



Notice under Section 91 of the Localism Act 2011

Entry of Sheerwater Recreation Ground into Woking Borough Council's List of Assets of Community Value

1. Background

On 21 July 2016, Woking Borough Council received a nomination under Section 89 of the Localism Act 2011 ("the Act") to list the Sheerwater Recreation Ground, Blackmore Crescent, Woking as an Asset of Community Value. The nomination was made by Sheerwater Residents' Association (SRA). A map setting out the boundaries of the asset nominated to be listed ("The Asset") is provided at appendix 1 to this notice.

Under Section 87 of the Act the Council must maintain a list of assets of community value. Section 88 of the Act states that:

(1) For the purposes of this Chapter but subject to regulations under subsection (3), 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.

(2) For the purposes of this Chapter but subject to regulations under subsection (3), a building or other land in a local authority's area that is not land of community value as a result of subsection (1) is land 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.

Under Section 89 of the Act, the Council can only enter assets into the list of Assets of Community Value in response to nomination from the community.

2. The Decision-Making Process

Decision-making in response to nominations for entry into the List of Assets of Community Value under the Localism Act 2011 is delegated to the Strategic Asset Manager at Woking Borough Council.

The internal review process in relation to listing shall be undertaken by the Council's Head of Democratic and Legal Services, who shall not be involved in the initial decision.

The Strategic Asset Manager has now fully considered the nomination in light of the Act and the Assets of Community Value (England) Regulations 2012 ("the Regulations"). Following this consideration, the Strategic Asset Manager has decided to enter the land into its list of Assets of Community Value.

This decision has been taken because:

(1)

- a) The Asset lies within the administrative boundaries of Woking Borough Council
- b) The Sheerwater Residents' Association is entitled under 89(2)(b)(iii) of the Act to make a community nomination in respect of the Asset
- c) The nomination from the Sheerwater Residents' Association includes the matters required under Regulation 6 of the Regulations
- (d) The Asset does not fall within a description of land which may not be listed as specified in Schedule 1 of the Regulations
- (e) The letter of nomination from the Sheerwater Residents' Association sets out the reasons for nominating the asset, explaining why the nominator believes the Asset meets the definition in the Act.

and

(2) in the opinion of the Authority,

- (a) The use of the land or building currently, or in the recent past, furthers the social well-being or cultural, recreational or sporting interests of the local community.
- (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
- (c) The use of the building or land is not deemed 'ancillary', i.e. of secondary purpose. This means that the use of the land or building to further social well-being or interests of the community is a principal use.

The detailed assessment upon which this decision is based is set out in 4 below.

3. What Happens Next

The Asset will now be placed on the list of Assets of Community Value which the Council is required to maintain under Section 87 of the Act.

In accordance with Section 91 of the Localism Act, the Council will send this notice to:

(a) Woking Borough Council (Freeholder)

Woking Borough Council
Civic Offices
Gloucester Square
Woking
GU21 6YL

(b) Woking Athletics Club Limited (Leaseholder)

Woking Athletics Club Limited
Addlestone
Surrey
KT15 3SQ

(c) EE Limited and Hutchinson 3G UK Limited (Leaseholder)

EE Limited and Hutchinson 3G UK Limited
Trident Place
Mosquito Way
Hatfield
Hertfordshire
AL10 9BW

(d) Orange Personal Communications Services Limited (Leaseholder)
Orange Personal Communications Services Limited
Star House
20 Grenfell Road
Maidenhead
Berkshire
SL16 1EH

(e) Surrey Wheels for All (Interested Party)
Surrey Wheels for All
The Sheerwater Track
Sheerwater Recreation Ground
Blackmore Crescent
Woking
Surrey GU21 5NS

(f) New Vision Homes (Interested Party)
New Vision Homes
Civic Offices
Gloucester Square
Woking
GU21 6YL

(g) Thameswey (Interested Party)
C/O Mark Rolt
Civic Offices
Gloucester Square
Woking
GU21 6YL

(h) British Telecommunications Wayleave Duty (Interested Party)
British Telecommunications Wayleave Duty
PP 03A09
Delta Point
35 Wellsley Road
Croydon
CR9 2YZ

The information will also be published on the Council's website. The Asset will remain on the Council's List of Assets of Community Value for a period of five years from the date of this notice unless removed with effect from some earlier time in accordance with the provisions of the regulations.

