

27 January 2015

Community Committee

Hopefield Animal Sanctuary– Asset of Community Value

Report of: Ashley Culverwell, Head of Borough Health, Safety and Localism

Wards Affected: All Brentwood Borough Wards

This report is: Public report

1. Executive Summary

1.1. The Localism Act 2011 requires local authorities to keep a list of assets (meaning buildings or other land) which are of community value. Once an asset is placed on the list it will usually remain there for five years. The effect of listing is that generally speaking an owner intending to dispose of the asset must give notice to the local authority. A community interest group then has six weeks in which to ask to be treated as a potential bidder. If it does so, the disposal cannot take place for six months. The theory is that this period known as the “moratorium” will allow the community group to come up with an alternative proposal- although, at the end of the moratorium, it is entirely up to the owner whether a disposal goes through, to whom and for how much. There are arrangements for the local authority to pay compensation to an owner who loses money in consequence of the asset being listed.

1.2. A nomination has been received from Hopefield Animal Sanctuary in relation to land as indicated on the attached site plan (Appendix A).

1.3. The report is for Members to consider whether to list or not to list the land as an Asset of Community Value as indicated on Appendix B.

2. Recommendations

That members agree to:

2.1. Option 1: List the land as indicated on Appendix B of the report as an Asset of Community Value; or

2.2. Option 2: Not to list the land as indicated on Appendix B of the report as an Asset of Community Value

3. Introduction and Background

- 3.1.** A report was presented to Policy, Performance and Resources Board on 7 December 2011 (min ref. 386) so that members were aware of the implications for the Council of the Localism Act 2011 which was given Royal Assent on 15 November 2011. Part of the Localism Act 2011 includes the ability for communities to be able to ask for community assets to be put on a register of 'Assets of Community Value'. These assets can include local pubs, shops, village halls, libraries and community centres.
- 3.2.** A subsequent report was presented to Strategy and Policy Board on 20 November 2013 (min ref. 264) recommending that delegated authority to determine whether nominations should be included within the list of assets of community value, be given to the Head of Borough Health, Safety and Localism in consultation with the Chair of Strategy and Policy Board and relevant ward Councilors; and that the officer grade for carrying out and determining reviews be at Head of Service level or above.
- 3.3.** The consultation part of the delegation was changed at Ordinary Council on 22 October 2014 (min. ref. 213) that the Communities Committee be granted delegated authority to determine applications/nominations for designation of Assets of Community Value. Should the timing of Committee meetings not permit that, the Head of Borough, Health Safety and Localism be granted delegated authority to determine applications/nominations for designation of assets of community value provided that such delegated authority is only exercisable after consultation with the Leader of the Council and any ward Members, which is why this determination is before Members tonight.
- 3.4.** The Localism Act provides an opportunity for communities to raise finance to competitively bid when a community asset comes on the open market. This is achieved through a legal framework governed by the Local Authority. The Act allows communities to nominate assets of community value (ACV's). The council is given eight weeks to determine whether it meets the criteria for listing from the date of submission, and then places its decision on the list. When the owner of a listed asset wishes to dispose of it, the Act introduces a delay or 'moratorium' before he or she can do so, to give any interested and eligible community groups the time to prepare a bid. However at the end of the moratorium period the owner can sell to whomever they choose at a price agreed by the buyer.
- 3.5.** The Council has received a valid nomination on 13 January 2015 from Hopefield Animal Sanctuary in relation the land, including a livery yard

and derelict house as indicated on the attached site plan in Appendix B. The Regulations made under the Localism Act 2011 requires the Council to determine within 8 weeks whether to list the nominated asset. Therefore the deadline for a decision is 10 March 2015.

- 3.6. In broad outline the new provision under the Localism Act 2011 for listing an Asset of Community Value and subsequent disposal are set out in Appendix C.

4. Issue, Options and Analysis of Options

- 4.1. The essential statutory test for an ACV is set out in Section 88 of the Localism Act 2011. It is for the local authority to judge whether the criteria are met (subject to any challenge by way of judicial review). The criteria are set out as follows:

- 4.2. **Is the nominating organisation an eligible body to nominate?** Officers have checked the Charities Commission website to ascertain that Hopefield Sanctuary Trust is a registered charity, and can confirm that they are listed as such, and therefore an eligible body to nominate the land as a Asset of Community Value.

- 4.3. **Does the nominating body have a local connection to the asset?** Yes, Hopefield Animal Sanctuary has been on the site for over 25 years and had 28,000 visitors in 2014.

- 4.4. **Does the nomination include the required information about the asset?** (This includes the proposed boundaries, names of the current occupants of the land and names and current or last known address of those holding freehold or leasehold estate in the land). All of the necessary information was supplied to the Council (See Appendix A, nomination form and Appendix B for the site plan).

