

	<h2>Community Leadership Sub-Committee</h2> <h3>13 October 2016</h3>
<p style="text-align: right;">Title</p>	<p>Community Right to Bid: Templars Lawn Tennis Club, St Andrews Road, NW11 0PJ</p>
<p style="text-align: right;">Report of</p>	<p>Susie Kemp, Director of Strategy, Innovation and Customer Services</p>
<p style="text-align: right;">Wards</p>	<p>Golders Green</p>
<p style="text-align: right;">Status</p>	<p>Public</p>
<p style="text-align: right;">Urgent</p>	<p>Yes</p> <p>This decision is urgent because there is an 8 week statutory timescale to respond to Community Right to Bid nominations, starting from the date the council receives the nomination. This nomination for Templars Lawn Tennis Club was accepted on 30 August 2016, making the deadline for a decision 25 October 2016.</p>
<p style="text-align: right;">Key</p>	<p>No</p>
<p style="text-align: right;">Enclosures</p>	<p>Appendix A: Plan of nominated asset</p>
<p style="text-align: right;">Officer Contact Details</p>	<p>Hannah Chillingworth, Strategy Officer hannah.chillingworth@barnet.gov.uk, 020 8359 3598)</p>

<h2>Summary</h2>
<p>The Localism Act 2011 (“the Act”) (as supplemented by the Assets of Community Value (England) Regulations 2012 (“the Regulations”) introduced the Community Right to Bid (“the Right”), a new right for qualifying local bodies to nominate buildings or pieces of land that they believe contribute to the social wellbeing or social interests of their local communities, to be listed as an Asset of Community Value (an “ACV”) on a register of Assets of Community Value (“the Register”) managed by the local authority.</p>
<p>Where land is listed as an ACV, if the owner subsequently wishes to make a ‘relevant disposal’ (to sell the freehold estate in the asset with vacant possession or the grant or assignment of a qualifying lease, being one originally granted for a minimum 25 year term)</p>

they must notify the local authority in writing. This triggers an interim moratorium period of six weeks, during which time the nominating body, or any other qualifying community interest group can register interest in putting together a bid for the asset. If a community group registers interest within this interim period, this triggers a full moratorium period of six months, during which time the owner may not make a relevant disposal of the asset, except to a community group. The moratorium allows community groups the time to develop a proposal and raise the required capital to enable it to bid for the asset. The owner is under no obligation to accept a bid from a community group and can sell the property on whatever terms and to whomsoever they wish once the six month moratorium is over. No further moratorium will apply for the remainder of a protected period lasting 18 months (running from the same start date of when the owner notified the local authority of its wishing to sell).

In order to decide whether to list an asset as an ACV, the Regulations provide that the council must consider whether the nominator has supplied evidence that the nomination comes from a body eligible to make the community nomination, as defined in the legislation; and if that is established whether the nomination demonstrates that the current main use of the nominated asset contributes to the social wellbeing or 'social interests' of the local community, and it is realistic to think it will continue to do so. 'Social interests' for this purpose includes cultural, recreational or sporting interests (section 88 of the Localism Act 2011). Alternatively, if in the opinion of the council, there was a time in the recent past that the main use of the nominated asset furthered the social wellbeing or interests of the local community, and that it is realistic to think that during the next five years there could be a main use of the nominated asset (whether or not the same community use as before) that will further the social wellbeing or social interests of the local community, the council must list the asset.

A nomination has been received to list Templars Lawn Tennis Club, St Andrews Road, NW11 0PJ, (Golders Green ward) as an ACV. **This report recommends that the asset is not listed as an Asset of Community Value and is added to the council's Register of Assets of Community Value as an unsuccessful nomination.**

The Localism Act 2011 provides that in order to be eligible, the nomination must be made by a community organisation or group which qualifies under the Act to make the nomination. The nomination for the Templars Lawn Tennis Club came from an unincorporated group – Templars Local Community Asset Group. In order for an unincorporated body to be eligible, it must consist of at least 21 members on the electoral roll in Barnet or a neighbouring borough and not distribute any surplus to its members. The Templars Local Community Asset Group consists of at least 21 members who are on the electoral roll in Barnet – a list of members and their addresses was provided with the application and it has been verified by the Electoral Services Team that at least 21 of these members are registered to vote in Barnet. The nominating group does not engage in financial activity therefore the surplus criterion is not engaged. **The nomination comes from an eligible body.**

