

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

23 JANUARY 2015

WELL-BEING AND PARTNERSHIPS PORTFOLIO HOLDER

A.12 DETERMINATION OF A NOMINATION TO REGISTER AN ASSET OF COMMUNITY VALUE: THE MERE AT WALTON ON THE NAZE
(Report prepared by Andy White and Gill Burden)

PART 1 – KEY INFORMATION

PURPOSE OF THE REPORT

To determine whether The Mere, Walton-on-the-Naze 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 the Walton Conservation Group.

EXECUTIVE SUMMARY

A valid nomination to register an asset of community value has been received from Walton Conservation Group in respect of The Mere, Walton-on-the-Naze, 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, including the representations made by the Nominator and Owner, which differ significantly.

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

Taking all of the evidence and representations into account it is recommended that the area nominated does not meet the criteria set out in Section 88 of the Localism Act 2011 (as shown in sections 1 and 2 of the table above). It more correctly falls within section 5 or failing that section 4 of the table. Accordingly it is recommended that the criteria are not met and that the area should not be listed as an Asset of Community Value.

RECOMMENDATION(S)

That Cabinet consider the Nomination and Representations 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. Officers recommend that the asset does not meet the criteria set out in section 88 of the Localism Act 2011 and should not 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

As detailed in the risk section below 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

The use of the Mere and adjoining areas has been controversial in the past. There is some risk that the decision in relation to the nomination will be controversial whether the area 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

Walton

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 Where:					
(1) The main use of the land or building further 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

A nomination form has been received by Walton conservation Group, an unincorporated body, consisting of at least 21 members, whose local connection is stated as the proximity and use of the Mere, Walton-on-the-Naze. The aim of the organisation is conservation of the amenity. The nomination form, included as **Appendix A** to this report, contains at B4 & 5 reasons why the nominator considers that the land is of community value and how the land could be acquired and used in the future. A plan of the area of land nominated is also included.

The freehold owners of the land nominated has been notified of the nomination in accordance with the Regulations. The owner has made representation attached at Appendix C

In addition to the nomination form submitted, a letter supporting the application has been received from a representative on behalf of the nominating organisation (attached at Appendix B) which states that the area has provided social wellbeing by its non-use, or lack of specific use and that the request for the right to bid for the purchase of the site is in order to preserve and conserve the area in its present state. This letter was received in response to questions raised regarding the nomination when assessing its validity.

The Council is required to consider only whether the asset meets the criteria set out in Section 88 of the Act and in addition to the information received within the nomination the following is relevant for the purposes of such determination:

- The last identifiable actual use of the bulk of the area was as a boating lake. This use might have met the definition of a social purpose. However it is clear that this use ended over 40 years ago. In the representation letter the Nominator identifies the use as having ceased in “the mid 1970s”. Accordingly it seems that this use cannot be considered to be a recent use: some 40 years appear to have elapsed since it was discontinued. Since the closure of the boating lake it appears that the area has not been used: no person has regularly accessed the bulk of the area to carry out any activity or function. The Nominator proposes that it is this disuse that provides social value to the community.
- The Act and guidance specify that any social use should be the principal or actual use, not an ancillary one. It seems that during the period of disuse no human activity has taken place within the area, public footpath excepted, and that the area has reverted to nature and provided a visual amenity to residents. Visual amenity is not one of the uses listed in the PLP guidance as likely to be of social value. The provision of visual amenity through disuse cannot be considered to be the principal

use of land, although it may well be an ancillary,

- Given the long term absence of an actual use of the land it is pertinent to spend only a little time considering the likelihood of it being returned to a social use. The last specific use of the area was as a boating lake. The Council considered the acquisition of the area in the 1990s in order to dredge the lake and repair/reinforce the embankments. This consideration was halted because of the high estimated cost of the works required. The Nominator does not propose to return the area to this use but instead to retain in its present existing unused condition. It seems therefore that the returning the area to a social use is unlikely and is not proposed.
- The area nominated includes a Public Footpath. The Public Right of Way is recognised and documented by the Highway Authority and the route is shown on the Definitive Map. The Highway Authority has also recently extended the route and taken action to have a diversion of that route removed and the recognised route reinstated. The route and the community amenity offered by it are protected under Highway legislation. Because of the other protections and the relatively minor extent of the area subject to them compared with the extent of the area nominated it would be inappropriate to consider the footpath as a principal or actual use of the area nominated.
- Taking all of the foregoing into account it is recommended that the area nominated does not meet the criteria set out in Section 88 of the Localism Act 2011 (as shown in sections 1 and 2 of the table above). It more correctly falls within section 5 or failing that section 4 of the table. Accordingly it is recommended that the criteria are not met and that the area should not 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

