

	<h2>Community Leadership & Libraries Committee</h2> <h3>7th March 2019</h3>
<p style="text-align: center;">Title</p>	<p>Community Right to Bid: College Farm, Fitzalan Road, N3 3PG</p>
<p style="text-align: center;">Report of</p>	<p>Councillor Reuben Thompstone, Chairman</p>
<p style="text-align: center;">Wards</p>	<p>Finchley Church End</p>
<p style="text-align: center;">Status</p>	<p>Public</p>
<p style="text-align: center;">Urgent</p>	<p>Yes - there is an 8-week statutory timescale to respond to Community Right to Bid nominations, starting from the date the Council receives the nomination.</p> <p>The nomination for College Farm was received on 10th January, making the deadline for a decision 7th March 2019.</p>
<p style="text-align: center;">Key</p>	<p>No</p>
<p style="text-align: center;">Enclosures</p>	<p>Plan of nominated asset</p>
<p style="text-align: center;">Officer Contact Details</p>	<p>Danusia Brzezicka, Strategy Officer, Community Participation (danusia.brzezicka@barnet.gov.uk 020 8359 3211)</p>

Summary

The Localism Act 2011 (“the Act”) introduced the Community Right to Bid (“CRTB”). Under section 87 of the Act the Council must maintain a list of land of community value in its area. A building or other land is of community value if in the Council’s opinion there is an actual current use of the building or other land which furthers the social wellbeing or social interests of the local community, and 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.

It is a 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.

Where land is listed as an ACV, if the owner subsequently wishes to make a ‘relevant disposal’ (to sell the asset or grant a qualifying lease, which is one originally granted for a 25-year term) they must notify the local authority. This triggers an interim moratorium period of six weeks, during which time the nominating group, or any other community group can register interest in putting together a bid for the asset. If a community group registers interest, 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 is intended to allow community groups the time to develop a proposal and raise the required capital to bid for the asset when it comes onto the open market at the end of that period. The owner is under no obligation to accept a bid from a community group and can sell the property to whomever they wish once the six-month moratorium is over. However, if the asset is not disposed of within 18 months from the commencement of the interim moratorium period, then the moratorium period is re-triggered (12 months from the end date of the first moratorium period).

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 including ‘cultural, recreational or sporting interests’) of the local community, and whether it is realistic to think it will continue to do so in the next 5 years (whether or not the use remains exactly the same).

A nomination has been received from Mr Michael Crick on behalf of the Finchley Society to list **College Farm, Fitzalan Road, N3 3PG** (Finchley Church End ward) as an Asset of Community Value. **This report recommends that the asset is not listed as an Asset of Community Value.**

The nomination is an eligible nomination. The Localism Act 2011 and the Assets of Community Value Regulations (“ACV Regulations”) 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 Finchley Society is a registered charity and they have provided financial information which shows there does not appear to be any surplus profit distributed to its members. Consequently, they are eligible to make a nomination under regulation 5 (1)c of the ACV Regulations.

The nomination does not meet the criteria of furthering the social wellbeing or social interest of the community.

The nomination describes the land as a site of local importance for nature conservation of several acres and includes Grade II listed buildings known collectively as College Farm. College Farm had been established as a visitor attraction to the local community from 1909 after many years as a working dairy farm since 1883. College Farm was home to a variety of rare breed animals as well as numerous community events. However, the repercussions of foot and mouth disease in 2001 impacted on College Farm and the rare breed animals were destroyed. From this point, College Farm was not able to continue as a community venture as finances presented a problem and forced the closure of these facilities to the public in 2001.

There is no evidence that community use has occurred in the past 18 years (since 2001); it is reasonable to think that **the main use of the asset does not further the social wellbeing and social interests of the community.**

There are currently no known plans to sell this land, and the nomination has not presented any future community use for College Farm other than noting that there are successful city farms in London that have engaged community use and that this could be done here. However, based on the evidence provided **it is not realistic to think that the future use of the asset will contribute to the social wellbeing and social interests of the community.**

Recommendations

That the Committee agree that College Farm, Fitzalan Road, N3 3PG should not be listed as an Asset of Community Value and added to the Council's Register, based on the statutory criteria set out in the Localism Act 2011, and the evidence provided in the nomination.

