Bevan Brittan Solicitors	7 December 2016
Review Decision in respect of Saffron Walden Community Hospital	7 December 2016
Review Decision in respect of Old Malvern Community Hospital	7 December 2016
Public Access Plan provided by Bevan Brittan Solicitors	7 December 2016

3. Description of Asset

3.1 Newholme Hospital is a community hospital facility located to the east side of Baslow Road to the north of the town of Bakewell. It consists of a group of buildings that provide a number of patient based and associated services and administrative services for Derbyshire Community Health Services NHS Foundation Trust (DCHS).

3.2 The hospital site is owned by NHS Property and leased to DCHS. This situation has arisen from a 2013 Department of Health decision that non-acute health assets should be transferred from Trusts to NHS Property if less than 50% of services operated from the site were clinical in nature. As such DCHS is now the majority tenant at Newholme Hospital.

3.3 As described to the Listing Officer there are 18 operational areas on site as shown on the plan provided by DCHS. These are:

- Garages – these provide garage accommodation;
- North Lodge – this building is used for administrative purposes;
- South Lodge – this building is used for administration and training purposes;
- Gas Meter House – this area contains the gas meters;
- Ashford Therapy – this building is used for outpatient physiotherapy;
- Derwent Rural Counselling – this building is occupied by Derwent Rural Counselling Services who provide outpatient counselling;
- Engineers – this area is used as a workshop and store;
- Unison – this is an administrative area;
- Crossroads – this area is sublet to an organisation that cares for carers;
- Laundry – this building is used to provide laundry services to the site;
- Block 1 (Front Block) – the majority of this building is used for administrative purposes. It also contains outpatient facilities for Derbyshire Mental Health Care services and the kitchen and canteen;
- Block 4 (Rowsley) – contains approximately 10 inpatient beds;
- Block 3 (Stanton) – this is a rehabilitation ward for older people;
- Block 2 (Riverside) – contains a Day Centre for people suffering with dementia;
- Lathkill House – is used for training;
- Generator Block – contains a generator;
- Block 5 (Wye House) – this area provides office space;
- Top Buildings (not shown on DCHS plan, but above Blocks 3 and 4) – this area is not patient facing.

4. Considerations

4.1 Does the applicant meet the criteria set down in the regulations?
4.2 Test of whether land is land of community value
4.3 Comments from Ward Member and property owner

5. Findings

5.1 Validity of application:

A nomination form to list Newholme Hospital, Baslow Road, Bakewell as an Asset of Community Value was received on 25 October 2016 from the applicant, Newholme Hospital Support Group.

The Listing Officer has considered the information provided within the nomination form in accordance with Regulation 6 of the Asset of Community Value (England) Regulations 2012 ("the Regulations"). The Listing Officer is satisfied that the applicant has provided information to meet the following criteria;

(a) Does the nomination contain a description of the nominated land including its proposed boundaries?

The Nomination Form states that the application relates to 'Building'. A plan was submitted to denote the area nominated with a line. The Listing Officer has made further enquiries with the applicant and confirmed that the nomination relates to the whole area of the premises and not just to the building. As such the nomination includes all the buildings listed in section 3 above and the land in between. The Listing Officer considers that this requirement was satisfied.

(b) Does the nomination contain a statement of all the information which the nominator has with regard to—
(i) the names of current occupants of the land, and
(ii) the names and current or last-known addresses of all those holding a freehold or leasehold estate in the land;

The Listing Officer is satisfied that the nominator has provided sufficient information with regard to those with an interest in the land by virtue of the submissions provided on the nomination form. This was supplemented through the provision of a Land Registry search.

(c) Does the nomination contain the nominator's reasons for thinking that the responsible authority should conclude that the land is of community value; and

The nominator has provided a statement setting out the reasons why it believes the asset should be nominated. These are:

- Newholme Hospital provides a local resource rehabilitating patients discharged from the Royal Hospital, Chesterfield and enabling them to return home;
- The Hospital provides outpatient facilities which means that local people do not have to travel long distances to attend clinics

(d) Is there evidence that the nominator is eligible to make a community nomination?

The nominator is stated as being the Newholme Hospital Support Group and was submitted by the secretary to the Group. Regulation 5(1)(c) of the Assets of Community Value (England) Regulations 2012 states that an unincorporated body whose members include at least 21 individuals and which does not distribute any surplus it makes to its members is a 'voluntary or community body' for the purpose of section 89(2)(b)(iii) of the Localism Act 2011.