Appendix B - Representations from Nominator

Appendix C – Representation from owner

Tendring District Council



LOCALISM ACT 2011

THE COMMUNITY RIGHT TO BID

NOMINATION FORM

A: You and your organisation

Your Name
Your Organisation (full official name) WALTON CONSERVATION GROUP
Your position in the organisation MEMBER
Organisation address (including postcode) C/O
Daytime telephone no.
Email address
How and when can we contact you? AS ABOVE 1. TELEPHONE 2. EMAIL 3. MAIL

*other correspondence address or preferred way or time for us to contact you

Type of organisation

Description	Put a cross X against all those that apply	Registration number of charity and/or company (if applicable)
Neighbourhood forum		
Parish Council		
Charity		
Community interest company		
Unincorporated body	X	
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.

**AT LEAST 21 MEMBERS OF ELECTERAL ROLL
ALSO RESIDENT IN WALTON-ON-THE-NAZE**

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.

PROXIMITY AND USE OF THE MERE, WALTON-ON-THE-NAZE

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.

SURPLUS FUNDS APPLIED TO PUBLICITY

A7 More about your organisation

What are the main aims and activities of your organisation?

CONSERVATION OF AMENITY

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	
Memorandum and Articles of Association (for a company)	N/A
Trust Deed (for a trust)	N/A
Constitution and/or rules (for other organisations)	N/A

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

B1 Description and address

What it is (eg. pub, local shop)
WALTON MERE, WALTON-ON-THE-NAZE
Name of premises (eg. Royal Oak / Littletown stores)
N/A
Address including postcode (if known)
WALTON MERE, WALTON-ON-THE-NAZE

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.

SEE PLAN ATTACHED

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	N/A	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)	SILVERBROOK ESTATES LTD	7 HILL ROAD DOUGLAS ISLE OF MAN
Names and current or last known addresses of all those having a leasehold interest in the land (ie. tenant, intermediate landlord, intermediate lessor)	N/A	

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?

WALTON MERE IS RAPIDLY REVERTING TO TIDAL SALT MARSH.
IT IS CENTRALLY LOCATED WITHIN WALTON-ON-THE-NAZE.

IT WAS ORIGINALLY A MILL POND AND UNTIL THE 1970s A BOATING LAKE.
IT IS CURRENTLY DESIGNATED 'NON-DEVELOPMENT LAND' AND A
LOCAL WILDLIFE SITE.

IT IS ADJACENT TO AND ARGUABLY PART OF THE HAMFORD WATER WHICH
IS AN SSSI, RAMSAR SITE AND SPA, AND THEREFORE OF CONSIDERABLE
HISTORIC, ENVIRONMENTAL AND UNRESEARCHED ARCHAEOLOGICAL
VALUE.

UNTIL THE SURROUNDING LAND AND SEA WALL PATHS WERE RECENTLY
FENCED OFF, IT WAS POPULAR WITH WALKERS, BIRD WATCHERS AND
NATURE LOVERS AND CHILDREN REGULARLY PLAYED THERE.

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.)

THE SITE IS UNDER PRESSURE TO BE DE-LISTED AS A LOCAL WILDLIFE SITE
AND FOR PART OR ALL OF IT TO BE INCLUDED WITHIN THE WALTON
SETTLEMENT BOUNDARY AND RENDERED SUITABLE FOR DEVELOPMENT
WHICH WILL SERIOUSLY DAMAGE THE CHARACTER AND AMENITY OF THE
NEIGHBOURHOOD AND WALTON AS A VISITOR DESTINATION.

INSTEAD WE WANT TO SEE IT RESTORED AS OPEN WATER FOR PEACEFUL
WATER PURSUITS AND ACCESSIBLE ON ALL SIDES FOR THE COMMUNITY
AND VISITORS.

