

<b>Committee:</b>	Assets of Community Value and Local Heritage List Committee	<b>Date:</b>
<b>Title:</b>	Nomination of Hill Green (recreation land and cricket pavilion), Clavering, as an Asset of Community Value UTT/21/2181/ACV	Tuesday 17 August 2021
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## Summary

1. The Localism Act 2011 introduces a concept of an ‘Asset of Community Value’ (ACV). Section 87 of the Localism Act places a duty of Local Authorities to ‘maintain a list of land in its area that is land of community value’.
2. An Asset is of community value if (in the opinion of the local authority) either:
  - 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
  - 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;
 or
  - there is a time in the recent past when an actual use of the building or other land that was not an ancillary use furthered the social wellbeing or social interests of the local community; and
  - it is realistic to think that there is a time in the next five years when there could be non-ancillary use of the building or other land that would further (whether or not in the same way as before) the social wellbeing or social interests of the local community.
3. The Act states that “social interests” “includes (in particular) each of the following – (a) cultural interests, (b) recreational interests and (c) sporting interests.
4. Assets of Community Value are buildings or land which involve the physical use by the community and include for example a village shop, pub, community centre, allotment or recreation ground.
5. The purpose of this report is to enable members to determine:
  - a) whether there is a valid nomination;

- b) whether the use of the building (current or recent past) furthers the social wellbeing or social interests of the community;
- c) whether it is realistic to think that in the next 5 years the building could be used to further the social wellbeing or social interests of the community.

In considering these questions, members need to consider principal, rather than ancillary, uses of the building.

If members conclude that the answers to these questions are “yes”, the building should be included in the list of ACV’s.

### **Recommendation**

- 6. Recommended for listing: On the basis that this is a valid nomination; the current use of the recreational land at Hill Green, Clavering, including cricket field and pavilion furthers the social wellbeing and social interests of the local community; and it is realistic to think that this non-ancillary use will continue, it is recommended that the site be listed as an Asset of Community Value.

### **Financial Implications**

- 7. There are direct financial implications arising at this stage which relate to the formal process of identifying and contacting asset owners, time of Planning Policy and Legal Officers and, if relevant, registering an asset as a Land Charge. These costs can be met from existing budget and staff resources.
- 8. There is also an unquantifiable financial risk to the Council, if there was a claim for compensation. This needs to be kept under review and at an appropriate time consideration should be given to establishing a contingency reserve to mitigate the risk to the Council’s budget. However, the potential liability should not be taken into account in deciding whether or not this is an asset of community value.

### **Background Papers**

- 9. The nomination form is appended and can be viewed by the public on the website under [currently nominated assets](#)

### **Impact**

- 10. Consideration of possible impact:

Communication/Consultation	In line with regulation 8 of The Assets of Community Value (England) Regulations 2012 the Council have taken all practicable steps to give information that it is considering listing the land to the owner of the land, freeholder and occupant. This has taken the form of letters.
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Community Safety	No impact.
Equalities	The duty will affect all equally.
Health and Safety	No impact.
Human Rights/Legal Implications	Pursuant to s.19 Human Rights Act 1998 the Secretary of State has certified that in his opinion the Localism Act is compatible with the Convention rights.
Sustainability	If the land is included on the list of Community Assets it will form a Land Charge.
Ward-specific impacts	Located in Clavering
Workforce/Workplace	No impact

## **Situation**

**a) Is this a valid nomination?**

11. S.89 of the Localism Act states that land in a local authority area which is of community value may be included in its list of assets of community value only in response to a “community nomination”, or where permitted by regulations made by the Secretary of State. A community nomination means a nomination by a parish council in respect of land in the parish council’s area or “by a person that is a voluntary or community body with a local connection”.
12. The nomination has been made by Clavering Parish Council, including:
- A map outlining the site and boundary has been submitted
  - A copy of the lease, including parties named on the lease
  - Reasons for nominating (see section b below)
13. Clavering Parish Council are named on the Property register, together with Cecil Francis Tatham and Frances Dorothea Simpkinson who are both deceased. The Parish Council do not know who has inherited the land from Tatham and Simpkinson. Letters have been sent to the addresses written in the lease. 6 site notices have been put up around the site, requesting descendants or knowledge of the owners to come forward, this request is also on the Council’s website <https://www.uttlesford.gov.uk/article/4955/Currently-nominated-assets>
14. A nomination must include:
- i. A description of the nominated land including its proposed boundaries.
  - ii. Any information the nominator has about the freeholders, leaseholders and current occupants of the site.