- 4.5. **Is the nominated asset outside one of the categories that cannot be assets of community value (A residence together with land associated with that residence; land in respect of which site licence is required under Part 1 of the Caravan Sites and Control of development Act 1960; and operational land as defined in section 263 of the Town and Country Planning Act 1990).** The land indicated is not one of the exempt categories that **cannot** be listed as an ACV, so this nomination cannot be ruled out on that principle.

4.6. Is the current (or recent – within past 3 years) usage which is subject of the nomination an actual and non-ancillary usage? The current actual usage is that the land provides a safe haven for neglected or unwanted animals. The Sanctuary takes animals from Brentwood and the surrounding areas which include horses, cats and reptiles. The Sanctuary also acts as a visitor attraction for Brentwood.

4.7. The Council also needs to consider if in their opinion (a) an actual current use furthers the social wellbeing or social interests of the local community, and (b) 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. They may take into account the following:

4.7.1. What is the ‘local community’ of the asset as defined by geographical area? Officers consider that would include the Borough of Brentwood and surrounding areas.

4.7.2. What is the current /recent use of the asset? The nominated asset is currently providing a safe haven for neglected and unwanted animals from Brentwood and the surrounding area. It has been operating on the site for 25 years. The site also provides a visitor attraction, volunteering opportunities and is host to a number of fundraising events.

4.7.3. How well is the asset used? Within the nomination form Hopefield Animal Sanctuary has provided visitor information numbers from 2011(10,000)-2014(28,000).It also provides volunteer opportunities for 70 people of which 10 are special need placements.

4.7.4. What will be the impact if the usage ceases? Currently the Sanctuary homes 400 animals and provides 70 volunteering opportunities. If the usage ceases then these animals will need to be rehomed elsewhere and the volunteering opportunities would cease.

4.7.5. How does it meet the social interests of the community as a whole and not users/customers of a specific service? For information in the Act ‘social interests’ includes each of the following – cultural interests, recreational interests and sporting interests. Hopefield Animal Sanctuary

provides a local visitor site and volunteering opportunities for Brentwood and the surrounding area.

4.7.6. How is the asset regarded by Community (community consultation, evidence of support)? Evidence supplied from the trustees states that visitor numbers are increasing year by year and in 2014 the Sanctuary had 28,000 visitors. One of the trustees, Ernie Clark received a lifetime achievement award from Brentwood Borough Council in 2011.

4.8. Members also need to consider whether it is realistic to think that there can continue to be non-ancillary use of the asset which will further the social well being or social interests of the local community.

4.9. The visitor numbers submitted suggest that it would seem reasonable that there can continue to be non-ancillary use of the asset which will further the social well being or social interests of the local community.

5. Reasons for Recommendation

The report provides guidance and facts to allow Members to make an informed decision as to whether to list the nominated asset as an Asset of Community Value.

6. References to Council Priorities

Assets of Community Value sit under the Localism priority enabling communities to do more for themselves.

7. Implications

Financial Implications

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Under the Assets of Community Value Regulations the local authority is responsible for paying compensation in respect of listed assets within its area. There is no statutory cap on the amount of compensation that may be payable in respect of any one claim, and a local authority may face multiple claims in any one year. The Department for Communities and Local Government has issued guidance in relation to the Community Right to Bid. With regard to compensation claims, any individual or total payments of over £20k in a financial year will be funded by the government. In addition a New Burdens grant has been allocated to all administering Councils to cover the costs associated with implementing the new scheme.

Whilst the funding from government will help to meet some of the costs of the new arrangements, local authorities will still be expected to fund the first £20k of any compensation payments.

The current balance in the Community Rights to bid reserve has a balance of £29,642, and per agreement by the Council in March a further £16,000 will be transferred to the reserve during 2014/15.

Legal Implications

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The Council has a statutory responsibility to comply with the provisions as set out in the Localism Act and the Regulations made under the Act, currently Assets of Community Value (England) Regulations 2012 SI 2421. Members need to decide by 10 March at the latest.

Risk Management implications – The Council has a legal duty to comply with the legislation relating to Assets of Community Value.

Equality and Diversity implications - The process will be fair and consistent for all members of the community and therefore it is not anticipated that there will be any direct impact on individual community groups or members.

8. Appendices

Appendix A – Nomination of land currently occupied by Hopefield Animal Sanctuary as an Asset of Community Value

Appendix B – Site Map

Appendix C – Provisions under the Localism Act 2011 relating to Assets of Community Value.

9. Background documents

9.1. Localism Act

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