Eligible nominating bodies must be able to satisfy the mandatory local connection criteria. In the case of an unincorporated group, these criteria are: that the group's activities are concerned with the local area or with a neighbouring area; and any surplus is applied wholly or partly for the benefit of Barnet or a neighbouring borough. The nominating body's members are all local residents, some of whom are members of Templars Lawn Tennis Club and some of whose properties overlook the club. The Templars Local Community

Asset Group advise that it has been formed of a group of people who enjoy this property, which they describe as a community space and who wish to preserve it for the community. It is therefore reasonable to say that the group's activities are concerned with the London Borough of Barnet. As before, the surplus criterion does not apply as it is stated in the nomination form that this group does not make a surplus. **The mandatory local connection test is therefore satisfied. The nomination therefore meets the criteria of a community nomination and falls to be considered against the statutory criteria for listing.**

The nomination outlines that the Club makes provision for the playing of tennis, which can be said to contribute to the 'cultural, recreational, and sporting' interests of the local community. It goes on to describe the varying ages of club members. The nomination describes how the Club provides facilities that other clubs in the area cannot, for example, floodlights to support playing in winter, and supporting members from another tennis club which closed down. The freehold owner of the Club has made contact and suggested that a number of the assertions set out in the nomination are incorrect, for example, information about provision in the area. The owner has also said that 75% of the members are from outside the NW11 postcode, which calls into question whether the Club can be said to further to social interests or social wellbeing of the 'local community'. Ultimately the Club does exist to allow members to play tennis; this is the main activity of the club and this falls under the bracket of 'sporting interests' in relation to the legislation. The Templars Lawn Tennis Club can therefore be said to provide a venue for sport but **may not greatly further the social interests of the local community**, although it can be said to furthering the social interests of a small number of people in the local community.

The nomination outlines that the Club's articles of association state that the core purpose of the Club is to promote the playing of lawn tennis and the supporting photographs show that the Club is well-maintained. However, following several expressions of interest from developers, an Annual General Meeting (AGM) of the Club was scheduled on 25 September 2016 to decide whether or not to move forwards with the sale of the property. A vote of 75% or more in favour was required for the Club to move ahead with this; the Owner has advised that the outcome was 86.36% in favour, so the owners intend to negotiate to sell the Club and that the Club will close although it is not certain when or whether this will take place. In addition to the fact that 75% of Club members live outside of the local area, the Owner has also provided information on membership numbers, which show that membership has more than halved in the past ten years.

Given the low proportion of the local community benefiting from the Club and supporting evidence to suggest that membership numbers are likely to continue to decline, the nomination fails to meet the statutory criteria set out in the Localism Act 2011 for a building or piece of land to be listed as an Asset of Community Value.

Recommendations

1. **That the Committee decide not to list the Templars Lawn Tennis Club as an Asset of Community Value and that it is added to the council's Register of Assets of Community Value as an unsuccessful nomination. The Tennis Club is currently a venue for playing tennis but is not much used by the local community and membership numbers have been steadily declining.**

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 which contribute to the 'social wellbeing or social interests' of their local communities to be listed as an asset of community value ("ACV") on a register of Assets of Community Value ("the Register"), which the local authority is required to maintain.
- 1.2 Nominations can apply to public or private assets, although certain kinds of asset (such as residential homes) are exempt.
- 1.3 The Act defines social interests as 'including cultural, recreational, and sporting interests'.
- 1.4 The Act provides that land in a local authority's area which is of community value may be included by a local authority in its Register only:
 - (a) in response to a community nomination, or
 - (b) where permitted by regulations made by the appropriate authority.
- 1.5 In England a community nomination can be made by a parish council or by a voluntary or community body with a local connection as defined in the Assets of Community Value Regulations 2012 ("the Regulations").
- 1.6 The statutory tests which the council must apply when assessing a nomination are:
 - a) 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
 - b) (i) the actual current use of the building or land that is a non-ancillary use furthers the social wellbeing or social interests of the local community; and it is realistic to think that there can continue to be a non-ancillary use of the building or other land which will continue to further the social wellbeing or social 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 the

council considers it realistic that it would be able to have such a use in the next 5 years.