- iii. The reasons for nominating the asset, with an explanation of why the nominator believes the asset meets the definition in the Act.
  - iv. Evidence of the nominator's eligibility to make the nomination.
15. If it meets these requirements, it is a valid nomination under Localism Act S.89(2) and ACV Regulations 2012 regulation 6. This nomination meets those requirements.
- b) Does the use of the building (current or recent past) further the social wellbeing or social interests of the local community?**
16. The nomination includes the following facilities:
- Cricket field / recreational area
  - Thatched cricket pavilion
17. Clavering Parish Council confirm that the recreation land has been used by villagers for 140 years and was registered as a village green in 1971. The area forms an important part of open space in Clavering and was previously listed as an ACV on 10 December 2015.
18. The site is used for cricket in the season; for walking and dog walking; impromptu games and activities including picnics and kite flying; Clavering village Christmas carols on the Green. During the covid lockdown the Green provided the opportunity for safe walking and outdoor recreation, for all ages and especially for elderly residents.
19. Details of cricket fixtures for 2018 - 2021 have been provided, together with a letter from Clavering Cricket Club (CCC) confirming that:
- Cricket has been played on the field since the 1880s, by both men and women
  - Currently CCC has 50 members
  - CCC maintains the outfield and the wicket, including cutting the grass for village recreational use out of the cricket season
  - CCC erected, maintains and insures the thatched cricket pavilion
  - The CCC hosts, in conjunction with the Parish Council, the Christmas *Carols on the Green*. The money raised supports a village organisation which helps elderly residents with travel to medical appointments
20. Further supporting information including letters and photographs confirm use for dog walking, athletic activities and the carols can be viewed in using the 'search planning applications' function on the Council's website [here](#). Enter reference number UTT/21/2181/ACV into the search box.
21. **Non-ancillary use:** To be listed, an actual current use of the nominated asset that furthers the social wellbeing or social interests of the local community, must be a main or principal use, it must not be an ancillary use. The activities listed in the nomination are considered to be non-ancillary use.

22. **The ‘local community’:** To be listed, an Asset must benefit the ‘local community’. The nomination states that Hill Green is used by:
- People living in Clavering and the surrounding villages including Arkesden, Wicken Bonhunt and Berden
  - Members of the Cricket Club
  - Local interest groups and gatherings using the cricket pavilion

c) **Is it realistic to think that in the next 5 years the use of the building could further the social wellbeing or social interests of the community?**

23. **About the leasehold tenancy:** Clavering Parish Council are tenants with a lease defining the agreement between the Landlords (Tatham and Simpkinson) for Hill Green. Research conducted by Clavering Parish Council has identified that FD Simpkinson died in 1961 and CT Tatham died in 1974. The lease is 99 years, dated 24 June 1949. There are 27 years remaining on the lease. The peppercorn rent has never been demanded.
24. Although Clavering Parish Council are leaseholders of the land until 24 March 2048 there remains the possibility that the freehold may be sold to another party before the lease expires and without their knowledge.
25. Should the Hill Green come up for sale, Clavering Parish Council would bid for the asset, with funding from their reserves or raised by a Public Works Loan.
26. The Parish Council anticipate that CCC would continue to voluntarily maintain the cricket field, wicket and pavilion.
27. The Parish Council maintains the trees on the site and any seats.
28. It is considered realistic that in the next 5 years, use of Hill Green will further the social wellbeing or social interests of the local community.

## **Conclusion**

29. This is a valid nomination.
30. Members need to consider whether the evidence provided shows that the property, current or in the recent past, furthers the social wellbeing or interests of the community.
31. Members need to consider whether it is realistic to think that the Hill Green can continue to be used in a manner that furthers the social wellbeing and interests of the local community.
32. Members need to consider the site to be nominated – the cricket field /recreation land and cricket pavilion

33. Consideration of these issues will lead the Committee to determine whether Hill Green, Clavering, should be listed as assets of community value for a period of five years.

## Risk Analysis

34.

Risk	Likelihood	Impact	Mitigating actions
The nominating body or the owner is unhappy with the decision reached.	High risk that one of the bodies will be unhappy with the decision.	<p>The owner has rights of internal review and appeal and can claim for compensation.</p> <p>The nominating body does not have rights of review or appeal. A new nomination can be made with additional information.</p> <p>If it felt the Council had acted unlawfully, it could seek to challenge by way of judicial review.</p>	Carefully scrutinise submissions for inclusion on the Asset List so as to ensure only those which comply with the criteria are included.

1 = Little or no risk or impact

2 = Some risk or impact – action may be necessary.

3 = Significant risk or impact – action required

4 = Near certainty of risk occurring, catastrophic effect or failure of project.

