

	<p align="center"><b>Community Leadership Committee (23<sup>rd</sup> May 2018)</b></p>
<p align="right"><b>Title</b></p>	<p><b>Community Right to Bid: Incognito Theatre, Holly Park Road, N11 3HB</b></p>
<p align="right"><b>Report of</b></p>	<p>Katie Mayers, Interim Assistant Director Communications and Strategy</p>
<p align="right"><b>Wards</b></p>	<p>Coppetts</p>
<p align="right"><b>Status</b></p>	<p>Public</p>
<p align="right"><b>Urgent</b></p>	<p>Yes There is an 8-week statutory timescale to respond to Community Right to Bid nominations, starting from the date the Council receives the nomination. The nomination for Incognito Theatre was received on 8<sup>th</sup> April 2018, making the deadline for a decision 3<sup>rd</sup> June 2018.</p>
<p align="right"><b>Key</b></p>	<p>No</p>
<p align="right"><b>Enclosures</b></p>	<p>Plan of nominated asset</p>
<p align="right"><b>Officer Contact Details</b></p>	<p>Danusia Brzezicka, Strategy Officer, Community Participation (<a href="mailto:danusia.brzezicka@barnet.gov.uk">danusia.brzezicka@barnet.gov.uk</a> 020 8359 3211)</p>

## Summary

The Localism Act 2011 introduced the Community Right to Bid (“CRTB”). Under section 87 of the Act the Council must maintain a list of land of community value in its area. A building or other land is of community value if in the Council’s opinion there is an actual current use of the building or other land, and 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.

This a new right for local people to nominate buildings or pieces of land that they believe contribute to the social interests or wellbeing of their local communities to be listed on a register of Assets of Community Value (“ACVs”), managed by the local authority.

Where land is listed as an ACV, if the owner subsequently wishes to make a 'relevant disposal' (to sell the asset or grant a qualifying lease, which is one originally granted for a 25 year term) they must notify the local authority. This triggers an interim moratorium period of six weeks, during which time the nominating group, or any other community group can register interest in putting together a bid for the asset. If a community group registers interest, this triggers a full moratorium period of six months, during which time the owner may not make a relevant disposal of the asset, except to a community group. The moratorium is intended to allow community groups the time to develop a proposal and raise the required capital to bid for the asset when it comes onto the open market at the end of that period. The owner is under no obligation to accept a bid from a community group and can sell the property to whomever they wish once the six month moratorium is over. However, if the asset is not disposed of within 18 months from the commencement of the interim moratorium period, then the moratorium period is re-triggered (12 months from the end date of the first moratorium period).

In order to decide whether to list an asset as an ACV, the Act provides that the Council must consider whether the nomination has come from a group eligible to make a nomination, as defined in the legislation; and whether the current or recent main use of the nominated asset contributes to the social wellbeing or social interests (defined as 'cultural, recreational or sporting interests') of the local community, and whether it is realistic to think it will continue to do so in the next 5 years (whether or not the use remains exactly the same).

A nomination has been received from Chris Mason on behalf of the group to list the **Incognito Theatre, Holly Park Road, N11 3HB** (Coppetts ward) as an Asset of Community Value. **This report recommends that the asset is listed as an Asset of Community Value.**

**The nomination is an eligible nomination.** The Localism Act 2011 and the Assets of Community Value Regulations ("ACV Regulations") provides that in order to be eligible, the nomination must be made by a community organisation or group which qualifies under the Act to make the nomination. The Incognito Theatre is an established registered charity, and qualifies as a community group under regulation 5 (1) d of the ACV Regulations.

The nomination describes uses that further social interest, that their local members provide maintenance work in the theatre, in the garden as well as the backstage work for the theatre. The theatre also provides a "Monday Club" throughout year. Theatres exist to provide for the recreational interests of the community, so it is reasonable to think that **the main use of the assets furthers the social wellbeing and social interests of the community.** There are currently no known plans to close the theatre, and the nomination states it is popular locally and has regular local customers, suggesting continued viability and demand. **It is realistic to think that use of the asset will continue to contribute to the social wellbeing and social interests of the community.**

Evidence was requested to verify the above mentioned activities and this was provided by the nominating group. The theatre's website and social media presence also provided evidence that regular performances were undertaken aimed at the local community and performed at the theatre. Taken together, it was deemed that there is sufficient evidence to meet the statutory requirements as the main use of the asset contributes to the social interests or wellbeing of the local community.