- 1.7 Where criterion (a) and (b) of the above is met, the council must list the land or building on its Register.
- 1.8 If the council lists the nominated land, a restriction is placed on the title to the land if the land is registered. If the owner wishes to make a relevant disposal the owner is legally obliged to notify the council (if the asset is not owned by the council). The council will then inform the nominating group which signals the start of an interim moratorium period of six weeks where the nominating group or any other eligible community group may register an interest in bidding for the asset and the asset can only be sold during the interim moratorium period to a community group. If during the six weeks a local community group expresses an interest in acquiring the asset, then a full moratorium is triggered and any relevant disposal is delayed for a six month period. This is designed to give the community group the opportunity to make a bid for the asset.
- 1.9 The owner is under no obligation to accept the community group's bid over any other bid. There is no 'right of first refusal' for the community group, only the right to trigger the moratorium. The owner is free to work with other potential buyers and stimulate the wider market during the moratorium and at the end of the moratorium period can sell to any party.
- 1.10 If an asset is listed as an ACV, the asset owner has the right to appeal against this, initially through the council's internal review process and subsequently through an appeal to the First Tier Tribunal. The owner can claim compensation for listing.
- 1.11 If an asset is not listed, the council must communicate its reasoning to the nominating group but the nominating group has no right to appeal against the decision. However, a nominating group can apply for a judicial review of the local authority's decision.

Nomination of the Templars Lawn Tennis Club

- 1.12 The Templars Lawn Tennis Club, St Andrews Road, NW11 0PJ, has been nominated as an ACV by the Templars Local Community Asset Group.
- 1.13 The freehold on the asset is currently owned by Templars Lawn Tennis Club Limited and the council has been advised that there are no leaseholders or other lawful occupiers. The Owner has been notified that this nomination is under consideration.
- 1.14 The nominating group considers that the main current non-ancillary use of the asset furthers social wellbeing and social interests of the community and has community value on the grounds that:

- The asset has been an important part of the community for nearly 100 years and is a space to enjoy tennis and social interaction with friends and neighbours
- Monthly tennis tournaments are arranged for all to take part in
- Other tennis facilities have recently closed down – the Club has supported those from other clubs that have closed, for example, Highgate Tennis Club
- The Club provides seasonal facilities such as floodlights which other clubs cannot – therefore those from West Heath Club are able to play all year round if they opt to play at this club in the evenings.
- The Club caters for a range of ages from 4 – to those in their 80s

1.15 Alongside this anecdotal evidence, a series of photographs showing the asset in use, and a range of facts and research into the health and sporting benefits of tennis was included with the application.

1.16 The freehold owner of the Club has contacted the council and has submitted a representation which suggests that many of the points in 1.14 are factually incorrect. These points are considered below in paragraphs 1.24 and 1.27.

Application of statutory tests as set out in the Localism Act 2011

Eligibility of nominating group

1.17 The nomination has been made by an unincorporated body; a status which qualifies to make nominations under the Act provided that a number of conditions are met:

- An unincorporated group must comprise of at least 21 local members who appear on the electoral register in either Barnet or a neighbouring borough;
- Any surplus that is made must not be distributed to any members of the group;
- The nominating group must demonstrate its “local connection”:
 - the body’s activities must be wholly or partly concerned with the local authority’s area or with a neighbouring authority’s area; and
 - any surplus made must be wholly or partly applied for the benefit of the local authority’s area or a neighbouring authority’s area

1.18 The nominating group provided with their nomination a list of their members and their addresses, which has been verified by the Electoral Services Team as at least 21 members registered to vote in Barnet.

1.19 The nominating body does not engage in financial activities or generate income; therefore the prohibition of distributing a surplus to members is not engaged.

- 1.20 The nominating body is composed of a group of people who live locally to the asset and who came together to form the Templars Local Community Asset Group. Their aim is to preserve the Club so that it can continue to benefit the local community in years to come. This is deemed sufficient to reach the conclusion that the nominating body's activities are concerned with the London Borough of Barnet, satisfying the first criterion of the mandatory local connection.
- 1.21 As the nominating body does not make a surplus, the second criterion of the local connection test is not engaged. Considering this, the local connection criteria have been fulfilled.
- 1.22 Criterion (a) of the statutory tests set out in paragraph 1.6 above has therefore been met.

