

Key Decision Required:	No	In the Forward Plan:	No
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CABINET

23 JANUARY 2015

WELL-BEING AND PARTNERSHIPS PORTFOLIO HOLDER

A.9 DETERMINATION OF A NOMINATION TO REGISTER AN ASSET OF COMMUNITY VALUE: ARDLEIGH HALL LEISURE AND SQUASH CLUB

(Report prepared by Andy White and Gill Burden)

PART 1 – KEY INFORMATION

PURPOSE OF THE REPORT

To determine whether Ardleigh Hall Leisure and Squash Club meets the criteria set out in the Localism Act 2011 (“the Act”) and the Assets of Community Value (England) Regulations 2012 (“the Regulations”) following its nomination as an Asset of Community Value by Ardleigh Parish Council.

EXECUTIVE SUMMARY

A valid nomination to register an asset of community value has been received from Ardleigh Parish Council in respect of Ardleigh Hall Leisure and Squash Club Dedham Road Ardleigh Colchester Essex CO7 7LG, as shown identified in the plan included within Appendix A.

If a local authority receives a valid nomination, it must determine whether the land or building nominated meets the definition of an asset of community value as set out in Section 88 of the Localism Act 2011 and The Assets of Community Value Regulations 2012. The Government’s non statutory guidance defines an asset of community value as: “Building or other land whose main (i.e. “non-ancillary”) use furthers the social wellbeing or social interests of the local community, or has recently done so, and is likely to do so in the future”. The Report provides an assessment of the nomination.

The Cabinet should consider the content of the nomination against the statutory criteria and determine whether the asset should be included within the Council’s List of Assets of community Value.

Taking the evidence provided into account it is recommended that the building nominated does meet the criteria set out Section 88 of the Localism Act 2011 (as shown in sections 1 and 2 of the table above). Accordingly it is recommended that the criteria are met and that the building should be listed as an Asset of Community Value.

RECOMMENDATION(S)

That Cabinet consider the Nomination and determine whether the nominated asset meets the definition of an asset of community value as set out in section 88 of the Localism Act 2011. Officers recommend that the asset meets the criteria set out in section 88 of the Localism Act 2011 and should be added to the list of Assets of Community Value.

PART 2 – IMPLICATIONS OF THE DECISION

DELIVERING PRIORITIES

Assets of Community Value exist in a range of forms and functions. Individual properties may contribute in different ways across the spectrum of Council priorities.

FINANCE, OTHER RESOURCES AND RISK

Finance and other resources

There are circumstances where the Council may be required to pay compensation. It is hard to quantify this risk and it is therefore not proposed to make a specific allocation. The Advice Note issued by Department of Communities and Local Government (“DCLG”) states that if compensation exceeds £20,000 in any one financial year support can be requested through their burdens funding scheme.

Risk

There is always some risk that the decision in relation to the nomination will be controversial whether it is listed or not.

LEGAL

If a local authority receives a valid nomination, it must determine whether the land or building nominated meets the definition of an asset of community value as set out in Section 88 of the Localism Act 2011:

- (1) A building or other land in a local authority’s area is land of community value if in the opinion of the authority —
 - (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.

Section 88(2) of the Act extends this definition to land which has furthered the social wellbeing or social interests of the local community in the recent past, and which it is realistic to consider will do so again during the next five years.

Under Schedule 2 of the Local Authorities (Functions and Responsibilities) Regulations 2000, as amended, the determination of an appeal against any decision made by or on behalf of the authority can be made by the Executive or another Committee. It is considered that as Cabinet will be the decision maker of the outcome of the nomination, any review received should be considered and referred to the Community Leadership and Partnerships Overview and Scrutiny Committee, which already includes within its terms of reference review of Cabinet decisions.

The Assets of Community Value (England) Regulations 2012 (“the Regulations”) provide procedural detail to give effect to the assets of community value scheme. A report earlier on this agenda set out a proposed procedure for dealing with the nomination of Assets of Community Value, in accordance with the Regulations. Consideration of the nomination has been delayed by the drafting of the procedure. However Officers have adhered to the draft procedure insofar as possible and it is now proposed that Cabinet considers the nomination in accordance with the procedure.

OTHER IMPLICATIONS

Consideration has been given to the implications of the proposed decision in respect of the following and any significant issues are set out below.

Crime and Disorder / Equality and Diversity / Health Inequalities / Area or Ward affected / Consultation/Public Engagement.