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 on a register of Assets of Community Value ("ACVs"), 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 private homes) are exempt.
- 1.3 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 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).
- 1.4 The Act defines social interests as 'including cultural, recreational, and sporting interests'. There is no further definition.
- 1.5 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 of ACVs only:
 - (a) in response to a community nomination, or
 - (b) where permitted by regulations made by the appropriate authority.
- 1.6 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 (England) Regulations 2012 ("the Regulations").

- 1.7 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 the Council considers it realistic 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.
- 1.8 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.
- 1.9 If the Council lists the nominated land, a restriction is placed on the title to the land at the Land Registry if the land is registered, and a local land charge is registered. If the owner wishes to sell the asset or to lease it for more than 25 years, then the owner is legally obliged to notify the Council. The Council will then inform the nominating group which signals 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. If during the six weeks a local community group expresses an interest in taking on the asset and continuing its community use, then a full moratorium is triggered and the sale is delayed for a six-month period. This is designed to give the community group the opportunity to raise funds to try to purchase the asset at market value.
- 1.10 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 request 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. However, if the asset is not disposed of within 18 months from the commencement of the interim moratorium period, then the moratorium period is re-triggered (12 months from the end date of the first moratorium period).
- 1.11 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.
- 1.12 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 under the Localism Act 2011 but may challenge under the general law (as with any decision).

Recent policy developments

- 1.13 The Government is currently reviewing the Right. The review is on-going and there is no closing date as it is not a formal consultation. The Council has contributed to the review as an interested party.
- 1.14 A Communities and Local Government Select Committee report published on 3 February 2015 recommended that the review of the Right should increase the moratorium on sale or lease of an ACV to nine months, as well as creating statutory obligations for ACV status to be considered as a material consideration in planning matters. These recommendations have not yet been accepted by the Government but will feed into the review.

Nomination of College Farm, Fitzalan Road, N3 3PG

- 1.15 The Finchley Society, an established local charity has nominated College Farm, Fitzalan Road, N3 3PG. The enclosed plan sets out the boundaries of the nominated asset. The area incorporates previously used grazing area for cows/cattle and a Grade II listed building that had been a working dairy farm.
- 1.16 College Farm, Fitzalan Road, N3 3PG is currently owned by the College Farm Trust, incorporated in 1998 and it bought College Farm in 2006. The freeholder has been notified that this nomination is currently under consideration.
- 1.17 The nominating group considers that the main current use of the land furthers social wellbeing and interests of the community on the grounds that:
- The land as a site of local importance for nature conservation of several acres and Grade II listed buildings known collectively as College Farm, bordered by Fitzalan Road to the north, Regents Park Road to the east and Allandale Road to the South.
 - This land was designated as a site of local importance for nature conservation in 1989 and listed by Barnet Council.
 - When College Farm was opened to the public it had a wide range of animals and allowed the local community, schools and families to visit regularly. In addition, there was a small café where refreshments were served and a large hall where functions and meetings could be held. These were popular with Barnet residents and furthered the health, wellbeing and social cohesion of the local community and generally for all of Barnet's residents.
 - Community and city farms have experienced a resurgence of popularity recently. Green open spaces have been shown to have lower levels of CO2 and the grounds of College Farm will offer residents and the children of Finchley and the Borough of Barnet generally a chance to experience a slice of the countryside without having to travel any distance.
 - The Grade II listed buildings, which need some renovation, could be used to benefit the community in a variety of ways including meeting rooms and workshops, etc.
 - Green initiatives are popular with organisations who offer funding to projects that benefit the community, especially, as in this case where children could be one of the main beneficiaries.

- The nominator has set up an online petition¹ (Appendix 1) to canvas support from local residents. Their nomination states that: *College Farm in Finchley, North London is one of the very few genuine farms in the capital. It was established over 150 years ago by the Express Dairy and many of the original buildings still exist. Three are listed by Historic England as being buildings of great historical or artistic value and have official protection to prevent them from being changed or destroyed. Many adults in North London will have fond memories of visiting the farm as a child with their parents or school. In recent years the farm has not been open to the public, and a group of concerned residents from Finchley are worried that the farm might one day be sold and lost to the community forever.*

Listing the farm as an Asset of Community Value will give the community the chance to bid for the farm should it ever come on to the market. A decision will be made on March 7th so we need the help of as many people as we can find to convince the Council that this is a worthy campaign.

