

Nomination of a Community Asset – Rotary House, Norman Road, West Malling

1. Background

1.1 On 27 June 2023, Tonbridge and Malling Borough Council (“the Council”) received a nomination for a community asset from West Malling Parish Council (WMPC), in respect of Rotary House, Norman Road, West Malling (“the Property”).

1.2 The nomination received is a renomination, as previous ACV status applied to this building, following a successful nomination from WMPC in 2021. However, the original ACV status was removed when the previous owners sold the property (following the required moratorium period).

1.3 The nomination describes the Property as follows:

“Shell of building is a second hand portacabin, with a brick shell added defines on the south and western side by a metal park fence. Six parking spaces lie between the building and the entrance road. It comprises two main lounges, kitchen, toilets, and a number of smaller rooms previously used for offices and specialist personal services e.g bathing, hairdressing. It lies to the North of Norman Road and the eastern boundary is formed by the entrance road to West Malling CoE Primary School. The Cricket Ground surrounds the Western and Northern boundaries.”

1.4 The nomination states that the Property has been closed since May 2019. The site was sold by Kent County Council to a private developer (CKE Homes Ltd) in June 2022.

1.5 The nomination describes the uses of the building (prior to its closure) as follows:

“The former use of the asset was as the community centre of Age Concern Malling.

When fully accredited, a wide range of services for the elderly were provided, including the following:

Day Care for Elderly people with a wide range of activities during the day until around 3.30pm. including activities to foster good health and well-being, combat loneliness and delay dementia.

Bathing, chiropody, hairdressing, Hi Kent hearing aid battery replacement and repairs service, Dementia Day Care, book swaps.

Visits and day trips of various kinds were arranged for clients.

Local Social events were normally celebrated at the centre with parties

and fund raising activities including town festivals and sporting events, Jubilee and Royal Weddings

Six minibuses brought clients to and from the centre.

A large fully equipped kitchen provided around 40 freshly cooked meals every day including Sundays.

Many families in the community used the services for themselves or their elderly relatives.

The Centre also provided office accommodation for Age Concern Malling where administrative and training activities took place”

- 1.6 In addition the nomination states: *“The Parish Council some time ago expressed interest in leasing or purchasing the centre should the County Council have no further operational need for the building. When the County Council put the site up for sale, the Parish Council submitted an unsuccessful bid for the site in 2021*

The site commands the entrance to the school, nursery and ball park, and the Parish Council owned property of allotments, cricket meadow and pavilion, football pitch, and community orchard. It is therefore vital that the asset is occupied by an organisation willing to commit to playing its part in the continuation of community services on all these sites, and continuing the good cooperation that has existed with the school and Parish Council to date.

Parish Council ownership would achieve all these aims, ensuring established community activities on the Cricket Meadow can continue in perpetuity.

In addition to this strategic value, the Parish Council indicated in its earlier application for ACV registration that it would wish to continue as many of the services to the elderly previously provided by Age Concern as possible, with the exception of Day Care provision. Additional uses might be relocating the Parish Office in the asset, creating space for medical clinics or satellite GP surgery, and youth activities for both uniformed organisations as well as youth club activities. WMPC needs to revisit these possible uses following the May elections when two new councillors joined the Council.

We understand that one of the adjoining Age UK branches is interested in running services from the centre on some days, but that they do not wish to use the building all the time, or to own it. The Parish Council has therefore indicated that it would be willing to commission services from Age UK in order to benefit from their experience in running such services in a viable manner.

The Parish Council would need to borrow money through the PWLB to purchase and possibly remodel the building which is nearing the end of its useful life.

The Council has safeguarded monies for repayments on a PWLB loan which would fund the purchase of the site.”

- 1.7 The current owner of the Property has been notified of the ACV application from the Parish Council and states:

“This building has been empty for at least 4 years now there is no roof on the building and it is now dilapidated beyond repair” in addition he states:

“If this is left on the community asset list it will be another dilapidated building in an amazing area which is left to dilapidate further for at least another 5 years I have attempted to rent this property directly to West Malling Parish Council and refurbish it so they can run it as what they require it to be but they are only interested in owning the site which we are in talks for but this could be years in the making”

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 vacant, so there was no actual current use at the time of the nomination. The nomination states that the property closed around May 2019. Whilst there is no statutory definition or guidance regarding what constitutes the “recent past”. The Tribunal judgements concerning what might constitute the “recent past” for these purposes suggests that it is a matter of fact and degree in every case, having regard to matters such as how long the property had been in community use prior to the use ceasing. It seems reasonable in the circumstances to consider a period of approximately four years to be in the “recent past”.

The uses to which the Property were put prior to closure include activities which promote health and wellbeing for the local elderly population, including being a location where elderly residents could visit and engage in social activities. Such

uses could reasonably be considered to be non-ancillary and activities which promote social interests and/or social wellbeing of the local community.

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

It is apparent from the Parish Council's nomination that they would seek to use the Property for uses which would further the social interests or social wellbeing of the local community, were they to be able to purchase the property.

The Parish Council has previously expressed an interest in the Property, however, they were unsuccessful. The Parish Council have stated that they would be willing to take out a loan to purchase the property and that they have safeguarded monies to repay the loan. Although the current Landowner has expressed concern regarding the potential listing as an ACV and the time it would take for WMPC to purchase the Property, he does indicate they are "*in talks*".

Were the Property to be put up for sale within the next 5 years it seems reasonable to consider that the Property could be brought back into a use or uses which further the social wellbeing or social interests of the local community.

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.