The Localism Act 2011 requires that the Council draw particular attention to the following:

- (a) the consequences for the land and its owner of the land's inclusion in the list; and
- (b) the right to ask for review.

The consequences for the land and its owner of the land's inclusion in the list

Inclusion of assets on the List of Assets of Community Value is a local land charge under the Local Land Charges Act 1975. The Council is required under Schedule 4 of the Regulations to apply to the Land Registry for a restriction to be added to the registered title of the land that "no transfer or lease is to be registered without a certificate signed by a conveyancer that the transfer or lease did not contravene Section 95(1) of the Localism Act 2011".

Under Section 95 of the Act an owner must notify the Council if they wish to enter into a relevant disposal (as defined in Section 96 of the Act) of that asset. Owners should contact the Strategic Asset Manager at the following address: Working Borough Council, Civic Offices, Gloucester Square, Woking, Surrey, GU21 6YL.

Some types of disposal of listed assets are exempt and these are set out in full in Annex A of the document Community Right to Bid: Non-statutory advice note for local authorities.

Annex A also identifies circumstances where, although there is no requirement in the legislation that the owner has to explain to the local authority that the disposal is exempt, it would be helpful for them to do so.

A moratorium period is triggered by notification under Section 95 to allow a Community Interest Group to submit a written request to be treated as a potential bidder for the asset. The owner is advised to refer to Part 5 Chapter 3 of the Act and the Regulations in full and to seek legal advice if they wish to dispose of the asset. A disposal of listed land which contravenes the Regulations and Act will be ineffective.

The owner of the asset does not have to sell the asset to the Community Interest Group. There is also a 'protected period' (18 months from the time that the owner notified the local authority of their intention to dispose of the asset) and during this time there can be no further moratoriums on sale and the owner is free to dispose of the land as they see fit.

The right to ask for review

Asset owners have the opportunity to request a review of the decision to enter an asset on the List of Assets of Community Value. As stated at paragraph 2.2 above, the internal review process in relation to listing will be undertaken by Council's Head of Democratic and Legal Services.

Landowners wishing to request a review of the decision should do so in writing to: the Head of Democratic and Legal Services at Woking Borough Council, Civic Offices, Gloucester Square, Woking, Surrey, GU21 6YL or to peter.bryant@woking.gov.uk. The written request must be made by **9 November 2016** setting out the grounds for review and whether an oral hearing is requested. The review will normally take place within 8 weeks of the Council having received the written request for review.

Private owners may claim compensation for loss and expense incurred through the asset being listed including a claim arising from a period of delay in entering into a binding agreement to sell which is wholly caused by the interim or full moratorium period. Regulation 14 of the Regulations contains more detail on this.

Part 5, Chapter 3 of the Localism Act 2011 and the Assets of Community Value (England) Regulations provide further detailed information.

4. Detailed Assessment of the Nomination

Assets of Community Value Nomination – Assessment			
DATE OF SUBMISSION:	21 July 2016	DATE DECISION TO BE MADE BY:	15 September 2016
NOMINATED ASSET:	Sheerwater Recreation Ground		
NOMINATION SUBMITTED BY:	Sheerwater Residents Association		

STEP A: This section considers the eligibility of the nominating body to make a nomination and of the asset to be an Asset of Community Value.

A1. Is the nominating organisation an eligible body to nominate?	
Evidence supplied by nominee:	The Sheerwater Residents Association is an unincorporated body with a membership of more than 21 members which does not distribute any surplus it makes to its members. The Association has provided a list of names and addresses to confirm there are over 21 members.
Feedback from other parties and other information gained in relation to this criterion:	None
The SAM's consideration of the evidence provided	From the evidence provided, that Strategic Asset Manager is satisfied that the Sheerwater Residents' Association are an eligible nominating body.
Criteria met?	YES

