

**Meeting: Cabinet**

**Date: 24 March 2020**

**Wards Affected: Furzeham and Summercombe**

**Report Title: Determination of Application to list the Former Police Station at Bolton Cross, Brixham (now Brixham Museum) as an Asset Of Community Value**

**Is the decision a key decision? Yes**

**When does the decision need to be implemented? 16 April 2020**

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**Supporting Officer Contact Details: James Oram**, Senior Lawyer, phone no. 01803 207286, email james.oram@torbay.gov.uk

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## **1. Proposal and Introduction**

- 1.1 An application to list the Former Police Station at Bolton Cross, Brixham (now Brixham Museum) as an Asset of Community Value has been received from Brixham Heritage and Museum Society and must be determined by the Cabinet in accordance with the requirements of the Localism Act 2011 and the Assets of Community Value (England) Regulations 2012
- 1.2 The application has been considered by Officers who recommend approval of the above application and the listing of property as an ACV.

## **2. Reason for Proposal and associated financial commitments**

- 2.1 Following receipt of a community nomination for land to be listed as an ACV, a local authority must reach a decision whether or not to list nominated land within eight weeks of receiving the nomination:
- 2.2 The proposals contained in this report will potentially commit the Council financially in respect of: Potential Compensation payments; if an owner or former owner of land listed or previously listed as an ACV incurs loss or expense that it is likely they would not have incurred had the land not been listed as an ACV, they may be able to claim compensation under regulation 14 of the ACV Regulations 2012.

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## **3. Recommendation(s) / Proposed Decision**

To list the Former Police Station in the Council's list of assets of community value before 16 April 2020.

## Appendices

Appendix 1: Application to include the Former Police Station at Bolton Cross, Brixham as an Asset of Community Value received from Brixham Heritage and Museum Society

### Background Documents

Torbay Council Assets of Community Value Policy:-

<https://www.torbay.gov.uk/planning-and-building/land-charges/assets-of-community-value/>

### Report Clearance

<b>Report clearance:</b>	<b>This report has been reviewed and approved by:</b>	<b>Date:</b>
Chief Executive	Steve Parrock	
Monitoring Officer	Anne-Marie Bond	
Chief Finance Officer	Martin Phillips	
Relevant Director/Assistant Director	Anne-Marie Bond	

## Section 1: Background Information

<b>1.</b>	<b>What is the proposal / issue?</b>  To consider listing The Former Police Station as an Asset of Community Value
<b>2.</b>	<b>What is the current situation?</b>  The Former Police Station is not currently listed as an Asset of Community Value.  A community interest group (the Brixham Heritage and Museum Society), have made an application for a new listing to protect the asset for the next 5 years.  A community asset is a local building or piece of land which the community considers to be of particular value to the local community. Section 88 of the Localism Act 2011 sets out the definition of a community asset. Land or a building will be considered of community value if in the opinion of the Council if: <ul style="list-style-type: none"><li>• 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</li><li>• it is realistic to think that now or in the next 5 years there could continue to be a primary use of the building/land which will further (whether or not in the same way) the social, well-being or social interests of the local community.</li></ul> From the information contained in the application to list the property as an ACV (particularly see numbered pages 8 and 9 of the application form), it is considered the above test has been satisfied and that the property should be included in the Council's list of ACVs.
<b>3.</b>	<b>What options have been considered?</b>  Having received a valid application the only other option would be to refuse to list the asset as an Asset of Community Value.
<b>4.</b>	<b>What is the relationship with the priorities within the Partnership Memorandum and the Council's Principles?</b>  The protection of Assets of Community Value supports the Partnership's priority of 'Thriving People and Communities'. The protection of this particular