## **Recommendations**

**That the Committee agree that the Incognito Theatre should be listed as an Asset of Community Value and added to the Council's Register, based on the statutory criteria set out in the Localism Act 2011, and the evidence provided in the nomination.**

### **1. WHY THIS REPORT IS NEEDED**

#### **The Community Right to Bid**

- 1.1 The Localism Act 2011 ("the Act") introduced a new right for groups of local people to nominate buildings or pieces of land which contribute to the 'social wellbeing or social interests' of their local communities to be listed on a register of Assets of Community Value ("ACVs"), which the local authority is required to maintain.
- 1.2 Nominations can apply to public or private assets, although certain kinds of asset (such as private homes) are exempt.
- 1.3 The Act provides that in order to decide whether to list a nominated asset as an ACV, the Council must consider whether the main use of the asset contributes to the social interests or wellbeing of the local community, and whether it is realistic to think it will continue to do this (whether or not the use remains exactly the same).
- 1.4 The Act defines social interests as 'including cultural, recreational, and sporting interests'. There is no further definition.
- 1.5 The Act provides that land in a local authority's area which is of community value may be included by a local authority in its register of ACVs only:
  - (a) in response to a community nomination, or
  - (b) where permitted by regulations made by the appropriate authority.
- 1.6 In England a community nomination can be made by a parish council or by a voluntary or community body with a local connection as defined in the Assets of Community Value Regulations 2012 ("the Regulations").
- 1.7 The statutory tests which the Council must apply when assessing a nomination are:
  - (i) Its main use furthers the social wellbeing or cultural, recreational or sporting interests of the local community; and it is realistic to think that the main use will continue to further the social wellbeing or cultural, recreational or sporting interests of the local community; or,

(ii) Where the main use does not currently have such a community benefit, in the “recent past” it did have and the Council considers it likely that it would be able to have such a use in the next 5 years.

(iii) That the nomination is a community nomination made by a community or voluntary organisation or group which qualifies under the Act to make the nomination.

- 1.8 Where either criterion i) or ii), and criterion iii) of the above is met, the Council must list the land or building on its register of Assets of Community Value.
- 1.9 If the Council lists the nominated land, a restriction is placed on the land if the land is registered. If the owner wishes to sell the asset or to lease it for more than 25 years, then the owner is legally obliged to notify the Council (if the asset is not owned by the Council). The Council will then inform the nominating group which signals an interim moratorium period of six weeks where the nominating group or any other eligible community group may register an interest in bidding for the asset. If during the six weeks a local community group expresses an interest in taking on the asset and continuing its community use, then a full moratorium is triggered and the sale is delayed for a six month period. This is designed to give the community group the opportunity to raise funds to try to purchase the asset at market value.
- 1.10 The owner is under no obligation to accept the community group’s bid over any other bid. There is no ‘right of first refusal’ for the community group, only the right to request the moratorium. The owner is free to work with other potential buyers and stimulate the wider market during the moratorium and at the end of the moratorium period can sell to any party. However, if the asset is not disposed of within 18 months from the commencement of the interim moratorium period, then the moratorium period is re-triggered (12 months from the end date of the first moratorium period).
- 1.11 If an asset is listed as an ACV, the asset owner has the right to appeal against this, initially through the Council’s internal review process and subsequently through an appeal to the First Tier Tribunal.
- 1.12 If an asset is not listed, the Council must communicate its reasoning to the nominating group but the nominating group has no right to appeal against the decision.

### **Recent policy developments**

- 1.13 The Government is currently reviewing the Right. The review is on-going and there is no closing date as it is not a formal consultation. The Council has contributed to the review as an interested party.
- 1.14 A Communities and Local Government Select Committee report published on 3 February 2015 recommended that the review of the Right should increase the moratorium on sale or lease of an ACV to nine months, as well as creating statutory obligations for ACV status to be considered as a material

consideration in planning matters. These recommendations have not yet been accepted by the Government but will feed into the review.