Main use of asset furthers social wellbeing or social interests of community

- 1.23 The activities listed at 1.14 can be considered to be part of the non-ancillary use, because the asset is a Tennis Club therefore its principal use is for the playing of tennis. Tennis falls within the scope of cultural, recreational, and sporting interests within the legislation, and a series of photographs showing the asset in use and research cited on the benefits of tennis is deemed sufficient evidence to support this.
- 1.24 The Owner of Templars Lawn Tennis Club has submitted a representation which suggests that some of the assertions set out in the nomination are factually incorrect. The Owner advises that there are at least 12 tennis playing facilities within 3 miles of Templars Lawn Tennis Club, two of which are within walking distance, as well as public tennis courts at local parks such as Lyttleton Playing Fields or Sunny Hill Park, therefore this Club is not the only local provision. The club is a private members' club and as such is not used for socialising with friends and neighbours; it is for members only. As a rule, any tournaments that are arranged are for members only rather than being open to all. However, despite being a private members' club, membership fees are relatively low (£280/annum for adult full membership which allows full use of the courts at any time between 9am and 10.30pm plus free use of the floodlights). Members also have to meet a minimum standard to be accepted, however, there is a coach who can coach non-members which is an option for meeting the minimum standard required.
- 1.25 Ultimately, the main use of the asset is to allow members to play tennis, however, the Owner points out that 75% of the Club members do not live in the NW11 area, therefore it is questionable whether this is furthering the social interests of the 'local community'.
- 1.26 The nomination form asks the nominating body to describe why they believe that it is realistic that the main use of the nominated asset will continue to further social wellbeing and interests in the future. The nomination includes

that the Club's articles of association state that the Club's core purpose is to promote the playing of lawn tennis. The nomination also notes that the asset provides facilities for other tennis clubs who do not have such facilities, for example floodlit courts. The supporting photographs show that the Club is well-maintained.

- 1.27 The Owner's submission states that membership numbers have been dropping steadily over the years, with 72 members in 2016/17 compared with 159 in 2006/07 – although this is in line with the trend across many small clubs, and at present the Club is still financially viable. However, following several expressions of interest in buying the Club for development purposes an AGM was convened on 25 September 2016 to discuss if members of the Members Association (of which there are 51) would be interested in taking up this proposition. The Owner advised that if the vote is in favour by more than 75%, then an Extraordinary General Meeting (EGM) will be convened to change the articles of association to allow profit to be distributed to the members (which is not currently possible) and to move to the next stage.
- 1.28 The Owner has advised that of the 51 members eligible to vote – 38 were in favour, six were against with one abstention, totalling 86.36% in favour. Following this outcome, an EGM will be scheduled.
- 1.29 Although the nominated asset has not yet been sold, and there will be a process to follow in order for the site to be developed, for example, obtaining planning consent, the Owner considers it is highly likely that the sale will be made in the near future, and in any case, long before the five year period in which an Asset would remain listed. The buyer may wish to buy the Club and close it once planning consent has been granted, the likelihood of which is not known. However, in addition to this point, the Club is not currently used much by the 'local community' (subject as mentioned in para 1.25) and membership numbers have been steadily declining over the years, therefore it is not reasonable to conclude that criterion (b)(i) set out in paragraph 1.6 has been met.

2. REASONS FOR RECOMMENDATION

- 2.1 The nomination of the Templars Lawn Tennis Club fails to meet the statutory tests established by the Localism Act 2011 and the Regulations to be considered an Asset of Community Value. The recommendation is, therefore, that the Committee do not list the Templars Lawn Tennis Club as an Asset of Community Value and that it be added to the council's Register of Assets of Community Value as an unsuccessful nomination.

3. ALTERNATIVE OPTIONS CONSIDERED AND NOT RECOMMENDED

- 3.1 The Community Leadership Sub-Committee could decide to list the Templars Lawn Tennis Club as an ACV, but it is judged that the nomination fails to meet the statutory criteria set out in the Localism Act 2011. If the Committee is in

agreement with this opinion as to the failure to fulfil the statutory criteria, the council must not list the nominated asset as an ACV.

3.2 An owner has the right to appeal if they feel that their asset has been wrongly listed.

3.3 Unsuccessful nominations are eligible for re-nomination.

4. POST DECISION IMPLEMENTATION

4.1 The Templars Lawn Tennis Club will be recorded on the Register of Assets of Community Value as an unsuccessful nomination for a period of five years. Both the nominating group and the freehold owner of the property will be informed, in writing, of the outcome.

5. IMPLICATIONS OF DECISION

5.1 Corporate Priorities and Performance

5.1.1 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.

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

5.2.1 There are no resource implications associated with this decision.

5.3 Social Value

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

5.4 Legal and Constitutional References

5.4.1 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.

5.4.2 Under the council's Constitution (Responsibility for Functions – Annex A) the responsibilities of the Community Leadership Sub Committee include:

- To receive nominations and determine applications for buildings / land to be listed as an Asset of Community Value (Community Right to Bid) when there is no scheduled meeting of the full Committee which falls within the eight week statutory deadline for determining applications.

5.5 Risk Management

5.5.1 There are no risks associated with this decision.

5.6 Equalities and Diversity

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

5.7 Consultation and Engagement

5.7.1 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.

5.8 Insight

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

6. BACKGROUND PAPERS

6.1 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>.