

CABINET

10 NOVEMBER 2023

REPORT OF THE PORTFOLIO HOLDER FOR PARTNERSHIPS

A.9 DETERMINATION OF A NOMINATION TO REGISTER AN ASSET OF COMMUNITY VALUE: LADY NELSON PLAYING FIELD, FRINTON ROAD, THORPE LE SOKEN, CO16 0JD

PART 1 – KEY INFORMATION

PURPOSE OF THE REPORT

To determine whether Lady Nelson Playing Field 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 Thorpe Le Soken Parish Council. No other criteria are pertinent.

EXECUTIVE SUMMARY

A valid nomination to register an asset of community value has been received from Thorpe Le Soken Parish Council as shown in the plan included in 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 no other factors) 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. Accordingly it is recommended that the criteria are met and that the building should be listed as an Asset of Community Value.

Cabinet adopted the formal procedure for administering Assets of Community Value in January 2015, when the legislation and the supporting procedures were new to local government. The Council has been operating within this procedure for 7 years and it is considered appropriate for a review to be undertaken, taking into account the experiences of past applications, case law around the subject matter, the strict criteria applied in making such determinations, number of successful community bids and reviews requested.

Cabinet Members have previously expressed informal support for Officers to be provided with the appropriate delegations to enable applications to be determined quicker within the strict legislative framework. However, the formal procedure will require amendment and due to the time passed since its adoption, a thorough review of operating procedures is suggested, including how reviews would be undertaken if the decisions were delegated to Officers.

RECOMMENDATION(S)

That Cabinet agrees that Lady Nelson Playing Field, Frinton Road, Thorpe-le-Soken, CO16 0JD meets the definition of an Asset of Community Value as set out in Section 88 of the Localism Act 2011 and that the asset therefore be added to the Council's list of Assets of Community Value.

REASON(S) FOR THE RECOMMENDATION(S)

- Lady Nelson playing field is the main open space/recreational ground for the village of Thorpe Le Soken. It is used by local residents, sports clubs and community groups throughout the year.
- The primary use of the land is as the location of the children's play (including a skate ramp) for the village. Thorpe Le Soken currently has an open space deficit of 2.43 hectares, so this facility is of significant community value.

ALTERNATIVE OPTIONS CONSIDERED

- Not adding the land to the list of Assets of Community Value – not recommended – the criteria are met.

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.

A review of the procedure for administering Assets of Community Value demonstrates effective and positive governance ensuring procedures remain efficient and complying with best practice and guidance.

OUTCOME OF CONSULTATION AND ENGAGEMENT

The owners of the land have been informed of the application via a letter.

The Parish Clerk for Thorpe Le Soken Parish Council has been contacted and she has confirmed that the play equipment and skate ramp were paid for by the Parish Council and that the upkeep is also down to them.

The Act and Regulations are intended to increase public engagement.

LEGAL REQUIREMENTS (including legislation & constitutional powers)

Is the recommendation a Key Decision (see the criteria stated here)	No	If Yes, indicate which by which criteria it is a Key Decision	<input type="checkbox"/> Significant effect on two or more wards <input type="checkbox"/> Involves £100,000 expenditure/income <input type="checkbox"/> Is otherwise significant for the service budget
		And when was the proposed decision published in the Notice of forthcoming decisions for the Council (must be 28 days at the latest prior to the meeting date)	

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.

X	The Monitoring Officer confirms they have been made aware of the above and any additional comments from them are below:
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No additional comments to those set out in the report in relation to the current application. A review of the operating procedures for administering Assets of Community Value should be undertaken using experiences from past applications and case law on the subject matter and should be reflected in any revised procedures.

FINANCE AND OTHER RESOURCE IMPLICATIONS

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.

In this case, the current owner has suspended a planned sale of the site and this may give rise to a compensation claim.

X	The Section 151 Officer confirms they have been made aware of the above and any additional comments from them are below:
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No additional comments in addition to those above.

USE OF RESOURCES AND VALUE FOR MONEY

The following are submitted in respect of the indicated use of resources and value for money indicators:

A) Financial sustainability: how the body plans and manages its resources to ensure it can continue to deliver its services;	The Council has an adopted Financial Strategy.
B) Governance: how the body ensures that it makes informed decisions and properly manages its risks,; and	The Council has an adopted procedure for considering nominations of assets of community value.
C) Improving economy, efficiency and effectiveness: how the body uses information about its costs and performance to improve the way it manages and delivers its services.	The Council has an adopted Financial Strategy.

