

Committee:	Assets of Community Value	Date:	
Title:	Nominations for Assets of Community Value		24 May 2018
Portfolio Holder:	Cllr Barker, Cabinet Member for Environmental Services		
Report Author:	Simon Pugh, Assistant Director - Governance and Legal	Key decision:	No
	spugh@uttlesford.gov.uk		

Summary

1. The Localism Act 2011 introduces a concept of an 'Asset of Community Value'. 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 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 interest" "includes (in particular) each of the following – (a) cultural interest, (b) recreation interest 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 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 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 assets of community value.

Recommendations

6. Recommended for Listing

There is currently only one nominated asset of community value. Namely, the allotments at High Roding. This was listed as an asset of community value on 12 September 2013. The nomination is not due to expire until 12 September 2018 but High Roding Parish Council have asked us to consider it now. On the basis that there is a valid nomination and that there is current use of the allotments which furthers the interests of the community officers would recommend that the site be re-listed for a period of 5 years from today.

7. The nomination form in full and maps can be viewed on the website under [currently nominated assets](#).

Financial Implications

8. There are direct financial implications arising at this stage which relate to the formal process of identifying and contacting asset owners and, if relevant, registering an asset as a Land Charge. These costs can be met from existing budget and staff resources.
9. 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

10. The following papers were referred to by the author in the preparation of this report and are available for inspection from the author of the report.
11. Submission for consideration as Assets of Community Value and any representations available on the website at under [currently nominated assets](#).

Impact

- 12.

Communication/Consultation	In line with paragraph 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.
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	High Roding
Workforce/Workplace	No impact

Situation

a. Is this a valid nomination?

13. S89 of the 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 regulation 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”.
14. The nomination has been validly made by a Parish Council within the definition of a parish council for these purposes and the nominated property falls within their area.
15. A nomination must also 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, explaining why the nominator believes the asset meets the definition in the Act.

- iv. The nominator's eligibility to make the nomination.
16. If it meets these requirements it is a valid nomination under S89(2)(i). The nomination being considered is validly made.
- b. Does the use of the building (current or recent past) further the social wellbeing or interests of the community?**
17. The following is from High Roding Parish Councils nomination form regarding the current use: "Allotments create community and social wellbeing and are likely to continue to do so in the future. They are the only facility in High Roding for people to grow their own vegetables and soft fruit and enjoy open space. They continue to be fully occupied and are the only viable site."
18. There is legal authority that use as an allotment satisfies the test of furthering social wellbeing or social interests of the local community..
- c. Is it realistic to think that in the next 5 years the use of the building could further the social wellbeing or interests of the community.**
19. In considering this question, the test is whether it is "realistic" to think that the use of the building could further the social wellbeing or interests of the community. It is not a balance of probabilities test – realistic means "more than fanciful". The use does not have to be the same as that which took place within the recent past.
20. The following evidence is from High Roding Parish Council regarding how they might fund the purchase of the allotments for future use by the community: "The Parish Council would try to purchase it for the benefit of the village. The purchase could be funded by means of a loan. Allotment holders currently pay rent of £450 per annum this could be used to repay the loan as well as fundraising events (eg selling plants/ honey)."
21. There are no factors relating to the status of the land (e.g. approved planning consents for development) that might suggest that it is not realistic to think that the use of the land to will continue to further the social wellbeing or interests of the community over the next five years.

Representations

22. The Council has not received any representations regarding the proposed asset of community value nomination. Any representations received after publication of the report will be reported to Members at the meeting.

Conclusion

23. A valid nomination has been made to the Council.
24. 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.

25. Members need to consider whether it is realistic to think that the property can continue to be used in a manner that furthers the social wellbeing and interests of the local community.
26. Consideration of these issues will lead the Cabinet to determine whether the allotments in High Roding should be relisted as an asset of community value for a period of a further five years.

Risk Analysis

27.

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.	The owner has rights of internal review and appeal and can claim for compensation. The nominating body does not have rights of review or appeal. A new nomination can be made with additional information. If it felt the Council had acted unlawfully, it could seek to challenge by way of judicial review.	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.