

Nomination of a Community Asset – Land – Toddler Play Area and Outside Gym, Leybourne

1. Background

- 1.1 On 12 May 2023, Tonbridge and Malling Borough Council (“the Council”) received a nomination for a community asset from Leybourne Parish Council, in respect of the Toddler Play Area and Outside Gym, Leybourne (“the Land”).
- 1.2 The nomination describes the Land as follows: *“as shown in the attached lease”* The lease, describes the permitted use of the land as: *“for the purposes of Children’s Play Area, an Adults outdoor Gym and as a public open space”*
- 1.3 The nomination demonstrates that the land is currently in use as a play area and gym. The landowner is Kent County Council, who lease the land to Leybourne Parish Council. The Parish Council (the nominator) describes the uses of the land as follows:

“This area is used by adults and children for exercise which also affects mental health” they also state: *“This area is good for dog walkers and people who exercise”*.

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 Land is currently in use as a play area and gym. The nomination states that this is used by "adults and children for exercise" in addition "this area is good for dog walkers and people who exercise". These uses would be considered to 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 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.