MILESTONES AND DELIVERY

If Cabinet determines to add the land to the list it will be added directly and will remain on the list for five years unless there is an appeal, review or relevant transaction.

The review of the procedures could be brought to Cabinet in the future.

ASSOCIATED RISKS AND MITIGATION

Lady Nelson playing field is the main open space/recreational ground for the village of Thorpe Le Soken. It is used by residents, sports clubs and community groups throughout the year. It is the location of the children’s play (including skate ramp) for the village.

Thorpe-le-Soken currently has an open space deficit of 2.43 hectares, so this facility is of significant community value.

The playing fields have been used by the community for a number of years, the Parish Council did hold a lease until very recently from the owner for the community use of the fields.

The Parish Council paid for and carried out the upkeep of the play equipment within the playing fields.

The owner of the playing field have had their solicitor write to us to oppose the ACV going ahead, see Appendix B for the full letter.

A reply has been sent to the solicitor from Andy White (Assistant Director – Buildings & Public Realm), see Appendix C for the reply. No further response has been received at the time of writing this report. In the event that additional information is received it will be provided to Members at the Cabinet meeting.

EQUALITY IMPLICATIONS

The nominating body lists a number of social and community activities that we likely on the whole to be progressive in terms of equality and diversity.

SOCIAL VALUE CONSIDERATIONS

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

IMPLICATIONS FOR THE COUNCIL'S AIM TO BE NET ZERO BY 2030

The proposed decision is neutral in relation to the Council's emissions ambitions.

OTHER RELEVANT CONSIDERATIONS OR 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	The nominating body lists a number of social and community activities that we likely on the whole to be progressive in terms of crime and disorder
Health Inequalities	The nominating body lists a number of social and community activities that we likely on the whole to be progressive in terms of health equalities.
Area or Ward affected	Thorpe, Beaumont & Great Holland

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;
- 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”.

The Act intends to apply to Land and Buildings Where:

1. The main use of the land or building **furtheres 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), or;
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:

1. 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, or;
2. The land or building has **not recently been, and is not currently, in use for a primarily social purpose**, or;
3. The land or building has been **empty or derelict** for many years and remains so today.

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.

Cabinet adopted the formal procedures for administering Assets of Community Value at its meeting in January 2015, which was based on Cabinet determining all applications, whether the criteria under the Act was met or not. This approach was adopted at the time, because the legislation and its process was new to local government.

CURRENT POSTION

The Nomination Form has been submitted by Thorpe Le Soken Parish Council (attached at Appendix A), and contains at B4 and B5 reasons why the nominators consider that the building is of community value and how the land could be acquired and used in the future.

The nomination states that the playing fields are the main open/recreational area for the village's community. It is also the location of the children's play (including skate ramp) for the village. Thorpe Le Soken currently has an open space deficit of 2.43 hectares, so this facility is of significant community value

In accordance with the Regulations the landowner has been notified. The owners of the land have been in contact with a solicitor who in turn have contacted the Council, see appendix B

It is recommended that the building does meet the criteria set out in Section 88 (2) (a) of the Act:

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

The Nomination request is being sought with the stated intention of continuing the main use which furthers the social wellbeing or interests of the local community.

Taking the above into account it is recommended that the matter for consideration is whether the building nominated does meet the criteria set out in Section 88 (2) (b) of the Localism Act 2011, specifically:

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.

BACKGROUND PAPERS AND PUBLISHED REFERENCE MATERIAL

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

APPENDICES

Appendix A – Nomination Form (Redacted)

REPORT CONTACT OFFICER(S)

Name	Kirstin Foley
Job Title	Economic Growth Officer
Email/Telephone	01255 686149 kfoley@tendringdc.gov.uk

A.9 Appendix A

A: You and your organisation

Your Name: Jessica Ball
Your Organisation (full official name): Thorpe Le Soken Parish Council
Your position in the organisation: Parish Clerk
Organisation address (including postcode): 83 Frinton Road Thorpe Le Soken Essex Co16 0HP
Daytime telephone no. 07904 361992
Email address: clerk@thorpeparishcouncil.org.uk
How and when can we contact you?*
Via phone or email during normal office hours.

*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	X	
Charity		
Community interest company		
Unincorporated body		
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.

Parish council within the Tendring district

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.

A7 More about your organisation

What are the main aims and activities of your organisation?