- The number of residents signing the petition as at 26 February is 3,001.
- The Finchley Society understands that by nominating College Farm as an Asset of Community Value, this would not guarantee its continued existence but it would give those who would wish to see the farm open and flourishing once more a chance to mount a campaign and raise funds to fulfil their dream.
- College Farm Trust was formed as both a charity (listed by the Charity Commission no 1074936) and a charitable company (listed by Companies House no 03620235) in 1998/99.
- In February 2018, the Charity Commission delisted College Farm Trust as a charity as it was judged that the Trust had not complied with its charitable obligations despite repeated requests from the Commission. As such this might have some impact upon the continued existence of College Farm Trust as a private limited company.
- If College Farm Trust should collapse or the Directors make certain decisions relating to the future of their company, the future of College Farm could be thrown into doubt. The Finchley Society recognises that the land, especially the acreage of College Farm, would be very attractive to many potential buyers. If this land should ever come on to the open market, the farm and the land would be lost to the community forever.

1.18 There are no known plans to sell the land.

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

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

1.19 The legislation sets a broad and loose definition of 'social wellbeing and social interests'. The activities listed at paragraph 1.17 are sufficient to demonstrate that a number of historic uses of the land fall within the definition of 'cultural, recreational, and sporting interests'.

¹ <https://you.38degrees.org.uk/petitions/to-list-college-farm-finchley-london-on-the-community-asset-register>

- 1.20 There is no caselaw giving clear time limits as to what amounts to the “recent past” for the purposes of section 88 of the Localism Act 2011 and previous applications have been able to demonstrate community activities within a five-year period. College Farm community activities ceased in 2001 and there is no evidence that the asset has furthered the social wellbeing or social interests of the community in the last 18 years.
- 1.21 There was no information provided by the nominator that future community events or activities would be planned.
- 1.22 Taken together, points 1.19 - 1.21 establish that criterion (i) of the statutory tests set out in paragraph 1.7 above have not been met. The main current use of the building and the land do not further the social wellbeing or social interests of the community and it is unrealistic to expect that this will happen.

The nomination is eligible

- 1.24 The Finchley Society has made its nomination as an established charity (a status which qualifies to make nominations) under s 5 (1) c of the ACV Regulations

2. REASONS FOR RECOMMENDATIONS

- 2.1 The nomination of College Farm, Fitzalan Road, N3 does not meet the statutory tests established by the Localism Act 2011 to be considered an Asset of Community Value. The recommendation is, therefore, that the Committee does not list College Farm as an Asset of Community Value.

3. ALTERNATIVE OPTIONS CONSIDERED AND NOT RECOMMENDED

- 3.1 The Community Leadership & Libraries Committee could decide to list College Farm, Fitzalan Road, N3 3PG as an ACV, as there is no caselaw giving clear time limits as to what amounts to the “recent past” for the purposes of section 88 of the Localism Act 2011, and the Committee could decide what is appropriate in this instance.

4. POST DECISION IMPLEMENTATION

- 4.1 College Farm will be recorded on the Register of Assets of Community Value as an unsuccessful nomination for an ACV. Both the nominating group and the 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 The asset does not belong to the Council and therefore there are no financial implications to 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. The ACV regulations set out the procedure to be followed in assessing a nomination.

5.4.2 Under the Council's Constitution (Article 7 Committees, Forums Working Groups and Partnerships, section 7.5) the responsibilities of the Community Leadership Committee include: To receive nominations and determine applications for buildings/land to be listed as an Asset of Community Value (Community Right to Bid).

5.4.3 When there is no scheduled meeting of the full Committee which falls within the eight-week statutory deadline for determining applications the Community Leadership Sub-Committee receives the nominations and determines the applications.

5.5 **Risk Management**

5.5.1 There are no risks associated with the decision to not to list College Farm as an ACV.

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.

5.6.2 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.

5.7 Corporate Parenting

5.7.1 As a Local Authority, we have responsibility for the children in care and care leavers within our borough. Corporate Parenting is about offering at least the same standards of care as would a 'reasonable parent' and ensuring that the decisions we make as a Council do not affect this cohort negatively. This report does not provide any implications for Barnet's children in care.

5.8 Consultation and Engagement

5.8.1 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.

5.8.2 More specifically, the nominating group has been engaged in dialogue as part of the process of administering the nomination, and given opportunities to submit evidence to support their claim.

5.9 Insight

5.9.1 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>.