Assets of Community Value exist in a range of forms and functions. Individual properties may contribute in different ways across the spectrum of implications. The Act and Regulations are intended to increase public engagement.

Area or Ward Affected

Ardleigh and Little Bromley

PART 3 – SUPPORTING INFORMATION

BACKGROUND

The Act and Regulations, also collectively known and described as Community Right to Bid place a duty on local authorities in England and Wales to maintain a list of land in their areas that is land of community value as nominated by the local community.

The local authority must consider only if the nominated asset meets the criteria set out in Section 88 Localism Act 2011 in that it is satisfied: :

- (a) the actual use, not an ancillary one, that furthers social wellbeing or social interest of the local community and
- (b) that there can continue to be a non-ancillary use, which will further the social well-being or social interests of the local community.

The Council must maintain:

- A list of assets that are held to be of community value; and
- A list of assets identified in unsuccessful nominations.

If land or buildings are placed on the list of assets of community value:

- They remain on the list for five years;
- They are subject to a local land charge;
- If the owner wishes to sell (some exemptions apply) the asset they must notify the Council;
- The Council must notify the nominator and publicise the potential sale;
- All community groups have a six week window to register their intent to bid for the asset;
- If no registration of intent is received the owner may then sell the asset as they see fit (subject to any normal legal processes);
- If intent is registered community groups are then allowed a further 20 weeks (strictly 6 months from the date of the owner's notice) to raise money, reach agreement or otherwise bid for the asset;
- The owner may sell to a community group at any time but is never obliged to do so;
- If no community bid is made or accepted within the six months the owner may then sell the asset as they see fit;
- No further bid or moratorium can be made for a period of 18 months from the owner's notice; and
- If the owner suffers financial loss as a result of the imposition of either moratorium the Council must compensate the owner.

The provisions of the community right to bid does not:

- Restrict who the owner of a listed asset can sell their property to, nor at what price;
- Confer a right of first refusal to community interest groups;
- Enable a community group to trigger disposal of a site; or
- Place any restriction on what an owner can do with their property, once listed, if it remains in their ownership.

Only the owner of the land has the right to seek a review of the decision to include any land on the list in accordance with Section 92 of the Localism Act 2011. This must be done in writing within 8 weeks of the written notice of inclusion of the land in the list. The table below, based on guidance produced by the Public Law Partnership, sets out an overview of what the Act and Regulations intend to constitute as an Asset of Community Value”.

Nature of use	Social use was/is				
	Never	Long Past	Recent Past	Present	Future
The Act intends to apply to Land and Buildings Where:					
(1) The main use of the land or building furthered the social wellbeing or social interests of the local community at the present time AND it is realistic to think that this can continue into the near future (even if the type of social use or benefit might change)*				✓	✓
(2) The main use of the land or building furthered the social wellbeing or social interests of the local community in the recent past AND it is realistic to think that this could again happen in the next five years (even if the type of social use or benefit might change)#			✓		✓
The Act does not intend to apply to land where:					
(3) The main use of the land or building furthered the social wellbeing or social interest of the local community some years ago but is not presently in use for a social purpose		✓			
(4) The land or building has not recently been, and is not currently, in use for a primarily social purpose.	✓				
(5) The land or building has been empty or derelict for many years and remains so today.	As applicable				

In their Guidance Public Law Partnership provide some helpful interpretation of these terms:

*This could apply to a broader set of activities and not just cultural, recreational and sport interests as provided by the Act. Working with local communities it could include: any land or building where the main purpose is for the provision of public services for education, health and wellbeing or community safety e.g. nurseries, schools, children’s centres, health centres, surgeries, hospitals, day care centres, and residential care homes. Sport, recreation & culture e.g. parks and open green spaces, sports and leisure centres, libraries, theatres, museums and heritage sites, cinemas, swimming pools. Community services e.g. community centres, youth centres, and public toilets. Any economic use which also provides important local social benefits e.g. village shops, pubs, markets.

#What does it mean “realistic to think that this can continue into the near future”? For the use which is **currently ongoing**, the working assumption should be that the present use can continue into the future, unless the local authority is able to identify evidence that is unlikely to be the case. In other words where the asset is presently in social use there should be a **presumption of continued viability**, unless clear evidence suggests otherwise. For a **social use which has lapsed** and needs to be re-established the local authority will need to take a view on the realism of re-establishing this. A new approach can help to re-establish services that were previously not viable.