Local 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)	

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

B1 Description and address

What it is (eg. pub, local shop) Playing field/community open space
Name of premises (eg. Royal Oak / Littletown stores) Lady Nelson Playing Field
Address including postcode (if known) Lady Nelson Playing Field, Frinton Road, Thorpe Le Soken, CO16 0JD

B2 Sketch plan

<p>Please include (here or on a separate sheet) a sketch plan of the land. This should show:-</p> <ul style="list-style-type: none">• 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. <p>Please see separate title plan. There are no buildings on the land.</p>

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	Thorpe Le Soken Parish Council	<i>Same as B1.</i> 83 Frinton Road Thorpe Le Soken CO16 0HP
Names and current or last known addresses of all those owning the freehold of the land (ie. owner, head landlord, head lessor)	Mr E Ryan, Drury Investments	Ryan House, Hyde Chase, Danbury, Essex CM3 4LN
Names and current or last known addresses of all those having a leasehold interest in the land (ie. tenant, intermediate landlord, intermediate lessor)	Thorpe Le Soken Parish Council	83 Frinton Road, Thorpe Le Soken, CO16 0HP

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?

Lady Nelson playing field is the main open space/recreational ground for the village of Thorpe Le Soken. It is used by local residents, sports clubs and community groups through out the year. It is the location of the childrens play (including skate ramp) for the village. Thorpe Le Soken currently has an open space deficit of 2.43 hectares, so this facility is of significant community value

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.)

As the designated open space for the village, the parish council often receive requests to use the playing fields for various activities by different community groups. It has in the past been used to host cultural events such as pantomimes and performances from a local theatre group, dog shows and different sporting/recreational interests, such as football clubs and keep fit groups. All such requests are considered and usually granted by the parish council, subject to appropriate insurances being in place. There are no plans to stop the use of the field for such events/activities.

**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.

If the Parish Council were able to purchase the land, then we would seek to put up toilets and changing facilities to make it more accessible for local residents and sports groups, as there are currently no facilities such as these on the land, as such when community events such as the village fete or the Jubilee/Coronation celebrations have taken place in the past, we have needed to hire toilets for the events. Funding of the purchase would be via the council's capital reserves, community fund raising and grant funding.

- **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

Jessica Ball. Clerk

C3 Where to send this form

You can submit this nomination:-

- **By post to: Kirstin Foley** Tendring District Council, Town Hall, Station Road, Clacton on Sea, Essex, CO15 1SE
- **By email to:** kfoley@tendringdc.gov.uk

A.9 Appendix B

Email: abe@bdmlegal.co.uk		SOLICITORS
DDI: 01664 498996		
Our Ref: Prop 955		
Your Ref: Kirstin Foley		5 Brook Park
Date: 1 June 2023		Gaddesby Lane
		Rearsby
		Leicestershire
		LE7 4ZB
Tendring District Council		
Town Hall		
Station Road		
Clacton on Sea		Tel: 01664 498999
Essex		
CO15 1SE		www.bdmlegal.co.uk
<p>Dear Sirs,</p> <p>Lady Nelson Playing Field, Community Right to Bid Proposal</p> <p>We act for Eamonn Ryan and for his company, Drury Investments Limited.</p> <p>Mr Ryan has sent us a copy of the letter you sent to 'Drury Investments' dated 18 May 2023 with a copy of the Community Right to Bid form submitted by Thorpe le Soken Parish Council and your stated requirement that he must respond in writing by 4th June (a Sunday). No plan was attached with the copy of the Right to Bid form and our client owns large parcels of land, including land in the village adjoining the land previously let to the Parish Council.</p> <p>Drury Investments Limited is taking this property back from the parish council for its own commercial use, so the tenancy of the Parish Council has been terminated. The District Council should not be interfering with this legal process which is a Landlord and Tenant Act 1954 matter.</p> <p>The above application that has been submitted contains very little detail of the claimed community uses to enable the District Council to endorse them, or our client to rebut the claim. In legal terms your notice has also not been served on the actual landowner.</p> <p>Drury Investments Limited needs the property for its own use and so they cannot re-let or sell the property to the Parish Council. Further they will defend this unmerited application. They will look to recover all costs incurred from the applicant in addition to the dilapidations claim for the lease. Furthermore, given our client's proposed commercial uses, the District Council should be aware that our client will look to recover from you any diminution in value caused by any sterilisation of use from a planning perspective resulting from any such listing, which will be substantial if the Council use the existence of a listing to deny future planning applications.</p> <p>The basic content of the form claims that the property has been used by the Parish Council for unlawful uses not permitted by the now expired lease, and which clearly need to be questioned in detail – for example, pantomimes, theatre productions, dog shows. Drury Investments Limited were not aware of such uses and consider them highly unlikely. Adequate details of the uses which the Parish Council claim must be provided to enable Mr Ryan to disprove them. We would expect to see detailed statements and professionally produced evidence in support of the application. This is particularly so here for such a large parcel of land that is valuable to our client company's business.</p> <p>The amount of notice given is unreasonable and insufficient to enable our client to take specialist advice, respond to the claim and furthermore, our client should not be asked to respond until adequate details of the claimed uses has been supplied.</p>		
<hr/> <p>Directors: Tom Bird Matthew Duckworth Abe Mee Bird Duckworth Mee is a trading name of Focus Solicitors Limited registered in England and Wales. Registered No. 08831842 Focus Solicitors Limited is authorised and regulated by the Solicitors Regulation Authority - SRA Number 612132</p>		

