

	Community Leadership Committee 22 November 2017
Title	Proposed removal of Barnet Cricket Club as an Asset of Community Value
Report of	Councillor Longstaff, Chair of the Community Leadership Committee
Wards	New Barnet
Status	Public
Urgent	No
Key	No
Enclosures	None
Officer Contact Details	Stephen Evans, Assistant Chief Executive Sophie Leedham, Strategy Officer, Community Participation and Engagement (sophie.leedham@barnet.gov.uk , 020 8359 7313)

Summary

The Localism Act 2011 introduced the Community Right to Bid (“CRTB”), a new right for local people to nominate buildings or pieces of land that they believe contribute to the social interests or wellbeing of their local communities to be listed on a register of Assets of Community Value (“ACVs”), managed by the local authority.

In order to decide whether to list an asset as an ACV, the Act provides that the Council must consider whether the nomination has come from a group eligible to make a nomination, as defined in the legislation; and whether the current or recent main use of the nominated asset contributes to the social wellbeing or social interests (defined as ‘cultural, recreational or sporting interests’) of the local community, and whether it is realistic to think it can continue to do so (whether or not the use remains exactly the same).

As well as adding assets to the list of ACVs if they are nominated and it is deemed that they meet the criteria, Regulation 2 of the Assets of Community Value (England) Regulations 2012 also requires the authority to **remove** assets from the list of ACVs if circumstances change and they no longer consider the land to be of community value.

This report recommends that Barnet Cricket and Hockey Club, Barnet Lane, Underhill, Barnet, EN5 2DN is removed from the borough's register of Assets of Community Value as it no longer furthers the social wellbeing and social interest of the local community as it did when it was nominated in March 2013. This is because evidence has been obtained that there has been no use of the pavilion or the cricket ground since assignment and that the asset no longer delivers the community benefit for which it was registered as an Asset of Community Value.

Recommendations

That the Committee agree that Barnet Cricket and Hockey Club should be de-listed as an Asset of Community Value and removed from the Council's Register, based on the statutory criteria set out in the Localism Act 2011 that requires the authority to remove a property from the list of ACVs if they no longer consider the land to be of community value and on enclosed evidence in support of this.

1. WHY THIS REPORT IS NEEDED

The Community Right to Bid

- 1.1 The Localism Act 2011 ("the Act") introduced a new right for groups of local people to nominate buildings or pieces of land – either publicly or privately owned - which contribute to the 'social wellbeing or social interests' of their local communities to be listed on a register of Assets of Community Value ("ACVs"), which the local authority is required to maintain.
- 1.2 The Act provides that in order to decide whether to list a nominated asset as an ACV, the Council must consider whether the main use of the asset contributes to the social interests or social wellbeing of the local community, and whether it is realistic to think it will continue to do this (whether or not the use remains exactly the same).
- 1.3 The Act defines social interests as 'including cultural, recreational, and sporting interests'. There is no further definition.
- 1.4 The statutory tests which the Council must apply when assessing a nomination are:
 - (i) Its main use furthers the social wellbeing or cultural, recreational or sporting interests of the local community; and it is realistic to think that the main use will continue to further the social wellbeing or cultural, recreational or sporting interests of the local community; or,
 - (ii) Where the main use does not currently have such a community benefit, in the "recent past" it did have and it is realistic to think that it would be able to have such a use in the next 5 years.

(iii) That the nomination is a community nomination made by a community or voluntary organisation or group which qualifies under the Act to make the nomination.

- 1.5 Where either criterion i) or ii), and criterion iii) of the above is met, the Council must list the land or building on its register of Assets of Community Value.
- 1.6 'Recent past' has not been defined, nor is there any case law on this, however, the Department for Communities and Local Government note that the definition is at the discretion of the local authority since recent might be viewed differently in different circumstances.
- 1.7 The Localism Act does not provide local authorities with a process for removing an Asset, if it is considered to no longer further the social interests of the community. As a result, Barnet Council follows the same process for registering an Asset when looking to remove an Asset and presents the evidence to the Community Leadership Committee for consideration.

