

14 March 2016

Community & Health Committee

Asset of Community Value – Land off Honeypot Lane

Report of: Kim Anderson, Partnership, Leisure and Funding Manager

Wards Affected: All wards

This report is: Public

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 by the residents of Honeypot Lane, Hive Close, Weald Close, Weald Road, Hill Road and Langley Drive on Monday 1 February 2016 (**Appendix A – to follow**), in relation to land off Honeypot Lane as indicated on the attached site plan (**Appendix B**)

1.3. The report is for Members to list or not to list the land as an Asset of Community Value as indicated in **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 Street Scene and Community 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 received a valid nomination (**Appendix A – to follow**) on 1 February 2016 from the residents of Honeypt Lane, Hive Close, Weald Close, Weald Road, Hill Road and Langley Drive in relation to the land as indicated on the attached site plan in **Appendix B**. The regulations made under the Localism Act 2011 require the Council to determine within 8 weeks whether to list the nominated asset. Therefore the deadline for a decision 28 March 2016 which is why this report is before Members tonight.
- 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. In particular Members are reminded of what is meant by a relevant disposal of a listed asset (see. 1.15 of **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 and confirmed that at least 21 of the name and addresses submitted as part of the unincorporated body nominees are listed on the Brentwood Borough Council Electoral Role and as such are an eligible body to nominate the land as an Asset of Community Value.
- 4.3 **Does the nominating body have a local connection to the asset?** Yes. The names and addresses listed live within the vicinity of the nominated land and are working together to protect the area and keep its distinct nature of the land and the Homesteads estate..
- 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 a freehold or leasehold estate on the land). All of the necessary information was supplied to the Council (see Nomination form) **Appendix A** and (site plan) **Appendix B**.
- 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 operating 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) usage which is subject of the nomination and actual and non-ancillary usage?** The current usage as submitted in the nomination form is a wildlife area that edges allotments and is part of the historic area of South Weald. The green open space provides wellbeing of everyone in the community.
- 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:
- 4.8 **What is the ‘local community’ of the asset as defined by geographical area?** Officers consider that this would include the Borough of Brentwood and the immediate surrounding areas.
- 4.9 **What is the current/recent use of the asset?** The nominated asset’s usage is as a green open space, wildlife area that edges allotments and is part of the historic area of South Weald.
- 4.10 **How well is the asset used?** The nominee states that the land is currently used as a buffer between the houses and the A12 and provides a green backdrop to the houses. It also protects the residents from noise and traffic pollution from the A12, as well as drainage for rainfall. The land is also home to bats, birds, badgers and deer.
- 4.11 **What will be the impact is the usage ceases?** The nominee states that “if the land was not there the water from the runoff from the gardens would have nowhere to go and may cause flooding. The wildlife would be forced to go somewhere else and the houses would no longer have the special outlook which we value”
- 4.12 **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.* The local residents have produced a petition to support this local Green Belt land.

- 4.13 **How is the asset regarded by the local community (community consultation, evidence of support)?** The nominee states that a petition supports this local Green Belt land and is valued by the local community as a green area that residents currently enjoy. The open outlook also makes the houses stand out from others in the area and the residents want to protect this.
- 4.14 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 wellbeing or social interests of the local community.
- 4.15 The recent usage of the land off Honeypot Lane would suggest that it would seem reasonable that there can continue to be non-ancillary use of the asset which will further (whether or not in the same way as before) the social well being or social interests of the local community since there are examples of similar and comparable assets serving these interests elsewhere in the Borough.

5. Reasons for Recommendation

- 5.1 The report provides guidance 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 Corporate Plan

- 6.1 Assets of Community Value sit under the Community and Health strand enabling communities to do more for themselves.

7. Implications

Financial Implications

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- 7.1 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 multiply claims in any one year. The Department for Communities and Local Government has issues 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.

7.2 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.

7.3 The current balance in the Community Rights to Bid reserve has a balance of £45,642.

8.0 Legal Implications

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8.1 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.

8.2 The land off Honeypot Lane has been put forward by the owner for consideration for development by the Brentwood Local Plan. This site has been put forward for consideration within the 2016 Draft Local Plan which is currently out for consultation to Wednesday 23 March 2016.

9.0 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.

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

11.0 Appendices to this report

Appendix A – Nomination of land off Honeypot Lane as an Asset of Community Value – to follow

Appendix B – Site Map

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

12.0 Background documents

Localism Act 2011

2016 Brentwood Draft Local Plan

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