Lastly, we are instructed that Mr Ryan will now be overseas for an extended duration and so all correspondence should be sent to this office using the above reference.

Yours faithfully,

A handwritten signature in blue ink, appearing to read 'Abe Mee', written in a cursive style.

Abe Mee
Director

A.9 Appendix C

From: Andy White
Sent: 24 July 2023 17:05
To: 'abe@bdmlegal.co.uk'
Cc: Kirstin Foley
Subject: RE: Lady Nelson Playing Filed, Thorpe-le-Soken

Dear Mr Mee.

Thanks for your email and letter dated 02 June 2023 and 01 June 2023 respectively. I apologise for the delay in responding.

I note your comments regarding the lease between your client, your client's tenant and the Landlord and Tenant Act 1954. Indeed this is not an aspect for the involvement of the District Council. The parties will need to take their own advice on the matters raised in that regard.

I note also your comments about commercial uses and planning permission. No specific information is provided. Your client may wish to seek the advice of our planning team on whether a planning permission would be necessary in relation to these proposed uses. The Council will properly consider any application on its merits and in relation to the legal and technical environment at the time. Although I note your comments about costs and diminution in value the council is bound to consider applications in accordance with the established rules and available evidence.

In the current case the Parish Council has nominated the property for listing under the provisions of the Localism Act 2011 and the Assets of Community Value (England) Regulations 2012. There is some further information on the legislation on our web site. The full legislation is available on the government web site.

I have read your comments related to activities that may have been carried out on the land. It is not the role of the District Council to advise the parties on the compatibility or conflict of these with the lease provisions. This is a matter for the parties to take their own advice on.

I note your comments on the serving of notice. However the requirement is not to give or serve notice, only to inform or notify the owner. I believe that the letter from my colleague achieves this adequately and that that is evidenced by him having instructed you on the matter.

I have downloaded a copy of the lease of the site and find that the title page refers to Lady Nelson Playing Fields, The definition of Demised Property refers to Lady Nelson Playing Fields and the user clause refers to playing fields. Is it accepted by your client that the principal use of the land since 2008, at least, has been as playing fields: that the land has in fact been used by the community as such at least during the lease term?

I note also your comments about the timescale for response. The legislation sets out a timescale for consideration of nominations and this governs the times proposed by the Council for responses. The legislation does not provide for longer periods reflecting the holidays or other absences of the parties. However I acknowledge the delay in providing this response and propose accordingly to extend the period for representations. I hope that in the meantime you have been able to take any further instructions or information from your client.

I note your comments regarding the absence of a plan from communication sent to you. I do not believe that the legislation requires a plan to be provided to the owner. Likewise I do not believe, given the lease and the naming and use of the property, that there can have been any genuine doubt about the identity of the land.

I hope that the foregoing points address the matters raised in your letter. Perhaps you will be kind enough to revert to me within ten working days with any matters that your client considers pertinent to the Council's consideration under the Localism Act 2011 and the Assets of Community Value (England) Regulations 2012.

Regards

Andy White

Assistant Director: Building and Public Realm
Tendring DC

REPORT CONTACT OFFICER(S)

Name

Kirstin Foley

Job Title	Economic Growth Officer
Email/Telephone	01255 686149 kfoley@tendringdc.gov.uk