CURRENT POSITION

The Nomination Form has been submitted by Ardleigh Parish Council (attached at Appendix A) contains, at Part B4 and 5 reasons that the nominator considers the land to be of community value and how the land could be acquired and used in the future. A plan of the area if land nominated is also included. The nomination states that the building was until recently operating as a leisure and squash club with many members. In addition it included a swimming pool which was also used for regular swimming classes and the squash courts were used by local primary schools and there was a creche and beauty facility as well as a Dance Studio where a Dance School provided training for local children and adults.

The freehold owners of the land nominated have been notified of the nomination in accordance with the Regulations. At the time of printing the owners have not made a representation. *However, if Officers receive a representation prior to the meeting of Cabinet it will be provided at the meeting for consideration.*

The Council is required to consider only whether the asset meets the criteria set out in Section 88 of the Act.

Taking the above into account it is recommended that the building nominated does meet the criteria set out Section 88 of the Localism Act 2011 (as shown in sections 1 and 2 of the table above). Accordingly it is recommended that the criteria are met and that the building should be listed as an Asset of Community Value.

BACKGROUND PAPERS FOR THE DECISION

Non-statutory advice note for local authorities produced by DCLG Community Right to Bid – October 2012

APPENDICES

Appendix A – Nomination Form (Redacted)

Company limited by guarantee		
Industrial and provident society		

Unincorporated bodies only:

In the case of an unincorporated body, at least 21 of its members must be registered to vote in the Tendring District or an adjoining authority. If relevant, please confirm the number of such members. If they are registered to vote in the area of a neighbouring local authority, rather than in Tendring, please confirm which area that is.

Local connection

Your organisation must have a local connection, which means that its activities are wholly or partly concerned with the administrative area of Tendring District Council or a neighbouring local authority. Please explain what your organisation's local connection is.

ARDLEIGH PARISH COUNCIL'S ACTIVITIES ARE WHOLLY RELATED TO THE PARISH OF ARDLEIGH

A6 Distribution of surplus funds (certain types of organisation only)

If your organisation is an unincorporated body, a company limited by guarantee, or an industrial and provident society, its rules must provide that surplus funds are not distributed to members, but are applied wholly or partly for the benefit of the local area (ie. within the administrative area of Tendring or a neighbouring local authority). If relevant, please confirm that this is the case, and specifically which area this applies to.

NOT APPLICABLE

A7 More about your organisation

What are the main aims and activities of your organisation?
 ARDLEIGH PARISH COUNCIL (WHICH IS GOVERNED BY THE RULES RELATING TO PARISH COUNCILS – SEE A8 BELOW) IS A DEMOCRATIC BODY WITH CLOSE LINKS TO THE COMMUNITY OF ARDLEIGH.

ARDLEIGH PARISH COUNCIL HAS A ROLE TO DISCHARGE A RANGE OF POWERS AND DUTIES FOR THE BENEFIT OF THE LOCAL COMMUNITY.

ARDLEIGH PARISH COUNCIL ACTS AS A SOUNDING BOARD FOR LOCAL OPINION, RESPONDS TO LOCAL ISSUES AND IS RESPONSIBLE FOR PROVIDING AND IMPROVING VERY LOCAL SERVICES AND AMENITIES.

ARDLEIGH PARISH COUNCIL HAS BEEN ASKED BY A LARGE NUMBER OF LOCAL RESIDENTS (FROM ARDLEIGH AND SURROUNDING VILLAGES) TO ASSIST IN GETTING ARDLEIGH HALL LEISURE AND SQUASH CLUB RE-OPENED TO PROVIDE SPORTING AND LEISURE FACILITIES AND AMENITIES IN THE VILLAGE, A ROLE WHICH FALLS NATURALLY INTO THE ROLES AND RESPONSIBILITIES OF THE PARISH COUNCIL

A8 Your organisation's rules

Please send us a copy of the relevant type of document for your organisation, and put a cross in the next column to indicate which one this is	X
Memorandum and Articles of Association (for a company)	
Trust Deed (for a trust)	
Constitution and/or rules (for other organisations)	SEE ABOVE

Part B: About the land or building(s) you are nominating

B1 Description and address

What it is (eg. pub, local shop)
LEISURE AND SQUASH CLUB
Name of premises (eg. Royal Oak / Littletown stores)
ARDLEIGH HALL LEISURE AND SQUASH CLUB
Address including postcode (if known)
DEDHAM ROAD ARDLEIGH COLCHESTER CO7 7LG

B2 Sketch plan

Please include (here or on a separate sheet) a sketch plan of the land. This should show:-

- The boundaries of the land that you are nominating
- The approximate size and position of any building(s) on the land.
- Any roads bordering the site.