### **Nomination of Incognito Theatre**

- 1.15 The Incognito Theatre Group, a registered charity has nominated the Incognito Theatre, Holly Park Road, N11 3HB. The enclosed plan sets out the boundaries of the nominated asset.
- 1.16 The Incognito Theatre is currently owned by Barnet Council and is leased to the nominator. The landlord has been notified that this nomination is currently under consideration.
- 1.17 The nominating group considers that the main current use of the building furthers social wellbeing and interests of the community on the grounds that:
- It is the social centre of the local community and is regarded as a hidden gem bringing a splash of culture to Friern Barnet and the surrounding area.
  - It comprises a friendly, lively and active membership of about 130 members, staging 6 productions of 8 performances each a year to approximately 3,000 local theatre goers.
  - The group has been going for 70 years in this building and has a good reserve of talent and goodwill that is expected to grow.
  - The building and not diminish within it's well equipped 64 seat theatre. They are committed to staying in the building and to continuing their activities with plans to improve the access to the upper floors with a staircase based on modern regulations and to improve facilities for performers that may have disabilities.
  - The group participates in the annual Barnet and District Drama
  - The Charity aims to make high quality live theatre accessible to local actors, back-stage crew, technicians, directors, designers, writers and audiences and so enrich their lives and benefit the community generally.
  - The productions are open to the public regardless of religion, ethnic group, social status, political belief, gender or age.
  - The building provides theatrical entertainment to the local area and an outlet for creative performing arts to those on or off stage. There are some members with special needs and the theatre provides a form of therapy and company for those who are bereaved or otherwise missing the world of work post retirement.
  - Tickets for the performances are sold at £9 for the general public and these are discounted by a pound to theatre club members. The prices are priced to be reasonable and deliberately affordable.
- 1.18 There are no known plans to close the theatre.

### **Application of statutory tests as set out in the Localism Act 2011**

#### *Main use of asset furthers social wellbeing or social interests of community*

- 1.19 The legislation sets a broad and loose definition of 'social wellbeing and social interests'. The activities listed at paragraph 1.17 are sufficient to demonstrate that a number of uses of the asset fall within the definition of 'cultural, recreational, and sporting interests'.

- 1.20 Use of the asset to contribute to the social wellbeing and social interests of the community may be considered the main rather than ancillary use because a theatre by nature exists to provide for the cultural, recreational and sporting interests of the community and it may be assumed the activities listed at paragraph 1.17 are the main activities carried out on the premises.
- 1.21 There are no known plans to close the theatre and evidence of continued demand and viability, which means it is realistic to think the main use of the asset will continue to further social wellbeing and social interest of the community.
- 1.22 Taken together, points 1.19-1.21 establish that criterion (i) of the statutory tests set out in paragraph 1.7 above have been met. The main use of the building does further the social wellbeing or social interests of the community and it is realistic to expect that it will continue to do so.

*The nomination is eligible*

- 1.23 The Incognito Theatre Group has made its nomination as an established charity (a status which qualifies to make nominations under the ACV Regulations).
- 1.24 The criteria also asks confirmation of the registered charity number, provided as 1102558.
- 1.25 Criterion (i) of the statutory tests set out in paragraph 1.23 above has been met.

**2. REASONS FOR RECOMMENDATIONS**

- 2.1 The nomination of the Incognito Theatre meets the statutory tests established by the Localism Act 2011 to be considered an Asset of Community Value. The recommendation is, therefore, that the Committee lists the Incognito Theatre as an Asset of Community Value.

**3. ALTERNATIVE OPTIONS CONSIDERED AND NOT RECOMMENDED**

- 3.1 The Community Leadership Committee could decide not to list the Incognito Theatre as an ACV, but on balance it is judged that the nomination provides sufficient evidence that the statutory criteria set out in the Localism Act 2011 have been met. If the Committee is in agreement with this judgment, the Council must list the nominated asset as an ACV.
- 3.2 An owner has the right to appeal if they feel that their asset has been wrongly listed.

