

# ITEM NO

Corporate Team

19<sup>th</sup> June 2017

## **Cannon Hill Plantation (South), Stapehill Nomination as Asset of Community Value**

### **1. PURPOSE AND RECOMMENDATIONS**

**Purpose of Report:** To consider the nomination of the Cannon Hill Plantation (South) as a potential Asset of Community Value.

**Recommendations:** It is **RECOMMENDED** that:

- a) **the nomination to list the Cannon Hill Plantation (South) as an Asset of Community Value be accepted**
- b) **the decision be listed on the Council's Localism webpage as required by the Act, and the Land Registry notified**

**Contact Officer:** Gary Foyle

### **2. BACKGROUND**

2.1. Provisions within the Localism Act 2011 give local groups a right to nominate a building or land for listing as a "Community Asset" by the local authority if its use either in the past, presently or potentially in the future benefits the social well-being or social interest (which include cultural, sporting or recreational interests) of the community it serves.

2.2. Under the Localism Act 2011 the land or building:

- can be of any size
- can be publicly or privately owned
- can lie in more than one local authority area
- may or may not consist of registered land
- cannot be a residence and land connected with it
- cannot be a residential caravan site
- and cannot be operational land of statutory undertakers

### **3. Application to nominate**

3.3 The Council initially received a nomination relating to this site on 24<sup>th</sup> February 2017 from a group of local residents known as the Friends of Uddens and Cannon Hill Woodlands.

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- 3.4 The group indicated on the form that they were a registered charity, however upon checking this with the Charity Commission it became evident that this was not actually the case at the time of application.
- 3.5 The Officer wrote to the Chair of the group and established that whilst they certainly intended to register as a charity, this had not yet been completed. The Officer advised the group that if they wanted to pursue the Asset of Community Value nomination before they had registered then they would need to re-submit the application by obtaining a minimum of 21 signatures of people eligible to vote in the local authority or neighbouring authority area (see attached list checked by The Elections Officer, Appendix 1).
- 3.6 The list of signatories was checked against the electoral register and it was found that one of the signatories was not a registered voter. However as the application provided 30 signatures and the remaining 29 are eligible to vote, this satisfies the requirement of the Localism Act 2011.
- 3.1 Specifically the nomination relates to land currently owned and managed by the Forestry Commission, a plan in the attached nomination document (Appendix 2) shows the area.
- 3.2 The nomination also provides information about the land, including details of ownership, a plan and potential reasons for listing and is therefore considered to be valid under the Act.

### **Material to support the nomination**

- 3.3 The nomination provides information about why, in the eyes of the local community, this land should be considered for listing (Appendix 2).
- 3.4 A summary of the reasons for nomination put forward by the community group is as follows:
- Surfaced paths make this a year-round access site for all
  - It is the only accessible green space for the local communities of Stapehill and West Ferndown
  - It serves as a lowland heathland mitigation site, attracting dog-walkers, cyclists and horse riders away from the rare and threatened habitats of Ferndown Common and Slop Bog SSSI's
- 3.7 The Groups states that the Cannon Hill Woodland (South) "is a small yet heavily used and loved green belt woodland site".

### **The Officer's consideration of the nomination**

- 3.8 A building or other land in a local authority's area is considered 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(1) Localism Act 2011) Section 88(2) of the Act extends this definition to land which has furthered the social wellbeing or social

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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.

- 3.9 It is clear from the evidence provided that the Cannon Hill Woodland (South) has offered a community benefit in the past and continues to do so.
- 3.10 It is reasonable to suppose that if the community were to purchase the land, it could be run as a not-for-profit business or social enterprise which would reduce the need for commercial viability and therefore make it possible for the community use to succeed.
- 3.11 Whether or not to list this land as an Asset of Community Value would seem to rest on how **realistic** it is that it could provide community value in the future.
- 3.12 Government Guidance states:  
“If the nominated asset is properly nominated, is in the local authority’s area, meets the definition, and is not excluded, the local authority must list it and inform all specified parties (including the parish council).”
- 3.13 On the evidence presented it is the Officer’s belief that the nomination meets the requirements of the Localism Act and there is sufficient evidence to suggest that the building has provided community benefit in the past and continues to do so.
- 3.14 As the nomination meets the requirements in 3.13 the nomination should therefore be supported.
- 3.15 The Localism Act requires notice to be served on the owner and this is defined in the Act as the freehold owner of the land, unless there is a qualifying leasehold owner. Notice has therefore been served on the Forestry Commission as the registered freehold owner.

### **Implications of a decision to designate the Cannon Hill Woodland (South) as an Asset of Community Value**

- 3.16 If the site in question were to go on the market as a going concern (i.e. as managed woodland), the requirements of the legislation to give any interested community group 6 months to raise the funds to buy the land do not apply.
- 3.17 Only if the land were to go on the market with a proposal for change of use and the local area was to be at risk of losing the community aspect of the site would the designation be applicable.
- 3.18 If this were the case, the community would then have up to 6 months to raise sufficient funds to purchase the site and take on the running of it themselves. However, the owner is not obliged to accept any offer from the community and could still sell for alternative use (subject to planning permission) to any other potential buyer.
- 3.19 These provisions do not restrict in any way who the owner of a listed asset can sell their property to, or at what price. They also do not confer a right of first refusal to community interest groups; the owner is free to sell to whomever they choose and at whatever price.
- 3.20 The provisions do not place any restriction on what an owner can do with their property, once registered as an asset of community value, so long as it remains in their ownership. It is open to the Local Planning Authority to decide

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whether listing as an asset of community value is a material consideration if an application for change of use is submitted, considering all the circumstances of the case.

### 4. LEGAL POSITION

- 4.0 The assets of community value measures in Part 5 Chapter 3 of the Localism Act 2011 provide for a local council to maintain a list of “community assets”, which can be either land or buildings.

### 5. Financial and Risk

- 5.1 The Act allows private owners to claim compensation for loss and expense incurred through the asset being listed. The Regulations specifically provide that this will include 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; or for legal expenses incurred in a successful appeal to the Tribunal.
- 5.2 The time limit for making a compensation claim is specified in Schedule 2 to the Regulations as whichever is earlier of 13 weeks from the end of the interim or full moratorium period (as appropriate) or from the date when the land ceases to be listed. The assumption is that most claims for compensation will arise from a moratorium period being applied; however the wording allows for claims for loss or expense arising simply as a result of the land being listed.
- 5.3 Claims must be made in writing, state the amount of compensation sought and provide supporting evidence. The burden of proving the claim falls on the owner.
- 5.4 The Government will meet costs of compensation payments of over £20k of compensation costs in a financial year. This could occur through a local authority paying out over £20k in one financial year either on one large claim or as a combined total on a number of smaller claims.
- 5.5 There is consequently a risk that compensation may be sought by the owner of the property and that it could amount to more than £20k with the District Council then having to pay the difference.

### 6 CONCLUSION

- 6.1 The Council has received a nomination for the Cannon Hill Woodland (South) to be considered as an Asset of Community Value.
- 6.2 Under the Localism Act, the Council has the power to list assets giving the community the right to bid in the future, if necessary and is obliged to do so if the criteria are met.
- 6.3 Having considered the documentation provided by the local community it is recommended that the site be designated as an Asset of Community Value.

### Background Papers:

Community Right to Bid: Non-statutory advice note for local authorities – Part 5 Chapter 3 of the Localism Act 2011 and the Assets of Community Regulations 2012.