

## Nomination of a Community Asset – East Peckham Allotments

### 1. Background

1.1 On 16<sup>th</sup> December 2020, Tonbridge and Malling Borough Council (“the Council”) received a nomination for a community asset from East Peckham Parish Council, in respect of the East Peckham Allotments, East Peckham Playing Fields, East Peckham (“the Property”).

1.2 The nomination describes the Property as follows: *“The land is currently registered under Title No K476469 with HM Land Registry. Land has no access other than on foot. The land has been occupied for many decades by East Peckham Parish Council to provide allotments. The land borders the East Peckham Playing Fields to the north east and the rear gardens of the houses on the eastern side of Russett Road on the lands western boundary. The site area of the allotments extends in all to some 1.29 acres/ 0.52 hectares and this includes a section of the pathway which runs along the south eastern side. The land is occupied by some 30 / 35 allotment holders. This gives them use of an allotment plot and access to a shed which is on site. “*

1.3 The nomination demonstrates that the allotments are currently in use. The landowner is a private individual residing outside of the Borough. The nomination states that the occupier is the Parish Council.

1.4 The nomination describes the uses of the Property as follows:

*“The East Peckham allotments serve a vital place for local residents who wish to grow their own vegetables, fruit and flowers. There is still a need for this service which offers a source of recreational activity for residents with an increasing number being young families with children. The allotment service supports healthy food and also by being local dispenses with transport issues created by the national food producers.*

*Other benefits of the service are its ability to offer physical exercise to those suffering from stress and the organic management by many plot holders lends support to local biodiversity.*

*Allotments serve not only local residents by offering them a chance to grow their own fruit and vegetables but also by offering them physical activity that meets several lifestyle targets in relation to a healthy diet, activity and mental well-being. The overall benefits of allotments are well established and include*

- 1. Providing a sustainable food supply*
- 2. Giving a healthy activity to people of all ages*
- 3. Fostering community development and cohesiveness*
- 4. Acting as an educational resource*
- 5. Providing access to nature and wildlife*
- 6. Acting as a resource for biodiversity,*
- 7. Providing an open space to the local community*
- 8. Reducing carbon emissions through avoiding the long distance transport of food”*

## 2. Legal Framework

2.1 Section 90 of the Localism Act 2011 (“the Act”) states:

*“90 Procedure on community nominations*

*(1) This section applies if a local authority receives a community nomination.*

*(2) The authority must consider the nomination.*

*(3) The authority must accept the nomination if the land nominated—*

*(a) is in the authority's area, and*

*(b) is of community value.*

*(4) If the authority is required by subsection (3) to accept the nomination, the authority must cause the land to be included in the authority's list of assets of community value.*

*(5) The nomination is unsuccessful if subsection (3) does not require the authority to accept the nomination.*

*(6) If the nomination is unsuccessful, the authority must give, to the person who made the nomination, the authority's written reasons for its decision that the land could not be included in its list of assets of community value.”*

2.2 By s.88 of the Act, land is of “community value” if:

*“in the opinion of the [Council]—*

*(a) 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*

*(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.*

*...*

*[or]*

*in the opinion of the [Council]—*

*(a) 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*

*(b) 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.”*

- 2.3 Land may only be listed in response to a community nomination (or in other prescribed circumstances which are not applicable here). A “community nomination” includes a nomination by a Parish Council.

### **3. Assessment of Nomination**

#### Is it a “community nomination”?

The nomination has been made by a Parish Council in respect of land within its area, which meets the requirements of s.89(2) of the Act for a community nomination.

#### Is there an “actual current use” or “time in the recent past” where the land was in community use

The Property is currently in use for allotment gardening. There are some competing views in the Tribunal cases as to whether simple allotment gardening (without further, specific community focussed activities such as a community garden or farm) is a use which furthers social interests or social wellbeing. There appear to be general community benefits of allotment gardens and it is clear that allotment gardens are *capable* of use in a manner which furthers social interests and/or social wellbeing. Taking account of specific benefits such as improved air quality and biodiversity, and following the decisions of Judge Lane in *New Barrow Limited v Ribble Valley BC*<sup>1</sup> and Judge Jacqueline Findlay in *Trustees of the Duke of Northumberland’s Charity v Hounslow LBC*<sup>2</sup> it is reasonable to consider allotment gardening as an activity which furthers social wellbeing and/ or social interests.

The East Peckham allotments are privately owned and not held by the Parish Council under the Allotments Act 1925 and would not therefore be excluded from listing by virtue of this.

#### Is there a realistic prospect in the next 5 years of a community use?

The Property is in current use as allotment gardens and there appears to be no indication that such use would not or could not continue.

### **4. Conclusion and Decision**

- 4.1 The Council has received a valid community nomination for the Property.
- 4.2 The Property was, in the recent past, in a use or uses which furthered the social wellbeing of the local community.
- 4.3 It is realistic to think that the Property could be put to such uses within the next 5 years.
- 4.4 The Property is in the Council’s area, and is of community value. The Property should therefore be included in the Council’s list of assets of community value.

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<sup>1</sup> CR/2016/0014

<sup>2</sup> CR/2016/0007