6.2 Listed building references:

DAIRY AT COLLEGE FARM, Grade: II Listed Building, first listed on 15-Jan-1986: <https://historicengland.org.uk/listing/the-list/list-entry/1064789>

SILO AT COLLEGE FARM, Grade: II Listed Building, first listed on 15-Jan-1986: <https://historicengland.org.uk/listing/the-list/list-entry/1359128>

FOREMAN'S HOUSE AT COLLEGE FARM, Grade: II Listed Building, first listed on 20-Apr-1988: <https://historicengland.org.uk/listing/the-list/list-entry/1263723>

MAIN FARM BUILDING AT COLLEGE FARM, Grade: II Listed Building, first listed on 15-Jan-1986: <https://historicengland.org.uk/listing/the-list/list-entry/1359127>

Appendix 1 – Supporting evidence

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To: Councillor Reuben Thompstone, Chairman, Community Leadership & Libraries Sub-Committee, London Borough of Barnet

List College Farm, Finchley, London on the Community Asset Register

Campaign created by Michael Crick



Accept the nomination of College Farm, Fitzalan Road, Finchley, N3 3PG as an Asset of Community Value.

3,001 of 4,000 signatures

Sign the petition

First Name *

Last Name *

Email *

Postcode *

I'd like to be emailed about this, and other great 38 Degrees campaigns

Yes, keep me informed via email

No, don't send me emails or keep me updated in future

Your personal information will be kept private and held securely. By submitting information you are agreeing to the use of data and cookies in accordance with our [privacy policy](#).

SIGN

Petition: <https://you.38degrees.org.uk/petitions/to-list-college-farm-finchley-london-on-the-community-asset-register>

Why is this important?

College Farm in Finchley, North London is one of the very few genuine farms in the capital. It was established over 150 years ago by the Express Dairy and many of the original buildings still exist. Three are listed by Historic England as being buildings of great historical or artistic value and have official protection to prevent them from being changed or destroyed.

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Listing the farm as an Asset of Community Value will give the community the chance to bid for the farm should it ever come on to the market. A decision will be made on March 7th so we need the help of as many people as we can find to convince the Council that this is a worthy campaign.

Petition created and responses as at 12th February 2019.

The Finchley Society was formed in 1971 to protect, preserve and improve buildings, transport, roads and open spaces in Finchley and Friern Barnet and their environs, and to explore the history and the special features of the area. The Society is independent of Barnet Borough Council and of all political parties. We are supported by donations and subscriptions and all our work is done by volunteers. It is a registered charity no. 266403.

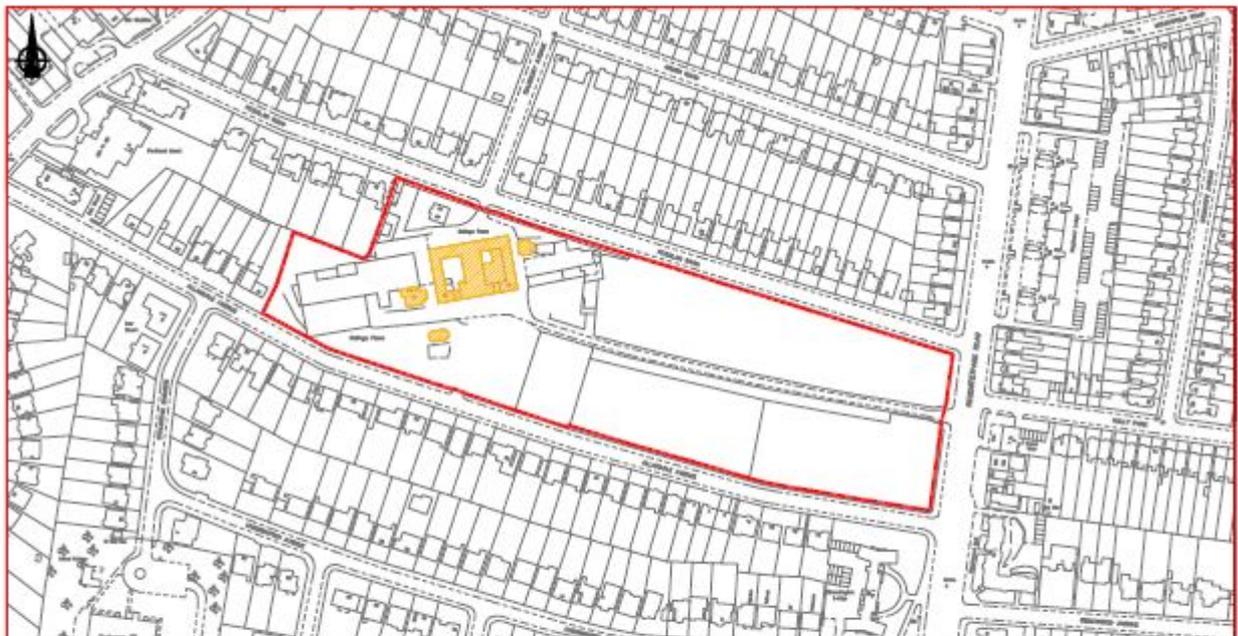
The Finchley Society has a website at www.finchleysociety.org.uk. This website contains details of our activities and newsletters, etc.