2. Removal of Barnet Cricket and Hockey Club as an Asset of Community Value

- 2.1 As well as adding assets to the list of ACVs if they are nominated and it is deemed that they meet the criteria outlined in Sections 1.2 and 1.4, Regulation 2 of the Assets of Community Value (England) Regulations 2012 requires the authority to **remove** an asset from the list of ACVs if it no longer considers the site to be land of community value.
- 2.2 In March 2013, a nomination was received from the Barnet FC Supporters' Trust, an eligible nominating body, to list the Barnet Cricket and Hockey Club, Barnet Lane, Underhill, Barnet, EN5 2DN, as an Asset of Community Value. This report recommends that the asset is removed as an Asset of Community Value as there is clear evidence to support that the land no longer provides the community value that it did when nominated in March 2013.
- 2.2 The original nomination described how the land was leased to Barnet Football Club, and housed the Pavilion Bar which was used by Barnet Football Club supporters and a number of the members of the Barnet Football Club Supporters' Trust.
- 2.3 The nomination outlined how the land was used by Barnet Football Club as a hub of social activity for people of all ages. On a match-day the Pavilion Bar was used as a meet up, social venue by hundreds of football fans who attended the games at Underhill, and as such provided a social space for many of members. On non-match days, Barnet FC in the Community ran a series of activities for young people in the local community, including five-a-side football tournaments and soccer schools, which provided a valuable space to children and parents alike, particularly in school holidays.

- 2.4 It was on this basis that the property met the statutory test for being registered as an Asset of Community Value by furthering the social interests of the local community.

Change in circumstances since the decision to list

- 2.5 Since the decision to list the asset was taken in 2013, the circumstances of the building have changed significantly. Barnet Football Club played their last match at Barnet Cricket Club in April 2013 before moving to their current premises at The Hive in Canons Park, Harrow. The supporters club, who used the pavilion, followed the football club to The Hive.
- 2.6 The football ground was sold to the Education Funding Agency in February 2015. The leasehold interest in the adjoining Barnet Cricket and Hockey Club, such as it was, was then assigned to the Education Funding Agency in November 2015.
- 2.7 The Education Funding Agency, confirm that there has been no use of the pavilion or the cricket ground since assignment. A site visit reveals that the clubhouse has been locked and inaccessible to any members of the public. See Appendix 1 for supporting evidence.
- 2.8 The Educational Funding Agency plan to develop the site into a school. This means that the site's primary use will not be for wider community benefit as it will not be accessible to the wider community in school hours. If the community were able to use the grounds outside of school hours, then this will be the site's ancillary, rather than its primary use.
- 2.9 It is reasonable to conclude therefore that the land no longer meets the statutory tests to be registered as an Asset of Community Value, and is not expected to meet the tests over the next five years and should be therefore removed as a registered Asset of Community Value pursuant to the Council's duty mentioned in paragraph 2.1.

3. REASONS FOR RECOMMENDATIONS

- 3.1. Statutory criteria set out in the Assets of Community Value (England) Regulations 2012 requires the authority to remove a property from the list of ACVs if they no longer consider the land to be of community value and enclosed evidence in support of this.

4. ALTERNATIVE OPTIONS CONSIDERED AND NOT RECOMMENDED

- 4.1 The Community Leadership Committee could decide to keep the site listed as an Asset of Community Value. However, based on the clear evidence provided in Appendix 1, there is a risk that this would contravene the requirements of the 2012 Regulations to de-list.

5. POST DECISION IMPLEMENTATION

- 5.1 Barnet Cricket and Hockey Club would be de-listed as an Asset of Community Value and nominating group, lease holder and the owner of the property will be informed, in writing, of the outcome with reasons. The local land charge would be cancelled and the Land Registry restriction would be removed.