## Appendices

Appendix 1: Site nominated

Appendix 2: Extracts from the Nomination Form

The full nomination form can be found here:

<https://www.uttlesford.gov.uk/article/4955/Currently-nominated-Assets>

Appendix 3: Letter from Clavering Cricket Club

Appendix 4: site photos

### Appendix 1: Site nominated

The boundary as shown in Land Registry EX 751779



## **Appendix 2: Extracts from the Nomination Form and additional information requested**

### **Q5a Why do you feel the property is an asset of community value?**

Please give as much information as possible about the current use of the asset i.e. what activities take place, what groups use the facility currently or in the recent past etc. Continue on a separate sheet if necessary. Definition of an asset of community value can be found in the guidance notes.

For some 140 years this area has been used by villagers as a Cricket Field and recreation area.

It was registered as a Village Green in 1971. (VG54)

Currently it is used by Clavering Cricket Club for matches on Sundays in the season; many years ago matches were played on Saturdays and Sundays, but the club still thrives and is expected to do so for years to come.

Under the terms of the tenancy the club erected a pavilion in 1950 for use.

All year round it is used by villagers for recreation such as walking, dog walking, impromptu games including football and cricket, athletic activities, picnicking, & kite flying. At Christmas, it hosts a Village Gathering with refreshments where Carols are sung.

The area forms an important part of the open space in Clavering for recreational use. It is an amenity green space as well as a play space.

This asset was previously determined as an Asset of Community Value by UDC on 10<sup>th</sup> December 2015

### **Q5b How could the building or land be acquired and used in future?**

If it is listed as an asset of community value, community interest groups (not limited to your organisation) will get the opportunity to bid for it if it comes up for sale. Please set out how you think such a group could fund the purchase of the building or land, and how they could run it for the benefit of the community. Continue on a separate sheet if necessary.

The expectation would be that Clavering Parish Council would bid for the asset, on which it currently holds a leasehold Tenancy.

The funding would either come from reserves held by the Parish Council or would be raised by the Parish Council, via a Public Works Loan if required.

It may also come together with an organisation such as the Cricket Club to raise funds.

Currently the Cricket Club voluntarily maintain the cricket field, cricket wicket and the cricket pavilion all year round and it would be expected that this would continue.

The trees on the site are currently maintained by the Parish Council, which is currently also responsible under the tenancy agreement for any hedge, fence and ditch maintenance. The Parish Council is also responsible for any seats.

As the Parish Council and the Cricket Club already maintain the area under consideration, they would continue to do so as they currently do for the benefit of the community

### **Current use of Asset**

The Recreational Field is used for a variety of purposes.

The socio-demographic of users is in essence the population of Clavering Village, and the surrounding villages of Arkesden, Wicken Bonhunt, Berden, etc.

This is augmented by visitors from Newport and Saffron Walden, those who may be staying in the village or passing through by car or having cycled from long distance.

Activities seen on the Recreational Field:

1. Daily Dogwalking: see Appendix B.
2. Athletic practice: see Appendix C
3. Cricket Matches and practices in season: see Appendix D1, D2 & D3
4. Impromptu children's games : see Appendix B
5. Picnicing :see Appendix B
6. Annual Clavering Village Carols on the Green also utilising the Cricket Pavilion: see Appendix E
7. Local Interest Group Gatherings and Teas utilising the Cricket Pavilion: see Appendix E
8. Throughout Covid-19 Lockdown, the three acre premises afforded the opportunity for safe, walking recreation especially for the more elderly villagers.

Please note we are unable to provide photographs of impromptu children's activities (Safeguarding)

The appendices listed can be viewed in using the 'search planning applications' function on the Council website [here](#). Enter reference number UTT/21/2181/ACV into the search box

### **Please provide the name and contact details of the heirs of Cecil Frances Tatham and Miss Frances Dorothea Simpson**

Please provide the name and contact details for heirs listed in the Leasehold Document.

The Parish Council has never been informed formally of the demise of Landlords, CT Tatham Esq, and Miss FD Simpson.

There has been assumption that, informed by private historical research carried out, CF Tatham Esq. died in 1974 and Miss FD Simpson in 1961 – both parties without known issue.

Further the recollection of current parish councillors, some of whom have served for forty years, is that the annual peppercorn rent has never been demanded hence the Parish Council has received no formal advice of any successor in the freehold title.