A2. Does the nominating body have a local connection to the asset nominated?	
Evidence supplied by nominee:	<p>The Sheerwater Residents Association's website details the purpose of the forum which formed in 2013 and confirms that it is free for all Sheerwater residents to join. A map on the website denotes the area covered by the Sheerwater Residents Association and includes the Sheerwater Recreation Ground. Their website details the SRA's core purposes as:</p> <p>"We are fighting to save homes from a complete rebuild rather than the original plans for a desired regeneration of small pockets of the estate that are badly needed. To protect the legacy and original design of the Sheerwater estate - we are not and never will be a 'concrete jungle'. To protect our residents and our established community now and for the future. We want to ensure that Sheerwater has an active voice and plays an integral part to safeguard our homes, green space and legacy for future generations."</p>
Feedback from other parties and other information gained in relation to this criterion	None
The SAM's consideration of the evidence provided	The registered address of the nominee is confirmed as being in the Borough, as are its members. The key objectives of the association are wholly or partly concerned with the area. On this basis, the Strategic Asset Manager is content that the nominating body has a local connection to the nominated asset.
Criteria met?	YES

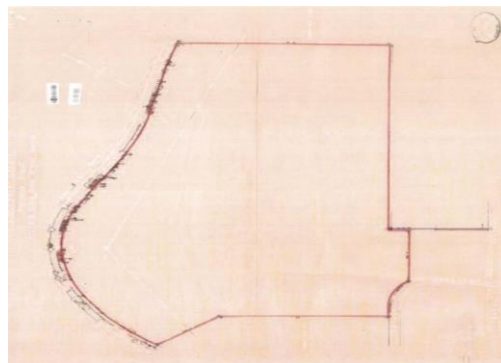
A3. Does the nomination include the required information about the asset?

- Description of the nominated land including its proposed boundaries
- Names of current occupants of the land
- Names and current or last-known addresses of all those holding a freehold or leasehold estate in the land

Evidence supplied by nominee:

The nomination indicated that Woking Borough Council is the freeholder and that Woking Athletics Club has a leasehold interest in the athletics track. SRA also indicated that the site is used by Sheerwater Football Club and residents of the Sheerwater Estate for recreation.

SRA provided the following Land Registry plan outlining the extent of the asset:



Feedback from other parties and other information gained in relation to this criterion:

To confirm the extent of the nomination the plan provided by the SRA was transposed onto an OS Base Plan:



Due to the presence of a dwelling and a nurse/dentist/doctors, confirmation was sought from the SRA that this was representative of the nomination on the 29th July 2016. SRA confirmed that they do not wish to include the dwelling and the nurse/dentist/doctors on 9th August 2016.

The following location plan of the asset was agreed with SRA on 12th August 2016:



Additional Freeholders and Leaseholders were identified via a Land Registry search and notified.

The SAM's consideration of the evidence provided

A Land Registry search and communication with SRA clarified the boundaries of the nominated asset and the ownership details.

Criteria met?

YES

<p>A4. Is the nominated asset outside of one of the categories that cannot be assets of community value (as set out in Schedule 1 of the Assets of Community Value (England) Regulations 2012):</p> <ul style="list-style-type: none"> <input checked="" type="checkbox"/> A residence together with land connected with that residence <input checked="" type="checkbox"/> Land in respect of which a site licence is required under Part 1 of the Caravan Sites and Control of Development Act 1960 <input checked="" type="checkbox"/> Operational land as defined in section 263 of the Town and Country Planning Act 1990. 	
Evidence supplied by nominee:	<p>The SRA state that the site consists of a recreational ground and running track.</p> <p>The original site plan submitted by SRA included a dwelling but this was addressed as indicated in Section A3 and the dwelling is not included within the nomination.</p>
Feedback from other parties and other information gained in relation to this criterion:	<p>The Land Registry search revealed that there is equipment within the site which is operated by a mobile phone company, however, they lease the land and are not statutory undertakers as defined by section 263 of the 1990 TCPA.</p>
The SAM's consideration of the evidence provided	<p>The nomination and supporting evidence sufficiently demonstrates that the asset is outside the categories of assets within Schedule 1 of the Assets of Community Value (England) Regulations 2012.</p>
Criteria met?	YES

STEP B: This section considers the current or recent usage of the asset.

