

Supplementary Paper: Cabinet meeting on 30 November 2017

Item 19: Nominations for Assets of Community Value

1. Introduction

1.1. This note intended to help guide members through the 33 nominations which they are being asked to consider. It identifies the nominations which appear to officers to be relatively straightforward and comments on those nominations about which there have been representations and/or which are less straightforward. Late representations have been drawn to the attention of members separately.

2. The more straightforward nominations

2.1. These are the more straightforward nominations in respect of which no representations have been made and which present no special issues. In all cases the officer recommendation is to approve:

- a) Broxton Village Hall
- b) Great Canfield Cricket Club
- c) Great Canfield Village Hall
- [REDACTED]
- e) Newton Green Great Dunmow
- f) Rowena Davey Centre, Great Dunmow
- h) Great Dunmow Maltings
- i) Dunmow Community Hub
- j) The Former Library Great Dunmow
- k) Hop Poles Public House, Great Hallingbury

- [REDACTED]
- m) Kings Head, Hadstock
- n) Village Recreation Ground, Hadstock
- o) Village Green Hadstock
- p) Village Hall Hadstock
- q) Bluebell Inn Hempstead
- r) The Village Green, Hempstead
- s) The Bull Public House, Langley

- [REDACTED]
- u) The George Public House, Little Hallingbury
- v) Little Hallingbury Village Hall

- [REDACTED]
- y) Rickling Green Primary School

z) Rickling Ramblers Cricket Pavilion, Rickling Green

aa) The Cricketers Arms, Rickling Green

bb) Rickling Village Green

cc) Quendon and Rickling Village Hall

gg) The Village Fountain, Quendon

3. The “difficult” nominations

3.1. Land adjacent north of Threeways, and south of Limetree Hill, Great Dunmow (d)

The nomination does not set out a strong case for nomination. It states that the site was used for allotments but is now unused and has become overgrown and derelict. The main report to the Cabinet states that this land should not have been listed in 2012 and that there has been no community use within the last five years. The nomination appears to be based on hopes for the future rather than preserving a current or future use.

Recommendation: Reject the nomination on the basis that there is not sufficient evidence to conclude that a primary use of the land furthers the social wellbeing and social interests of the community.

3.2. Post Office, High Street, Great Dunmow (f)

A letter sent on behalf of Post Office Limited has been received. It states that the post office is “operational land” within the meaning of section 263, Town and Country Planning Act, 1990. Legal advice is that this is correct.

Regulations made under the Localism Act exclude “operational land” from listing as an asset of community value. It is not therefore open to the Council to accept this nomination.

Recommendation: Reject this nomination on the basis that the Post Office is exempt from listing as it is classed as “operational land” of Post Office Limited.

3.3. Churches (l, t, w, x and ff)

- St Giles Church Great Hallingbury (l)

- St Mary’s Church Little Hallingbury (t)
- St Margaret of Antioch Parish Church (w)
- All Saints Church Rickling (x)
- St Simon and St Jude’s Church, Quendon (ff)

The Diocese of Chelmsford has written objecting to the listing of four of these churches, All Saints Church Rickling being the exception. The objection is made on the basis that disposal of any church building and associated land would be an exempt disposal if made pursuant to closure for regular public worship and a Scheme made under the Mission and Pastoral Measure 2011.

The diocese is correct that such disposals would be “exempt”. But they would be exempt from the requirements of the moratorium period and the obligation to give notice of an intended disposal. They are not exempt from listing by virtue of paragraph 12 of schedule 3 of the Regulations.

However, for an asset to be listed, the Cabinet must be satisfied that a primary use (not an ancillary use) furthers the social interest or social well-being of the local community. Whether use for religious observances is capable of inclusion within the expression “social wellbeing and social interests of the community” was considered in a decision of the First Tier Tribunal (The General Conference of the New Church v Bristol City Council). In his decision notice, Judge Peter Lane states:

“I nevertheless consider that the expression “social wellbeing and social interests of the community” in section 88 does not encompass religious observances in a church, mosque or synagogue etc, and that such a building will not in practice fall within section 88 unless there is some other non-ancillary use being made of it, which does further social wellbeing/social interests of the local community.”

Although these churches have been listed previously, the judgment dates from 2014 and so is more recent than the earlier decisions.

Recommendation: Reject these nominations on the basis that there is legal authority that religious observance is not a use that qualifies a building for listing as an asset of community value and that there is no clear evidence of another use that is not ancillary that would qualify.

3.4. Rickling Green Primary School (y)

The Diocese of Chelmsford has objected to this nomination on the basis that a “right of reverter” binds the site, and a disposal will therefore be exempt by virtue of paragraph 15 of Schedule 3 of the Regulations. These are the key points:

- The Reverter of Sites Act 1987 abolished the right of reverter and substituted a trust for sale (now a trust of land). Owner trustees are free to sell affected property. However, the proceeds of sale are held on trust for those who would otherwise have benefited from reverter rights. The letter from the diocese suggests that the author is unaware of this.
- Disposal for continuing use as a school or for certain other educational purposes would be an exempt disposal.
- The Diocese is raising points about exemptions from the moratorium provisions delaying **disposal** of an ACV. The school is not exempt from **listing** as an ACV if it meets the statutory criteria.
- Use as a school may qualify as meeting the “social wellbeing and social interests of the community”.

Recommendation There is evidence from the Parish Council that the use as a school does, in fact, further the social wellbeing and social interests of the community, and this has not been challenged in representations made by the diocese. The Parish Council has also submitted evidence suggesting that it is realistic to think that there can continue to be a non-ancillary use of this nature. In the absence of contrary evidence, the Cabinet should accept the nomination.

3.5. Quendon Hall and Parkland(dd)

A letter from Strutt & Parker, sent on behalf of the owner, states that the primary use of the Hall is to host private weddings and other events. It states that the parkland is not open to the public. There is no significant evidence to contradict this.

Recommendation: Reject the nomination on the basis that primary use as a private wedding venue is not a use of the land which furthers the social wellbeing and social interests of the community. There is little or no evidence of any other non-ancillary use that meets this requirement.

3.6. Quendon Woods(ee)

Another letter from Strutt & Parker, sent on behalf of the owner, states that this is private woodland without public right of access, other than over perimeter footpaths.

Recommendation: Reject the nomination on the basis that there is not sufficient evidence to conclude that a primary use of the land furthers the social wellbeing and social interests of the community.

3.7. Chalky Meadow, Thaxted(hh)

Essex County Council has objected to this nomination on the basis that it does not meet the “social wellbeing” test. Its letter states that this is not an open space and that there is no permissive right to use or to cross the land, other than along a footpath running through the site. There is no substantial evidence from the nomination or its supporters of a primary use of the land currently furthering the social wellbeing and social interests of the community.

The grounds for listing are primarily aspirational, looking to the future benefit that preservation of this land could bring, rather than establishing a current primary use that meets the statutory criteria.

However, one letter in support includes a photograph which, on the face of it does grant a permissive right of some sort. I have queried this with Essex County Council, which has stated that the permissive right only extends to the use of the footpath running through the land to the nearby private estate.

Recommendation: Reject the nomination on the basis that there is not sufficient evidence to conclude that a primary use of the land furthers the social wellbeing and social interests of the community.

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29 November 2017

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