THE ATTACHED SHEET SHOWS:

- THE SITE EDGED RED,
- THE BUILDING HATCHED IN RED
- THE BUILDING KEY DIMENSIONS IN RED NOTATION

THE ROAD BORDERING THE SITE IS "THE STREET" OR "DEDHAM ROAD"



B4 Why you think the building or land is of community value

Note that the following are not able to be assets of community value:-

- *A building wholly used as a residence, together with land "connected with" that residence. This means adjoining land in the same ownership. Land is treated as adjoining if it is separated only by a road, railway, river or canal.*
- *A caravan site.*
- *Operational land. This is generally land belonging to the former utilities and other statutory operators.*

Does it currently further the social wellbeing or social interests* of the local community, or has it done so in the recent past? If so, how?

THE PROPERTY COMPRISES ARDLEIGH HALL LEISURE AND SQUASH CLUB TOGETHER WITH THE ASSOCIATED CAR PARK AND TWO TENNIS COURTS

UNTIL 9 AUGUST 2014, THE PREMISES WERE OPERATED AS A SQUASH AND LEISURE CLUB, PROVIDING HUNDREDS OF MEMBERS WITH SQUASH, GYM, CRECHE, BEAUTY AND GENERAL LEISURE FACILITIES. IT HAD A GOOD REPUTATION THROUGHOUT THE AREA.

THE POOL AREA WAS USED FOR REGULAR SWIMMING LESSONS FOR MANY LOCAL YOUNGSTERS.

THE SQUASH FACILITIES WERE USED, UNTIL THE CLUB WAS CLOSED, BY MANY LOCAL PRIMARY SCHOOLS FOR BASIC SQUASH TRAINING AND FOR INTER-SCHOOL COMPETITIONS (INVOLVING OVER 30 PUPILS AT A TIME) TO ALLOW THE CHILDREN TO DEVELOP AN INTEREST IN THE SPORT, ALL OF WHICH WAS BACKED AND SUPPORTED BY QUALIFIED LOCAL COACHES AND BY ESSEX JUNIOR SQUASH ASSOCIATION.

THE SQUASH FACILITIES HAVE ALSO BEEN THE CENTRE FOR TRAINING LOCAL ELITE JUNIOR SQUASH PLAYERS WHO HAVE REPRESENTED ESSEX IN INTER-COUNTY COMPETITIONS, WITH SOME CONSIDERABLE SUCCESSES.

THE CLUB PROVIDED A FOCAL POINT FOR RESIDENTS OF ARDLEIGH AND NEARBY VILLAGES FOR SOCIAL AND GENERAL FITNESS ACTIVITIES.

THE CLUB PROVIDED RECREATIONAL SQUASH FACILITIES FOR MEMBERS, IN ADDITION TO FACILITIES FOR COUNTY PLAYERS COACHED BY TWO OF THE COUNTRY'S LEADING COACHES.

THE DANCE STUDIO WAS EXTREMELY WELL USED BY A LOCAL AND VERY WELL RESPECTED DANCE SCHOOL FOR TRAINING LOCAL CHILDREN AND ADULTS IN A WIDE RANGE OF DANCE SKILLS.

THE CLOSURE, WHICH WAS WITHOUT ANY NOTICE TO STAFF OR MEMBERS, WAS A DEVASTATING BLOW TO EVERYONE WHO ENJOYED MAKING USE OF THE FACILITIES.

B3 Owners and others with an interest in the building or land

You should supply the following information, if possible. If any information is not known to you, please say so.

	Name(s)	Address(es)
Names of all current occupants of the land	THE PROPERTY IS CURRENTLY VACANT.	Same as B1.
Names and current or last known addresses of all those owning the freehold of the land (ie. owner, head landlord, head lessor)		
Names and current or last known addresses of all those having a leasehold interest in the land (ie. tenant, intermediate landlord, intermediate lessor)		Registered Address: ARDLEIGH HALL DEDHAM ROAD ARDLEIGH COLCHESTER CO7 7LG

Could it in future further the social wellbeing or social interests* of the local community? If so, how? (This could be different from its current or past use.)

IT IS ACCEPTED THAT, INITIALLY AT LEAST, THE CLUB WOULD NOT PROVIDE THE FULL RANGE OF SOCIAL WELL-BEING FACILITIES THAT WERE PROVIDED PRIOR TO THE SUDDEN CLOSURE.