6. IMPLICATIONS OF DECISION

6.1 Corporate Priorities and Performance

- 6.1.1 The Community Right to Bid process contributes to the 2015-2020 Corporate Plan's objective to develop a new relationship with residents that enables them to be independent and resilient and to take on greater responsibility for their local areas by fulfilling one of the rights granted to local communities under the Localism Act 2011.

6.2 Resources (Finance & Value for Money, Procurement, Staffing, IT, Property, Sustainability)

- 6.2.1 The asset belongs to the Council and there are no financial implications to this decision.

6.3 Social Value

- 6.3.1 There are no social value considerations as this decision does not relate to a service contract.

6.4 Legal and Constitutional References

- 6.4.1 The Localism Act 2011 obligates the Council to list assets nominated by local community groups as Assets of Community Value if these are deemed to pass the statutory tests set out in the Act.
- 6.4.2 Under the Council's Constitution (Article 7, Section 7.5 Responsibility for Functions) the responsibilities of the Community Leadership Committee include:
- Responsibility for civic events, community safety, emergency planning, registration and nationality service, grants to voluntary sector.
 - To receive nominations and determine applications for buildings/ land to be used as an Asset for Community Value (Community Right to Bid).
 - To submit to the Policy and Resources Committee proposals on the Committee's budget for the following year in accordance with the budget timetable and make recommendations on issues relating to

virements, underspends or overspends. No decisions which result in amendments to the agreed budget may be made by the Committee unless and until the amendment has been agreed by Policy and Resources Committee.

6.5 Risk Management

- 6.5.1 There are no risks associated with the decision to de-list Barnet Cricket and Hockey Club as an ACV.

6.6 Equalities and Diversity

- 6.6.1 No negative differential impact on people with any characteristic protected under the Equality Act 2010 has been identified with regard to this nomination.

- 6.6.2 Under section 149 of the Equality Act 2010, the council and all other organisations exercising public functions must have due regard to the need to:

- eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by or under the Act;
- advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- foster good relations between persons who share a relevant protected characteristic and persons who do not share it

The relevant protected characteristics are age; disability; gender reassignment; pregnancy and maternity; race, religion or belief; and sex and sexual orientation. The broad purpose of this duty is to integrate considerations of equality into daily business and keep them under review in decision making; the design of policies; and the delivery of services.

6.7 Consultation and Engagement

- 6.7.1 A draft amendment to the Council's Community Right to Bid policy was carried out between 11 February and 24 March 2014. The results of that consultation were set out in a report taken to the Community Leadership Committee on 25 June 2014 and the Council's guidance on the Community Right to Bid amended following agreement of that report.

6.8 Insight

- 6.8.1 No specific insight data has been used to inform the decision required.

7. BACKGROUND PAPERS

- 7.1 Community Right to Bid: Consultation and recent developments (Community Leadership Committee, 25 June 2014)

<http://barnet.moderngov.co.uk/documents/s15687/Community%20Right%20to%20Bid%20Report.pdf>.

- 7.2. Underhill Stadium And Hockey Club, Barnet Lane, Barnet, EN5 2DN (Underhill Ward) (Planning Committee 25 October 2017) <https://barnet.moderngov.co.uk/documents/s42740/Underhill%20Stadium%20And%20Hockey%20Club%20Barnet%20Lane%20Barnet%20EN5%202DN.pdf>

Appendix 1 – Supporting evidence

Hi Justin

I can confirm that there has been no use of the cricket grounds or pavilion since the EFA took control of the site in December 2015.

Kind regards

Jamie

Jamie McFarland

Project Manager, Free Schools

Please note that from 1st October my email address will change to [REDACTED]

Please update your contacts list.

Mobile: [REDACTED]

Switchboard: [REDACTED]

Web: www.education.gov.uk



Department for Education are removing '.gsi' from our email addresses

From 1 October, our new email will be 'firstname.lastname@education.gov.uk'

Find out more on GOV.UK by clicking here



