

Nomination of a Community Asset – Fields Behind Amber Lane, Kings Hill

1. Background

- 1.1 On 4 July 2022, Tonbridge and Malling Borough Council (“the Council”) received a nomination for a community asset from Kings Hill Parish Council, in respect of Land – Fields behind Amber Lane (also described as Area 5.4), Kings Hill (“the Land”). This nomination was initially withdrawn as it was believed that the land in question was already included within the Warren Woods Nature Park ACV listing. However, upon further scrutiny, it was decided that the Fields Behind Amber Lane (Area 5.4) may not have been included and to avoid doubt, would be nominated in their own right. The request to renominate was received from the Parish Council on 25 November 2022.
- 1.2 The nomination describes the Land as follows: “3 fields surrounded by trees - was used as a community asset for recreation by all the residents and their families. It was used extensively by all residents for walking, running, jogging, dog walk and exercise, games, picnics, cycling. There is a multitude of wildlife, bats, mice, insects, bees “
- 1.3 The nomination notes that the land that was being used for recreation is currently fenced off. The landowner is Prologis.
- 1.4 The Parish Council (the nominator) describes the uses of the land as follows:

“The land we are requesting to be a community asset has been an integral part of the Kings Hill residents’ recreational facilities for the last 20 years. The residents have been using these fields for walking, exercise, socialising, dog walking, cycling, ball games, picnics – it aids the resident’s fitness, wellbeing, and mental health. Much of the area was fenced off on July 20, 2021. This was re-routing of the footpath MR114 from The Heath which connected to the bridleway around Kings Hill, joining at the end of Sandow Place. The re-routing of the path also passes through a narrow gap in the treeline, which is protected by TPO, and which the farmer had previously attempted to close with crates packed with stones and earth. The reason for the closure on the www.kings-hill.com web site, was “ following increased use, it has been decided to fence the land.” This is clearly not in line with its community value. The title plan shows the footpath, MR114, crossing the land in several places. The fields are frequently used by walkers and dog walkers for exercise. This also provides a safe route from the Kings Hill bridleway to the public footpath MR114 and out to Well Road and footpath network by walkers and village residents accessing schools and resources in Kings Hill; the current route does not

meet the planning obligations agreed by the developer for Phase 2. In addition to use by walkers, the area continues to be used by a wide range of people, dog training, exercising, picnickers, rambles. There has been some use for ball play, such as rounders and other ball games. The footpath joins the public footpath MR114 to The Heath and the permissive route through Warren Woods Country Park. This is the easiest accessible area of open green space for much of Kings Hill, especially for Phase 2 and Phase 3, and Phase 5 even. When the fencing around Area 5.4 was installed, there were a significant number of posts on social media where residents deprecated the action”.

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 nomination states that “Prior to the fencing being introduced, the fields were used frequently for recreational use by a wide range of the community. Indeed, during the COVID lockdowns, the area provided somewhere to go to get out into a safe open area. Walkers, dog walkers, exercising. Physical exercise is frequently highlighted as being critical to mental health and general well-being. This included disabled people who would come with their mobility scooters and their dogs for fresh air and exercise. Scout groups creating and maintaining bug hotels, providing the youth of today with direct experience of nature and how important all aspects of it are to the environment. Picnickers setting up for family and friends’ outings, groups of young people finding a quiet place to get together, people holding parties with ball games, such as rounders. Dog trainers, either private individuals for obedience and recall, or in groups to also foster socialising. Nature lovers, watching the trees grow and change through the seasons, watching rabbits, foxes, badgers, and birds such as blue tits, redwing, mistle thrush, song thrush, robin and many more; with birds being encouraged with bird feeders at one time, until the landowner unexpectedly requested them to be removed shortly before the fences were installed. In addition, Roe deer have occasionally been seen crossing the fields, much to the joy of those who have

seen them. Photographers recording the nature, the changing skies as a backdrop to the trees, the parties, the games etc”.

It is apparent that the activities highlighted would further social interests or social wellbeing. There are general community benefits of space outdoors 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 currently fenced off, but it seems clear that residents would use the area for recreational purposes if able.

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.