	asset also supports the Partnership's priority of 'A Thriving Economy' given the additional income generated in Brixham by visitors to the museum.
5.	<p><b>How does this proposal/issue contribute towards the Council's responsibilities as corporate parents?</b></p> <p>N/A</p>
6.	<p><b>How does this proposal/issue tackle poverty, deprivation and vulnerability?</b></p> <p>N/A.</p>
7.	<p><b>How does the proposal/issue impact on people with learning disabilities?</b></p> <p>N/A, no differential impact</p>
8.	<p><b>Who will be affected by this proposal and who do you need to consult with? How will the Council engage with the community? How can the Council empower the community?</b></p> <p>The Council, being the freehold owner of the building is the only party directly affected by the proposals. The Council's solicitor has sought the views of the local community partnership and Ward Members for Furzeham and Summercombe and the nearby St Peters with St Marys.</p>

## Section 2: Implications and Impact Assessment

<b>9.</b>	<p><b>What are the financial and legal implications?</b></p> <p>The proposals contained in this report will potentially commit the Council financially in respect of: Potential Compensation payments; if an owner or former owner of land listed or previously listed as an ACV incurs loss or expense that it is likely they would not have incurred had the land not been listed as an ACV, they may be able to claim compensation under regulation 14 of the ACV Regulations 2012. However, in order to claim such compensation the claimant will need to prove and demonstrate their actual loss so the likelihood of such claims is low.</p> <p>The legal effect of listing the property as an ACV is set out in the Torbay Council Assets of Community Value Policy:- <a href="https://www.torbay.gov.uk/planning-and-building/land-charges/assets-of-community-value/">https://www.torbay.gov.uk/planning-and-building/land-charges/assets-of-community-value/</a></p>
<b>10.</b>	<p><b>What are the risks?</b></p> <p>If the Council does not determine the application before 16 April 2020 it will be in breach of its statutory duty to do so. This would leave the Council vulnerable to a potential ombudsman complaint.</p> <p>If the Council register the property as an ACV in circumstances where it should not have done so, then the owner is entitled to appeal and may potentially recover the costs incurred in a successful appeal.</p> <p>If the Council decides not to list the property as an ACV in circumstances where it should have done so, there is no right of appeal. The only remedy available to an aggrieved applicant would be by way of judicial review.</p>
<b>11.</b>	<p><b>Public Services Value (Social Value) Act 2012</b></p> <p>N/A – the Council is not procuring any goods or services in relation to this decision</p>
<b>12.</b>	<p><b>What evidence / data / research have you gathered in relation to this proposal?</b></p> <p>The evidence supporting the application for listing is sufficient to demonstrate that the current use of the property is of community value. No evidence has been received to contradict this position.</p>

13.	<b>What are key findings from the consultation you have carried out?</b>  No comments or representations received as at the date of this report
14.	<b>Amendments to Proposal / Mitigating Actions</b>  N/A

## Equality Impacts

15.	Identify the potential positive and negative impacts on specific groups			
		Positive Impact	Negative Impact & Mitigating Actions	Neutral Impact
	Older or younger people			No differential impact
	People with caring Responsibilities			No differential impact
	People with a disability			No differential impact
	Women or men			No differential impact
	People who are black or from a minority ethnic background (BME) <i>(Please note Gypsies / Roma are within this community)</i>			No differential impact
	Religion or belief (including lack of belief)			No differential impact
	People who are lesbian, gay or bisexual			No differential impact
	People who are transgendered			No differential impact
	People who are in a marriage or civil partnership			No differential impact
	Women who are pregnant / on maternity leave			No differential impact

	Socio-economic impacts (Including impact on child poverty issues and deprivation)	The presence of tourist attractions brings income into the local economy due to visitors spending money in the local area	
	Public Health impacts (How will your proposal impact on the general health of the population of Torbay)		No differential impact
<b>16.</b>	<b>Cumulative Impacts – Council wide</b> (proposed changes elsewhere which might worsen the impacts identified above)	None	
<b>17.</b>	<b>Cumulative Impacts – Other public services</b> (proposed changes elsewhere which might worsen the impacts identified above)	None	