<p>B. Is the current or recent usage which is the subject of the nomination an actual and non-ancillary usage?</p> <ul style="list-style-type: none"> NOTE 1: There is no definition in statute or in guidance of the term 'recent past', in regard to when a community asset has been used by the community. It is for local authorities to decide whether an asset has been used recently enough to justify its inclusion on the list" NOTE 2: A working definition of "non-ancillary" is that the usage is not providing necessary support (e.g. cleaning) to the primary activities carried out in the asset, but is itself a primary, additional or complementary use. 	
<p>Evidence supplied by nominee:</p>	<p>Information has been supplied in the nomination stating that the Sheerwater Recreation Ground:</p> <ul style="list-style-type: none"> 'forms the major part of the public open space within this large estate and is the largest open space within the Canalside Ward' 'has, from at least 1961, provided open space for formal and informal recreation in many guises and because of its size has the facility to accommodate larger short term events such as fairs and festivals' 'provides all the normal uses of a recreation ground and public open space' 'is and has always allowed for formal sports such as football and cricket, informal sports for families, children, picnics, dog walking and community events' 'Evidence is provided of historic use through the journal of the Sheerwater residents association 'The Pylon'' 'Widely used by the local and wider community for its intended purpose over a period of the last 60 years'
<p>Feedback from other parties and other information gained in relation to this criterion:</p>	<p>The Woking Athletics Club website provides an overview of the clubs history indicating that they began using the track at Blackmore Crescent, Sheerwater, on 29 April 1962 (http://www.wokingac.com/History.aspx). Their website also details fixtures and results demonstrating that the Sheerwater Recreation Ground has recently and continues to be in use.</p> <p>Sheerwater FC and Sheerwater Youth FC both have websites stating that they use the Sheerwater Recreation Ground http://www.sheerwateryouthfc.co.uk/the-ground/ . Sheerwater FC also have a number of photo albums showing the Sheerwater Recreation Ground in use over recent years: http://www.pitchero.com/clubs/sheerwaterfc/photos/albums</p> <p>The Surrey Wheels for All website details sessions available at the Sheerwater Recreation Ground http://www.cyclinguk.org/map-feature/surrey-wheels-for-all-1</p>
<p>The SAM's consideration of the evidence provided</p>	<p>From the evidence provided, the Strategic Asset Manager is satisfied that the current or recent usage which is the subject of the nomination is an actual and non-ancillary usage.</p>
<p>Criteria met?</p>	<p>YES</p>

STEP C: This section considers whether the use furthers (or furthered, for uses in the recent past) the social interests or social wellbeing of the local community.

C2. Why is the usage seen as having social value in the context of the community on whose behalf the nomination is being made?	
Evidence supplied by nominee:	As a recreation ground and sports facility, the use furthers the social wellbeing and social interests of the local community. It facilitates both formal and informal recreation and sport. Evidence is available demonstrating that it is used by both local residents and local sports clubs/groups.
Feedback from other parties and other information gained in relation to this criterion:	The recreation ground is an established municipal park. The park is listed on the Visit Surrey website where reference is made to the athletics track, floodlit MUGA, BMX/skate park, teenage shelter and equipment, toilets and 2 football pitches (http://www.visitsurrey.com/things-to-do/sheerwater-recreation-ground-p1067431). Woking Borough Council's website includes Sheerwater Recreation Ground in its list of Parks and Open Space (http://www.woking.gov.uk/leisure/greenspaces/parks).
The SAM's consideration of the evidence provided	The Strategic Asset Manager is content that the Sheerwater Recreation Ground has social value in the context of the community on whose behalf the nomination is made.
Criteria met?	YES