The nominator has confirmed that the Group consists of more than 21 members who live locally and has submitted a list of membership to support this claim. He has also confirmed that the Group does not charge for membership and as such does not make any surplus. As such the Listing Officer is satisfied that the nominator is eligible to make a community nomination.

5.2 Test of whether land is of community value:

(a) Is the land exempt from the regulations?

Under Regulation 3 and Schedule 1 of the Assets of Community Value (England) Regulations 2012/2421, the following land cannot be listed:

- Residential land
- Sites which require a caravan licence
- Operational land under s263TCPA 1990.

Whilst there are inpatient beds at Newholme Hospital it is clear that it does not provide residential accommodation. There are no caravans on site and therefore the site does not require a caravan licence. The land is not operational land under section 263 of the Town and Country Planning Act, which relates to land used for the operations of statutory undertakers.

Consequently the land is not exempt from the Regulations.

(b) **Does the building or other land have an actual current use, that is not an ancillary use, that furthers the social wellbeing or social interests of the community?**

A site visit was undertaken by the Listing Officer on 17 November 2016 at approximately 14:30. The premises were open at that time and for certain of the operations undertaken on site the premises are open 24/7.

"Social interests" is defined to include cultural, recreational and sporting interests. The applicant has submitted several reasons why he believes that the Newholme Hospital should be listed as an asset of community value. These are that the Hospital provides a local resource rehabilitating patients discharged from the Royal Hospital, Chesterfield and enabling them to return home; and The Hospital provides outpatient facilities, which means that local people do not have to travel long distances to attend clinics.

However, Bevan Brittan, Solicitors acting for NHS Property Services have set out an alternative view that healthcare facilities should not be caught be the assets of community value legislation as, in their opinion, they do not genuinely contribute to the cultural, recreational and sporting interests of the community. They have also set out their view that "social wellbeing" relates to the interaction and relationships with others within a community. They believe that as a health care facility the Hospital should not be listed as it does not play a vital role in the community life of the area. In support of their opinion they have directed me to two Review Decisions: Saffron Walden Community Hospital and Old Malvern Community Hospital, both of which came to the conclusion that the facilities should not be listed for the reasons outlined above.

I have considered all these matters carefully and obtained legal advice on their accuracy. The legal advice available to me agrees with the view put forward by Bevan Brittan in that Derbyshire Dales District Council's Senior Solicitor states as follows:

'It is difficult to reconcile how a health care provision can further the 'social wellbeing' and 'social interests' of the local community when the main function of Newholme hospital is to provide operational health care provisions and facilities. It does not serve a vital social purpose for the local community. Further, the nominator has not provided any evidence to enable the authority to 'realistically' think that there can continue to be a non-ancillary of the building which will further the social wellbeing or social interests of the local community.'

Taking all of the above into account it is my opinion that Newholme Hospital does not play a role in promoting cultural, recreational or sporting interests and as such does not meet the test that it furthers the social interests of the community. Whilst the list of activities is not exhaustive I agree with the principle that since the activities listed are primarily leisure ones it follows that only similar activities would fall within the definition of "social interests".

There is no statutory definition of "social wellbeing". However, the Plain English Guide to the Act cites buildings or amenities that play a vital role on community life and lists as examples community centres, libraries, swimming pools, village shops, markets or pubs. The list does not include health care facilities.

Therefore I am of the opinion that there is no evidence that Newholme Hospital has an actual current use, that is not an ancillary use that furthers the social wellbeing or social interests of the community.

Is it 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?

In this case the question as to whether it is realistic to think that the Land could continue to further the social wellbeing or social interests of the community does not arise as such a use does not currently exist.

5.3 Comments from Ward Members and owner:

The Ward Members have made no comment in relation to this application.

Bevan Brittan, solicitors acting on behalf of the owners of Newholme Hospital and the associated land have made representation about the application. Their representation has been summarised in section 5.2(b) above.

6 Decision

For the reasons set out above, I conclude that Newholme Hospital should not be listed as an Asset of Community Value and that it should be entered into the list of unsuccessful nominations maintained by Derbyshire Dales District Council.