Reasons for signing

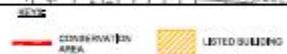
“ such an asset to Borough
Susan M. a day ago



“ To stop the inexorable concreting over of an important rural asset in our urban desolation.
Tim S. 4 days ago



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Drawn by OS Checked by KEB Date 10/02/03	SCHEME: Planning (Listed Buildings & Conservation Areas) Act 1990 TITLE: COLLEGE FARM CONSERVATION AREA FINCHLEY, N3 REGISTERED JANUARY 1989 Scales 1:2500	Stewart G. Murray, BA(Hons), MRTPI, Director of Planning, Housing & Regeneration London Borough of Barnet, North London Business Park, Oakleigh Road South, London, N11 1NP Tel. 020 8359 2000	 DRAWING No. 22969 Acad Ref: #mpg000000
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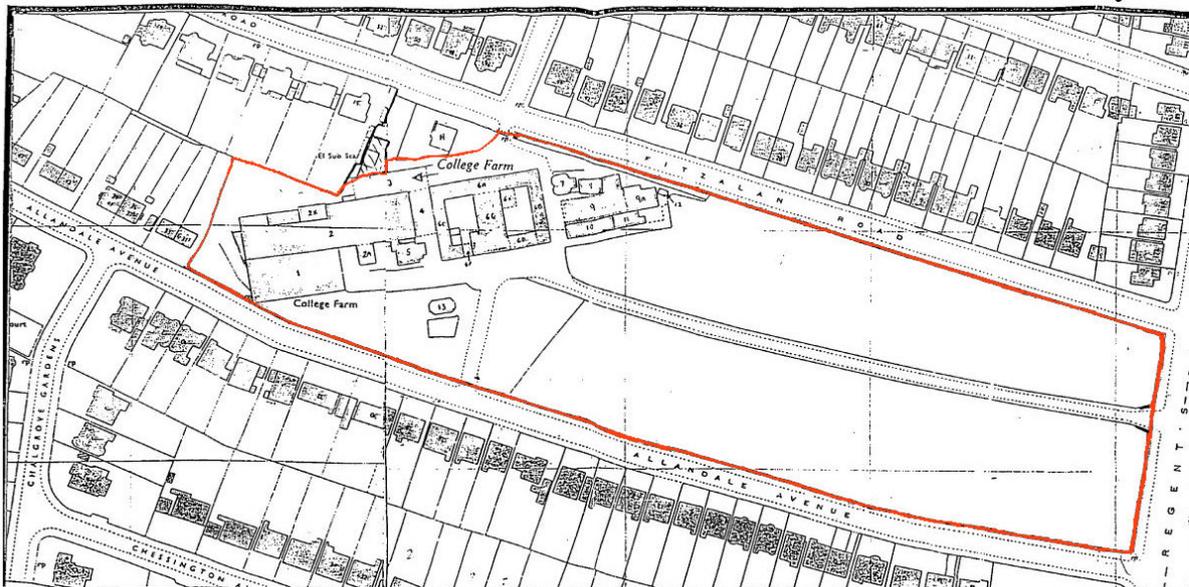
College Farm Conservation Area Map registered January 1989



0 10 20 30 40 50 60 70 80 100m

Map scale 1:2500

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Data last updated 10:00pm 25 JANUARY, 2019





Title number	Estate information	Address
AGL171373	Freehold	COLLEGE FARM FITZALAN ROAD, LONDON N3 3PG 41 FITZALAN ROAD, LONDON N3 3PG 43 FITZALAN ROAD, LONDON N3 3PG 45 FITZALAN ROAD, LONDON N3 3PG