

Public Questions and Answers: Community Leadership Sub-Committee, 15 October 2015

	Item Number	Raised by	Question Raised	Answer
1	Item 7: Nomination - Holden Road as an ACV	Mr. Peter Murphy	Has the officer been presented with any evidence, for the claim that 300 people regularly use the space, beyond the protestors' own assertions? Is that 300 per day, 300 per week 300 per month 300 per year etc. who are they?	<p>The Localism Act 2011 provides that in order for nominated land to be listed as an Asset of Community Value, the nomination must demonstrate that the main use of the land furthers the cultural, recreational or sporting interests of the community. The Act does not give any further definition of 'cultural, recreational or sporting interests' and does not specify what type or level of 'evidence' the nomination must provide in order to establish that the main use is for this purpose. The Council's Community Right to Bid nomination form does require nominating groups to make a declaration that all information provided is accurate. However, there is an element of subjective judgment involved in the Council's decision on whether the nomination meets the statutory criteria.</p> <p>With regard to land to the rear of 71 Holden Road, the Council has no evidence to demonstrate that the claim that 300 people use the land regularly is untrue. The nomination itself at face value, as well as some of the 63 representations in response to consultation on plans to dispose of land to the rear of Holden Road (which the nomination refers to), may be viewed as providing some testament from the community that the land is used to further social interests. There is a level of subjective judgment involved in determining whether the nomination has established that the main use of the land furthers social interests.</p>

Public Questions and Answers: Community Leadership Sub-Committee, 15 October 2015

2	Item 7: Nomination - Holden Road as an ACV	Mr. Peter Murphy	Has any attempt been made to assess the claim with the existing residents in the area, such as those living at 71 Holden Road?	The Council has not consulted on the contents of this Community Right to Bid nomination with residents of Holden Road. In accordance with the Localism Act 2011, when assessing whether an asset meets the criteria to be listed as an Asset of Community Value, the Council considers the information contained in the nomination, as well as undertaking a process whereby all relevant service areas give advice on the nomination, and landowners are notified of the nomination and the Council works with them throughout the process. The Council's Community Right to Bid nomination form does require nominating groups to make a declaration that all information provided is accurate
3	Item 7: Nomination - Holden Road as an ACV	Mr. Peter Murphy	Have the council officers verified that the land at the rear of 71 Holden Road is capable of sporting activities and running as suggested in the report?	The Council has not verified the claim that the land is used for sporting activities such as running. In accordance with the Localism Act 2011, when assessing whether an asset meets the criteria to be listed as an Asset of Community Value, the Council considers the information contained in the nomination, as well as undertaking a process whereby all relevant service areas give advice on the nomination, and landowners are notified of the nomination and the Council works with them throughout the process. The Council's Community Right to Bid nomination form does require nominating groups to make a declaration that all information provided is accurate
4	Item 7: Nomination - Holden	Mr. Peter Murphy	Have the council officers established the main purpose of a recent visit by 60 people?	The nomination sets out that the visit was by a community group and attaches a flyer for a talk by the same group about local nature. In accordance with the

Public Questions and Answers: Community Leadership Sub-Committee, 15 October 2015

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5	Item 7: Nomination - Holden Road as an ACV	Mr. Peter Murphy	The assessment by planning officers that the land is not primarily used for community recreation because it is difficult to access has been dismissed as an "initial finding" and regarded as disproved by the protestors' claims; why is this?	The original finding of officers in a report on a separate matter related to land to the rear of 71 Holden Road in December 2014 that the land is difficult to access has not been dismissed. It is set out as a fact that the Community Leadership Committee may consider relevant. That the Council received 63 representations in response to the consultation on plans to dispose of the land which assert that members of the community can and do access the land has also been set out as a relevant fact for the Committee to consider. The Committee will need to weigh these facts and decide whether on balance it believes that the access issue undermines the nominating body's argument that the main use of the land furthers social benefit. This will involve an element of subjectivity.
6	Item 7: Nomination - Holden	Mr. Peter Murphy	When the report admits that only 21 group members have been found on the electoral roll "in Barnet or a neighbouring	Under the Localism Act 2011, an unincorporated group with 21 or more members that are on the electoral register in Barnet or a neighbouring Borough

Public Questions and Answers: Community Leadership Sub-Committee, 15 October 2015

	Road as an ACV		Borough”, how can the claims by nominees be deemed credible?	is eligible to make a nomination. The Council has verified that the nominating group has 21 members that are on the electoral register in Barnet or a neighbouring Borough. The Localism Act 2011 provides that in order for nominated land to be listed as an Asset of Community Value, the nomination must demonstrate that the main use of the land furthers the cultural, recreational or sporting interests of the community. The Act does not give any further definition of ‘cultural, recreational or sporting interests’ and does not specify any criteria for deciding whether claims in a nomination are credible.
7	Item 7: Nomination - Holden Road as an ACV	Mr. Peter Murphy	Is the applicant a qualifying organisation under the Act? Should it not be a properly constituted community group?	Under the Localism Act 2011, an unincorporated group with 21 or more members that are on the electoral register in Barnet or a neighbouring Borough is eligible to make a nomination. The Council has verified that the nominating group has 21 members that are on the electoral register in Barnet or a neighbouring Borough.
8	Item 7: Nomination - Holden Road as an ACV	Mr. Peter Murphy	The report notes: “The key question is whether the nomination has provided sufficient evidence that these activities constitute the main rather than ancillary use of Brookdene.” Is there sufficient evidence to demonstrate that it is even an ancillary use?	The Localism Act 2011 does not define ‘main use’ and ‘ancillary use’ further. There is an element of subjectivity involved in deciding whether the nomination has demonstrated main use. This is a matter for the decision-maker to make a judgement on.
9	Item 7: Nomination - Holden	Mr. Peter Murphy	Why does the report not provide further reasons (than the above) to grant the listing of the land as an Asset of	The report assesses the contents of the nomination against the statutory criteria set out in the Localism Act 2011. The Act sets out that the Council may only

Public Questions and Answers: Community Leadership Sub-Committee, 15 October 2015

	Road as an ACV		Community Value?	consider the reasons set out in the Act.
10	Item 7: Nomination - Holden Road as an ACV	Mr. Peter Murphy	63 members of the public registered opposition to the proposed disposal'...Have council officers checked with their colleagues in the Estates Department to verify that the land will not continue as it is currently used? And if existing public access is maintained under the proposed lease, how can the council list the land as an Asset of Community Value, when there is no loss to the community and when the council has dismissed other applications on these grounds alone in the recent past?	The report on the Community Right to Bid nomination sets out that with reference to the plans for development that are subject to a separate Council decision on 20 th October, it is likely that there will be no loss to the community in relation to this piece of land. Under the Localism Act 2011, if it is realistic to think that use of the land will continue to further the social interests of the community, and all other parts of the statutory tests are met, the Council must list the land as an Asset of Community Value.