The copy of the Leasehold Document accompanying this submission – Appendix A – clearly states in its opening statement *hereinafter called "the Landlords" which expression shall include the person deriving title under them*

**As leaseholder of the land please give detailed reasons why you wish to nominate the land as an Asset of Community Value**

The Lease for this land – Appendix A – is dated and signed for 24<sup>th</sup> June 1949. It covers the period of 99 (ninety-nine) years from the 25<sup>th</sup> March 1949. The lease expires on 24<sup>th</sup> March 2048 – so currently has 20 years and 9 months to run. The consideration under the Lease is stated to be *YIELDING and PAYING therfor for the yearly rent of a peppercorn if demanded.*

Although the Clavering Parish Council is the Leaseholder of the said premises until 24<sup>th</sup> March 2048, there remains the possibility that the freehold may be sold to another party before the expiration of the lease.

The Parish Council is not of the opinion that it would make and be part of any decision to sell the **freehold** of the land as the Parish Council is simply the Leaseholder.

It understands there would only be the requirement to inform the Parish Council after the sale of the freehold if the annual rent were to be demanded, or upon expiration of the Lease if a further lease were to be offered.

Paragraph 3 of the Lease clearly states:

*The Landlords hereby covenant with the Tenants that the Tenants (...) may peaceably hold the said premises during the term hereby granted without interruption by the Landlords or any person lawfully claiming through under or in trust for them.*

For over 100 years, this space has been used by villagers for recreation in various forms, by grace and favour originally it would seem before the lease with Clavering Parish Council was formalised in 1949. (See accompanying photograph Appendix D3)

The Parish Council therefore wish to nominate this land as an Asset of Community Value, as it did in 2015 and as was agreed by UDC at that time, to safeguard its use for future generations in the event the premises is sold away before the expiration of the Lease and as there is no guarantee of an offered lease extension agreement after 24th March 2048.

Under the terms of the Lease, a Cricket Pavilion – which was thatched – was erected in 1950 by Clavering Cricket Club. It is for the Club's use, though other village organisations have been granted use of it for a specific purpose.

There is a marked out cricket square and the Parish Council has provided rubbish receptacles, further it maintains memorial wooden benches donated by villagers/village organisations and placed at the recreational field.

The Clavering Cricket Club maintains the grass areas and the cricket pavilion. The Parish Council is responsible for maintaining the trees sited on the premises and any fencing.

Maintenance of long established accesses to housing/buildings/fields which cross the premises are for the account of those with the right of access.

As the premises was also registered as Village Green in 1965, the Parish Council has an interest in the safeguarding this status.

## Appendix 3: Letter from Clavering Cricket Club

### CLAVERING CRICKET CLUB

Hill Green, Clavering

President: Mr John Noble

Chairman: R.W. Carter

Vice Chairman: J. Dieffenthaler

Uttlesford District Council

Council Offices London Road

### APPENDIX D1

**Refer: Application by Clavering Parish Council for the Recreational Field at Hill Green to be re-registered as an Asset of Community Value, June 2021.**

Clavering Cricket Club supports the application for the Recreational Cricket Field to be registered as an Asset of Community Value, in order that the facility may be retained.

The Club has played continuously on this field since the 1880's, with the land being held on a leasehold basis by the Parish Council since 1950.

The Cricket Club maintains and insures the thatched Cricket Pavilion erected at the field from its own resources.

Further it also maintains the outfield and the wicket, including cutting the grass for village recreational uses even when it is not the cricket season.

Currently, there are approximately 50 members of the Club, including over 20 squad members, and the Club is due to commence an initiative for younger members of the community. It also expects to purchase practice nets to be sited at the field in the coming year.

Below is detailed the fixture list for 2021.

Obviously last year was curtailed due to Covid-19, but the fixture list for 2018 has also been provided.

The Cricket Club also hosts, in conjunction with the Parish Council, the annual Carols on the Green where a collection is taken up to support a village organisation which helps elderly residents with travel to medical appointments as the village has no bus service.

Clavering Cricket Club: 2021 Fixtures:

May	10th	Manuden	at home
	23rd	Elmdon	at home
June	13th	Stansted	at home
	20th	Saffron Walden	at home
July	4th	Stocking Pelham	at home
	11th	Audley End	away
	18th	Woodcutters	at home
	25th	Saffron Walden	away
August	1st	Stocking Pelham	away
	8th	Hatfield Heath	away
Sept	5th	Flycatchers	at home
	12th	Single Wicket Competition	at home

Hon. Treasurer

Mr. B.L. Gill

The Bower House

High St, Clavering,

CB11 4QR.

Club's Bank details

Barclays Bank Saffron Walden

20-74-05 10266973

Hon. Secretary

Mrs. N. Carter

1 The Hyde

Stortford Road.

Clavering, CB11 4PF

## Appendix 4: site photos



4 July 2021



4 July 2021



25 January 2021