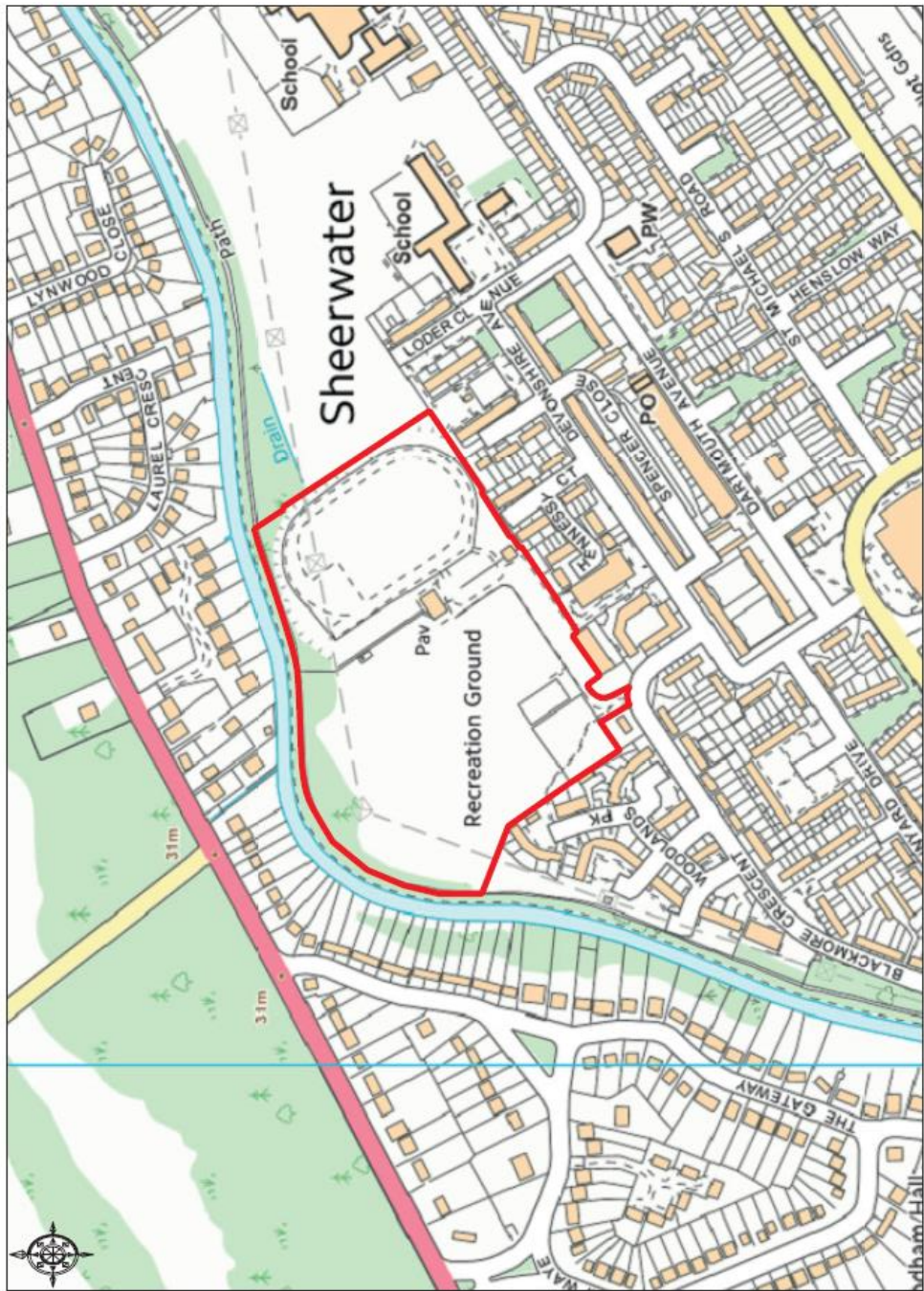
If the criteria are met, go to Step D. If not, place on the list of unsuccessful nominations. If not, place on the list of unsuccessful nominations.

STEP D: This section considers whether 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.

D. Is it realistic to think that there can continue to be non-ancillary use of the building	
Evidence supplied by nominee:	The SRA wish to be actively involved in with the improvement of the recreational ground.
Feedback from other parties and other information gained in relation to this criterion:	Support for the nomination from Councillor Ali.
The SAM's consideration of the evidence provided	The Strategic Asset Manager considers it reasonable that the Sheerwater Recreation Ground will continue to be used by the local community including local residents and sports groups.
Criteria met?	YES

DECISION:	THAT THIS ASSET BE PLACED ON THE ASSETS OF COMMUNITY VALUE
REASON FOR DECISION	<p>The asset lies within the administrative boundary of Woking Borough Council. Sheerwater Residents Association is entitled under 89(2)b(iii) of the Act to make a community nomination in respect of the asset. The nomination, following additional confirmation, from Sheerwater Residents' Association includes the matters required under regulation 6 of the Regulations. The asset does not fall within the description of land which may not be listed as specified in Schedule 1 of the Regulations. The nomination form sets out the reasons for nominating the asset, explaining why the nominator believes the asset meets the definition in the Act.</p> <p>As the Sheerwater Recreation Ground provides facilities to the community and its continued use would further the social wellbeing and/or interests of the local community, the application to list as an Asset of Community Value meets the definition set out in the act and is therefore agreed.</p>
Decision Taken by	Ian Tomes, Strategic Asset Manager
Date	14 September 2016

Appendix 1: Site Location Plan



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