THE WALTON REGENERATION FRAMEWORK (2010) IDENTIFIES THE AREA AS
A 'SPORTS AND LEISURE CHARACTER AREA'

**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 LAND COULD BE ACQUIRED VIA
COMMUNITY RIGHT TO BID (LOCALITY ACT).

IT COULD BE CONSERVED AS NATURAL LANDSCAPE AND AMENITY OR THE
MERE COULD BE RESTORED TO A SEMI-PERMANENT RESERVOIR.

SURROUNDING AREAS TO BE PUBLICLY ACCESSIBLE THROUGH
ESTABLISHED FOOTPATHS AND AREAS FOR LAWFUL SPORTS AND
PASTIMES.

APPLY TO HERITAGE LOTTERY FUND FOR PURCHASE.
INCORPORATE THE GROUP.

SET OUT ACQUISITION, DEVELOPMENT, MANAGEMENT PLANS AND
BUDGETS.

GROUP TO MANAGE CONSERVATION.

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

C3 Where to send this form

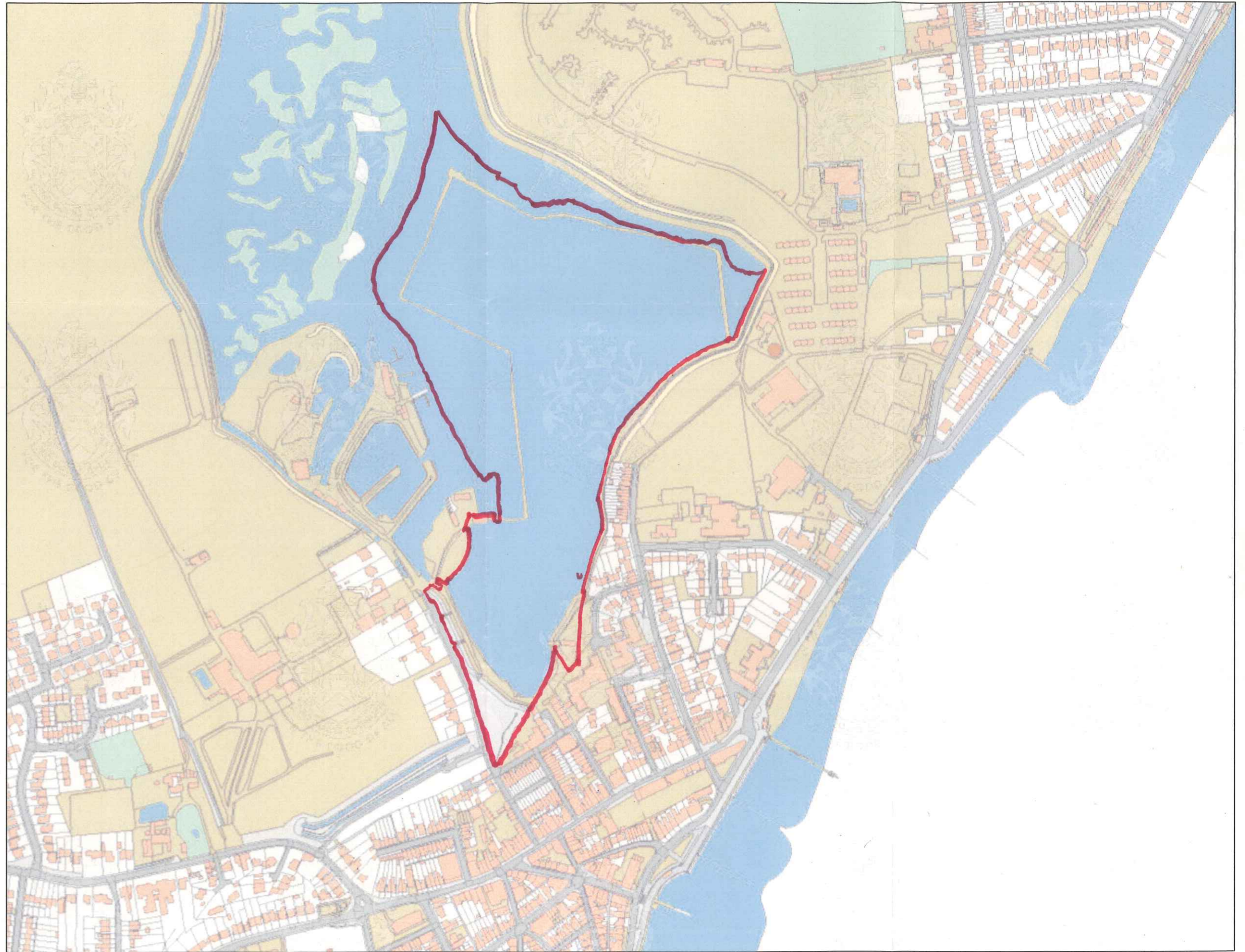
You can submit this nomination:-

- **By post to:** Gill Burden Tendring District Council Thorpe Road Weeley Clacton on Sea Essex CO16 9AJ
- **By email to:** gburden@tendringdc.gov.uk

Walton Mere

A

Legend
Legend



Date: 19/06/2014

Scale: 1:4,500

0 25 50 100 150 200
Metres



Author:

Map Notes

Tendring District Council
Council Offices
Thorpe Road
Weeley
ESSEX
CO16 9AJ

1st Floor
Witan Gate House
500-600 Witan Gate West
Milton Keynes
MK9 1SH
DX 729360 Milton Keynes 15

T 03700 868300
F 03700 868301

matthew.stimson
@shoosmiths.co.uk
T 03700 868467

Our Ref MS VD
Date 5 January 2015

Delivered: by post

Dear Sirs

NOMINATION BY WALTON CONSERVATION GROUP FOR LAND AT WALTON MERE WALTON ON THE NAZE TO BE LISTED AS AN ASSET OF COMMUNITY VALUE

We refer to the above mentioned nomination of Walton Mere to be listed as an asset of community value.

We act for Silverbrook Estates Limited- the registered freehold owner of Walton Mere.

The Nomination

We understand that the Nomination comprises a completed nomination form and a letter dated 10 July 2014.

The Nomination has been made under Section 88(1) of the Localism Act 2011 and is therefore subject to the requirements of that Act and the Assets of Community Value (England) Regulations 2012.