#### **4. POST DECISION IMPLEMENTATION**

- 4.1 The Incognito Theatre will be recorded on the Register of Assets of Community Value as an ACV. Both the nominating group and the owner of the property will be informed, in writing, of the outcome.

#### **5. IMPLICATIONS OF DECISION**

##### **5.1 Corporate Priorities and Performance**

- 5.1.1 The Community Right to Bid process contributes to the 2015-2020 Corporate Plan's objective to develop a new relationship with residents that enables them to be independent and resilient and to take on greater responsibility for their local areas by fulfilling one of the rights granted to local communities under the Localism Act 2011.

##### **5.2 Resources (Finance & Value for Money, Procurement, Staffing, IT, Property, Sustainability)**

- 5.2.1 The asset does belong to the Council and there are no financial implications to this decision.

##### **5.3 Social Value**

- 5.3.1 There are no social value considerations as this decision does not relate to a service contract.

##### **5.4 Legal and Constitutional References**

- 5.4.1 The Localism Act 2011 obligates the Council to list assets nominated by local community groups as Assets of Community Value if these are deemed to pass the statutory tests set out in the Act. The ACV regulations sets out the procedure to be followed in assessing a nomination.
- 5.4.2 Under the Council's Constitution (Article 7 Committees, Forums Working Groups and Partnerships, section 7.5) the responsibilities of the Community Leadership Committee include: To receive nominations and determine applications for buildings/land to be listed as an Asset of Community Value (Community Right to Bid).
- 5.4.3 When there is no scheduled meeting of the full Committee which falls within the eight week statutory deadline for determining applications the Community Leadership Sub-Committee receives the nominations and determines the

applications.

## **5.5 Risk Management**

5.5.1 There are no risks associated with the decision to list the Incognito Theatre as an ACV.

## **5.6 Equalities and Diversity**

5.6.1 No negative differential impact on people with any characteristic protected under the Equality Act 2010 has been identified with regard to this nomination.

5.6.2 Under section 149 of the Equality Act 2010, the council and all other organisations exercising public functions must have due regard to the need to:

- eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by or under the Act;
- advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- foster good relations between persons who share a relevant protected characteristic and persons who do not share it

The relevant protected characteristics are age; disability; gender reassignment; pregnancy and maternity; race, religion or belief; and sex and sexual orientation. The broad purpose of this duty is to integrate considerations of equality into daily business and keep them under review in decision making; the design of policies; and the delivery of services.

## **5.7 Corporate Parenting**

5.7.1 As a Local Authority we have responsibility for the children in care and care leavers within our borough. Corporate Parenting is about offering at least the same standards of care as would a 'reasonable parent' and ensuring that the decisions we make as a Council do not affect this cohort negatively. This report does not provide any implications for Barnet's children in care.

## **5.8 Consultation and Engagement**

5.8.1 A draft amendment to the Council's Community Right to Bid policy was carried out between 11 February and 24 March 2014. The results of that consultation were set out in a report taken to the Community Leadership Committee on 25 June 2014 and the Council's guidance on the Community Right to Bid amended following agreement of that report.

5.8.2 More specifically, the nominating group has been engaged in dialogue as part of the process of administering the nomination, and given opportunities to submit evidence to support their claim.

## **5.8 Insight**

5.8.1 No specific insight data has been used to inform the decision required.

## 6. BACKGROUND PAPERS

- 6.1 Community Right to Bid: Consultation and recent developments (Community Leadership Committee, 25 June 2014)  
<http://barnet.moderngov.co.uk/documents/s15687/Community%20Right%20to%20Bid%20Report.pdf>.

### Appendix 1 – Supporting evidence





Patron: Sir David Jason OBE

# incognito theatre

“ A hidden gem bringing a splash of culture to Friern Barnet... ”

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### Welcome to Incognito Theatre

We hope you enjoy finding out about us and our productions.

As a theatre group we started life in 1938 and since 1948 we have been running our own well equipped 84 seat theatre in Friern Barnet, North London.

We have a friendly, lively and active membership of about 130 members and stage 6 productions a year to a consistently high standard.

