

Review of a Decision to Accept a Nomination of land to be included in the Council's List of Assets of Community Value – East Peckham Allotments

Review carried out by: Kevin Toogood, Head of Legal and Democratic Services

1. On 27th April 2021 the Council accepted a nomination of the East Peckham Allotments to the Council's List of Assets of Community Value.
2. I have reviewed the Decision Notice issued by the Chief Executive and the Annex to that Decision Notice setting out the reasons for that decision.
3. The Council is required to accept a nomination if the criteria in s.90 Localism Act 2011 are met. These are:
 - a. That the land nominated is in the Council's area and;
 - b. That the land is of community value
4. 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.
5. I have considered the submission made by the nominator with regard to the benefits of allotment gardens and in particular that they have a role in fostering community development and cohesiveness, providing an open space to the local community and improvements to biodiversity and contribution to climate change. Social interests include in particular cultural, recreational and sporting interests and it is for the authority to determine what it considers falls within the phrase. It is a "highly contextual question, depending upon all the circumstances of a particular case"¹
6. The benefits to biodiversity and climate change, and the provision of a community space in this way have been found by the First Tier Tribunal to be sufficient to amount to benefits of community value, in the tribunal cases cited in the Annex to the Decision Notice. Furthermore it is my view that the fostering of community development and cohesiveness as referred to by the nominator also furthers the social wellbeing of the local community in this particular case. There is in my view therefore an actual current use of the land that is not an ancillary use which furthers the social wellbeing or social interests of the local community.
7. I understand that the Parish Council has been negotiating a lease renewal with the landowners. Since the nomination was made and accepted, the Council has also resolved to make a Compulsory Purchase Order with regard to the land, which when made will result in the land being vested in the Parish Council for the purposes of the provision of allotments.

¹ Crostone v Amber Valley DC CR/2014/0010

8. I therefore agree with the previous conclusions of the Chief Executive that there is no indication that the community use will not continue.
9. Land which is owned by a Parish Council for use as Allotments under the Allotments Act 1925 is specifically excluded from the ACV regime. However, the land is not, at this point in time, owned by the Parish Council, it is privately owned. The land is not therefore excluded from listing.
10. It follows that I agree with the conclusions of the Chief Executive that the property is in the Council's area and is of community value. The Council is therefore required to accept the nomination.

Kevin Toogood

Head of Legal and Democratic Services

8th June 2021