HOWEVER THE AIM WOULD BE FOR A LOCAL GROUP / CONSORTIUM TO RE-OPEN THE CLUB TO PROVIDE RECREATIONAL SQUASH, GYM, POOL AND GENERAL LEISURE FACILITIES FOR MEMBERS AND NON-MEMBERS, AND THEN OVER TIME TO DEVELOP THE FACILITIES PROVIDED TO A GREATER RANGE.

THE INTER-SCHOOL SQUASH WOULD HAVE A LOCAL FACILITY TO RETURN TO.

IT WOULD ALSO ALLOW THE INDIVIDUALS WHO RAN EXERCISE CLASSES, FRANCHISES AT THE CLUB AND REGULAR TRAINING IN MANY ACTIVITIES TO RE-COMMENCE THEIR WORK

**These could be cultural, recreational and/or sporting interests, so please say which one(s) apply.*

B5 How could the building or land be acquired and used in future?

If it is listed as an asset of community value, community interest groups (not just limited to your organisation) will get the opportunity to bid for it if it comes up for sale. Please set out how you think such a group could fund the purchase of the building or land, and how they could run it for the benefit of the community.

THE INTENTION WOULD BE FOR A LOCAL CONSORTIUM TO TAKE A LEASE OF THE PREMISES, FOLLOWING HOW THE PROPERTY HAS BEEN OPERATED IN RECENT YEARS.

THERE WAS A CONSORTIUM INTERESTED IN TAKING A LEASE AND OPERATING THE CLUB A FEW YEARS AGO, AND THEY HAVE EXPRESSED RE-IGNITED INTEREST IN TAKING ON THE CLUB. THEY HAVE FUNDING AVAILABLE.

A NUMBER OF LOCAL INDIVIDUALS HAVE COME FORWARD WITH PLEDGES (FINANCIAL AND OTHER) TO SUPPORT GETTING THE CLUB RE-OPENED (SUBJECT TO BEING GRANTED A LEASE BY THE FREEHOLDERS).

THE INTENTION IS THAT THE PROPERTY WILL BE A LEISURE CLUB FOR LOCAL PEOPLE – AND MANY MEMBERS WHO HAVE BEEN CONTACTED HAVE CONFIRMED THAT THEY WOULD RETURN, SO THEIR MEMBERSHIP FEES WOULD CONTRIBUTE TO THE DAY TO DAY RUNNING OF THE CLUB.

IT WOULD BE THE INTENTION TO OPEN THE PREMISES TO NON-MEMBERS TO ALLOW THEM TO USE THE FACILITIES ON A PAY AS YOU GO BASIS.

MANY OF THE PREVIOUS FRANCHISEES AND PERSONAL TRAINERS HAVE CONFIRMED THAT THEY WOULD RETURN TO OPERATE FROM THE CLUB, BRINGING IN INCOME.

THE LOCAL DANCE GROUP HAS CONFIRMED THAT IT WOULD RE-USE THE STUDIO FACILITIES, PROVIDING A WONDERFUL OPPORTUNITY FOR MANY LOCAL YOUNGSTERS.

THERE IS VERY STRONG LOCAL SUPPORT FOR THE CLUB TO BE RE-OPENED, TO PROVIDE A FACILITY THAT IS VERY MUCH NEEDED IN ARDLEIGH.

ARDLEIGH PARISH COUNCIL FULLY SUPPORTS THE AIM OF RE-OPENING THE CLUB TO PROVIDE SOCIAL WELL-BEING FACILITIES FOR THE LOCAL COMMUNITY.

BY SUPPORTING THE MEMBERS, ARDLEIGH PARISH COUNCIL IS RESPONDING TO A LOCAL ISSUE AND IS ASSISTING IN TRYING TO IMPROVE AND PROVIDE VERY LOCAL SERVICES AND AMENITIES FOR LOCAL PEOPLE.

Section C: Submitting this nomination

C1 What to include

- The rules of your organisation (question A8).
- Your sketch plan (question B2).

C2 Signature

By signing your name here (if submitting by post) or typing it (if submitting by email) you are confirming that the contents of this form are correct, to the best of your knowledge.

Signature

For and on behalf of Ardleigh Parish Council

C3 Where to send this form

You can submit this nomination:-

- **By post to:**
on Sea Essex CO16 9AJ
- **By email to:**