We participate in the annual Barnet and District Drama Festival and have won many awards for our productions.

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### Box Office

You can book tickets for our **next show** in any one of three ways:

- 1 On-line:** The most convenient way to book tickets is on-line via our [TicketSource Website](#). After selecting your chosen performance, you will be invited to choose your seats from the seating plan. Payment is made by credit card and includes a 10% booking fee.
- 2 Email:** If you want to contact our Box Office Manager directly, you can send an email to [incognito.theatre.group@googlemail.com](mailto:incognito.theatre.group@googlemail.com) with details of your enquiry.
- 3 Phone:** Lastly if you would rather speak to the Box Office Manager directly about your ticket order you can call the box office on our dedicated number **0791 287 5700**. Although the phone is not manned 24 hours a day, you can leave a message and the Box Office Manager will return your call as soon as they are able to.

We usually sell out for all our performances so it is advisable to book early and not to just turn up on the night - you will probably be disappointed! Tickets are priced at **£9** for non-members, **£8** for members and **£5** for students.

Sunday performances start at 6pm, Saturday matinee performances start at 3pm and all other performances start at 8pm. Doors open 30 minutes before the performance starts.

Audience members who have a hearing aid, can switch it to the T-position to take advantage of the auditorium's induction loop.

Latecomers can only be admitted at a suitable break in the performance.

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### Browse the Incognito Archives

Do you like looking at old photos? Then visit the [Incognito Theatre's Gallery](#) and browse photographs from past shows and events.

Thank you for getting back to me.

I am also having trouble with the accounts file - it seems to have become corrupt. I have asked for a re-send and I will forward it when I receive it.

I have scanned 15 programmes (A4 sheets that fold to A5) from over the last 5 years or so, but we have been producing these for 70 years. I hope these scans are sufficient evidence for you.

It is not something I can 'submit', but I can refer you to the Theatre's web site which will tell you more.

<http://incognit theatre.co.uk/>

if you look at the 'more' tab there is a lot about what we have done in the past, including photo galleries.

In terms of concessions we have tickets on sale at £9 for the general public and these are discounted by a pound to theatre club members, so they pay £8. As the prices are so reasonable and deliberately affordable, we do not have additional concessions.

#### About the play and author

What happens when a comfortable, middle-class, middle-aged marriage suddenly stalls? When shared values and responsibilities no longer coalesce? When the opportunity arises for one life to be renewed, but at the expense of another's happiness and security? And how does this impact on the rest of the family?

A provocative drama that challenges our notion of honour, our sense of decency and our belief that love will prevail, *Honour* received its British premiere at the National Theatre in a production directed by Roger Michell

with Eileen Atkins and Corin Redgrave leading the cast.

Joanna Murray-Smith comes from Melbourne, Australia, where most of her plays have first been performed, including *Honour*, *Rapture*, *Redemption*, *Atlanta* and *Love Child*, which was then staged all over Australia. She has also written short stories, a children's book and two novels, *Truce* and *Judgement Rock*, both published by Penguin, Australia. *Honour* marks her British debut. She lives near Melbourne with her husband and three children.

If you have any comments (good or bad) on this production or Incognito in general then please email them to [longstaff@waitrose.com](mailto:longstaff@waitrose.com) or write to David Longstaff at 66 Hatley Close, Friern Barnet, London N11 3LN. All comments & suggestions are gratefully received & will be discussed by the ITG committee.

Holly Park is a residential area, please try not to disturb our neighbours when leaving the theatre. Thank you.

#### FORTHCOMING PRODUCTIONS

16th - 22nd July 2017  
**THRILLER OF THE YEAR**  
by Glyn Jones  
Directed by Mike Nower

24th - 30th September 2017  
**THE ANNIVERSARY**  
by Bill McLlraith  
Directed by Brian Moran

INCOGNITO THEATRE GROUP / Affiliated to the Barnet Borough Arts Council / Reg. Charity No.1000772  
Patron: Sir David Jason O.B.E. / Membership details from Ruth Nixon. Tel: 020 8886 3274

**HONOUR**  
BY  
JOANNA MURRAY-SMITH