Accordingly, under Section 90 of the Act, the Council (as the relevant authority) must consider the nomination and must accept the nomination if the land nominated in the authority's area and is of community value. However, the nomination will be unsuccessful and must fail if the land does not meet the statutory definition of being "of community value".

The Statutory Test

Section 88(1) stipulates (with emphasise added) that:-

*"a building or other land... 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."*

This test is qualified by Section 88(2), which provides that land will also be of community value if in the opinion of the local authority:

- "(a) there is a time in the **recent past** when an **actual use** of the building or other land that was **not an ancillary use** furthered the social wellbeing or interests of the local community, and*

- (b) it is realistic to think that there is a time in the next five years when there could be **non ancillary use** of the building or other land that would further (whether or not in the same way as before) the social wellbeing or social interests of the local community."*

The term "social wellbeing" is not defined in the Act. However, the term "social interests" is defined as including (in particular) (a) cultural interests, (b) recreational interests and (c) sporting interests.

The statutory framework therefore provides broad scope for land to be nominated and listed as an asset of community value. However, to the extent that such land does not meet the criteria for listing, the land cannot be listed and the nomination must fail.

Why the Nomination must fail

Applying the statutory criteria, it is clear that the nomination of Walton Mere must fail for the following reasons:-

1. The land is not currently used in a way which furthers the social wellbeing or social interests of the local community.
2. There is no time in the recent past when the land has actually been used in a way which furthered the social wellbeing or social interests of the local community.
3. To the extent that the land currently serves to further the social wellbeing or social interests of the local community, it is by virtue only of an ancillary function of the land and its relationship to neighbouring land.
4. The Nomination contains no proposals for bringing Walton Mere into actual use.

