

Nomination of a Community Asset – Land Between 42 and 44 Darwin Drive

1. Background

- 1.1 On 22 April 2022, Tonbridge and Malling Borough Council (“the Council”) received a nomination for a community asset from the resident of 44 Darwin Drive on behalf of an unincorporated group, in respect of Land between 42 and 44 Darwin Drive (“the Land”).
- 1.2 The nomination describes the Land as follows: “Section of grassed land with several protected trees and two footpaths leading to Woodland Walk“ In addition it is stated that: *“This piece of land is considered to be of great significance within the local community. It is thought of as the local green and the hub of the community. It has been used by the local community for over 60 years and it continues to be used in the same manner today. Generations of families have gathered here to play cricket or football, to share a picnic under the trees, to play with their dogs or to simply meet other residents for a friendly chat. It has always been considered as a safe space, allowing our children to meet their friends and play, something which is much needed in today’s society. This is the only safe space in the area. The local Girl Guides, Brownies, Rainbows and Scouts have also used this land as a meeting point over the years. The two heavily used footpaths running across this land join at the stream, providing access to many of the local services and uniting the residents of both sides of the stream. It is the main route to Cage Green Primary School and Hugh Christie Academy, as well as the nearby parks. Many local people also use this route to access the local amenities on York Parade and it is widely used by dog walkers, both locally and further afield”.*
- 1.3 The nomination demonstrates that the land is currently in use for recreational purposes. The landowner is Taylor Wimpey.

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 an unincorporated group made up of over 21 residents from within the local area, 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 Land is currently in use for recreational purposes. The nomination states that this is used “*to play cricket or football, to share a picnic under the trees, to play with their dogs or to simply meet other residents for a friendly chat. It has always been considered as a safe space, allowing our children to meet their friends and play*”. All of these activities would further social interests or social wellbeing. There are general community benefits of space outdoors and it is described as “*of great significance within the local community. It is thought of as the local green and the hub of the community*” which would suggest that this land is and would be *capable* of use in a manner which furthers social interests and/or social wellbeing.

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

The Land is in current use for recreational purposes 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 Land.
- 4.2 The Land 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 Land could be put to such uses within the next 5 years.
- 4.4 The Land is in the Council’s area and is of community value. The Land should therefore be included in the Council’s list of assets of community value.