It is clear from the information contained in the nomination that the land was last used for a specific purpose in the 1970's at which time it was a boating lake. In actual fact, our client can confirm that Walton Mere ceased to be used as a boating lake in 1976. Since then, the land has not been used either publicly or privately for any purpose and has fallen into disrepair. Accordingly, the land does not have an actual current use of any sort nor has it had an actual use in the recent past. It has not been in actual use for 38 years. It therefore fails to meet the key statutory criteria for listing as an asset of community value in this regard.

Walton Mere has actually been fenced off to the public since July 2013 for safety reasons. There is a breach in the outer bund wall which results in the site being inundated on each tide. Each tide deposits silt within the Mere which has rendered the site unusable by boats. The deterioration of the bund walls has also made it impossible to walk the outer walls. Accordingly, it is currently not possible to use Walton Mere in a way which furthers social interests or wellbeing nor has it been possible to do so in the recent past.

In their letter of 10 July 2014, the Walton Conservation Group inventively argue that the land has benefitted the local community through its non use, or lack of specific use. They say it provides a habitat for flora and fauna and provides an area of outlook and background which, it is argued, is of benefit to the occupants of, and visitors to, the houses surrounding and adjacent to the area as well as to all members of the locality and its visitors. This, however, is not an 'actual use' of the land. It is, if

anything, an aspect of the land or (at best) a function of the land but this is insufficient for the land to qualify as an Asset of Community Value for which the requirement is for the land to actually be or to have recently been in use.

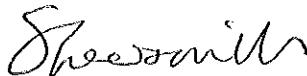
The statutory test also requires the Nominator to evidence that it is realistic to think that the land can either continue to be used or otherwise be brought back into use in a way which furthers the social interests or wellbeing of the local community. In this respect the Nomination also fails since in their letter of 10 July 2014, the Walton Conservation Group, propose to acquire the land "in order to Preserve and Conserve the area in its present state". That is to say, there is no proposal to bring the Mere back into use. If it is to be preserved in its current state, it will remain impossible for the Mere to actually be used by people in any way for the reasons set out above. It may well serve as an environmental resource in this state, but this does not satisfy the statutory criteria for listing as an Asset of Community Value.

Conclusion

We therefore submit that the land cannot be registered as an Asset of Community Value as a matter of law because the statutory criteria are not satisfied in this case. It is not land which is capable of being an Asset of Community Value as defined by Section 88 of the Localism Act 2011.

We reserve the right to make further and better representations on behalf of our client in relation to the Nomination and, to that end, would be grateful if the Council could keep us informed of any additional information which it receives in connection with the Nomination.

Yours faithfully



SHOOSMITHS LLP



In reference to your letter of 19th June, headed 'Community Right to Bid'.

"Please will you provide any evidence that the full area that you have identified as the Mere has been used to further social wellbeing or social interests in the local community in the last five years in addition to the footpaths that exist".

The Walton Mere, the area surrounded by the earth wall or 'bund' identified on the attached map, was last used for a specific purpose as a leisure boating lake. That use was abandoned in the mid-1970s. The bund breached through neglect and the area has reverted to its current state of tidal salt marsh.

The areas immediately outside the bund serve as access to the Walton and Frinton Yacht Club (to the west) and drainage and outflow from sewerage works (to the north).

The boundary to the south and east is formed by the seawall, erected in 1954/6 and raised in 1993 and is managed and maintained by the Environment Agency. This boundary also forms part of the northern boundary of the Walton Settlement Area.

The greater area of the Mere and adjacent areas are joined to Hamford Water, a Site of Special Scientific Interest (SSSI), a RAMSAR site and part of the Essex Coastal Belt.

In 2010 the Mere was designated by Tendring District Council as a Local Wildlife Site.

The site is outside the Walton Settlement Boundary.

The benefit, and thus the social wellbeing and social interest that the Mere has provided to the local community, has been its **non-use**, or lack of specific use other than as a Local Wildlife Site.

As well as the general community benefit of providing a habitat for flora and fauna, the site has provided an **area of outlook and background** that has

- a) been of particular benefit to the occupants of, and visitors to, the houses surrounding and adjacent to the area; and
- b) been of general benefit to the leisure and relaxation of all members of the locality and its visitors;
- c) been used at high tide for water recreation, canoeing etc.

It has thus provided a wildlife and a low-key and intermittent sports and pass times area with easy access to and from, and within, the centre of Walton Town.

Perhaps the greater value of the area to the community can be identified by describing what the area **is not** used for. **As a natural resource, this value is dependent on its preservation and conservation.**

It is acknowledged that the owners from 2008 have sought to persuade , to consider the Mere as a development site.

In 2011, the owners, Siverbrook Estates Ltd applied for Outline Planning Permission:

11/01062/OUT | Outline planning application for up to 129 dwellings, including 25 retirement flats (C3); a 60-bed care home (C2); a health centre (800 sq m) (D1); a 5,300 sq m (gross) foodstore (A1); a petrol filling station, kiosk and car wash (sui generis); 500 sq m of additional retail and commercial units (A1-A4); a 350-berth yacht haven (sui generis), including pontoons, moorings and tidal lock; strategic landscaping and tree planting; new public squares and quaysides; associated infrastructure, including new and improved roads, a pedestrian footpath, services, utilities, lighting, car parking and drainage systems for foul and surface water, including Sustainable Drainage Systems (SUDS); other engineering works, including dredging of the Mere, land raising to form development areas, new flood defences and remediation works to bunds around the Mere; and demolition of an existing building. | Walton Mere Mill Lane Walton On The Naze Essex CO14 8PE

The consultation process resulted in 136 replies from the public: 126 replies against the development, 4 in support:and 3 neutral.

A petition was raised that objected to the proposals and attracted over 2,000 signatures. The application generated a 'Save the Mere' campaign largely arising from the occupants of nearby housing in Mill Lane, North and Saville Streets, but attracted support from the wider community and visitors.

This campaign is continued by the unincorporated Walton Conservation Group who have supported the registration of surrounding footpaths and the application for the Walton Village Green on adjacent land in Mill Lane.

The campaign itself has increased social cohesion and revived a community spirit around a common cause that is seen as having iconic value to the community as a whole.

"Please will you provide any evidence to show that it is realistic to think that this could happen again in the next five years: that the nature of the required work and of the cost and potential has been considered and is realistically achievable"

The application is for right to bid for the purchase of the site in order to Preserve and Conserve the area in its present state.

In essence, nothing more in terms of **Preservation** is needed in terms of required work, costs or realising potential.

Funds for its purchase will be raised from public subscription and funding bodies such as the National Lottery.

The area has been in its present state since the 1970s and will continue (if undeveloped) in this state for as long as can be envisaged.

The boundaries to the south and north are maintained by the Environment Agency and the bund is ineffective but will be of no hazard or risk to other interests in its continued, unmaintained state.

In terms of **Conservation**, a number of plans for management and improvement have been, and continue to be, considered: each can be independently evaluated and costed, projected and financed according to the value of each.

In default, however, no conservation is required.

"Please could you provide evidence of the existence, status, purpose and constitution of the Walton Conservation Group and that the signatures submitted represent members of that group.

The Walton Conservation Group is a name given to identify those in the local community who support the collective conservation aims of the individual of which it is composed.

It is an unincorporated body, so has no official status, purpose or constitution.

All of the members whose signatures appear on the nomination form are registered electors on the latest electoral roll, statii which have been, and can be, verified at Clacton Town Hall.

Please refer to the attached 'Understanding the Community Right to Bid' guidance notes which include the category of "unconstituted community groups of 21 members" as a qualifying status to apply for nomination.

I attach:

- A/ a completed plan identifying the boundary of the area in question.
- B1-5/ Illustrations of the campaign to 'Save the Mere';
- C1-5/ Historic illustrations of the use of the area as Mill Pond and Boating Lake;
- D1-3/ Extracts from Guidance to potential applicants for a Community Right to Bid.
- E/ Land Registry title to Walton Mere, Mill Lane, Walton on the Naze, Essex CO14 8PE

Walton Mere

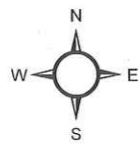
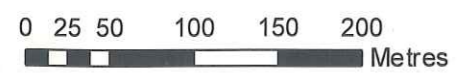
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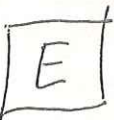
Date: 19/06/2014

Scale: 1:4,500



Author:

Map Notes



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WALTON-ON-THE-NAZE

