

ITEM NO

Corporate Team

17 March 2014

Virgin Active Leisure Facility – Nomination as Asset of Community Value

1. PURPOSE AND RECOMMENDATIONS

Purpose of Report: To consider the nomination of The Virgin Active Leisure facility as a potential Asset of Community Value.

Recommendations: It is **RECOMMENDED** that:

- a) the nomination to list The Virgin Active Leisure Facility as an Asset of Community Value be accepted
- b) the nomination be listed as a successful nomination on the Council's Localism webpage as required by the Act.

Lead Members: Cllr Barbara Manuel

Contact Officer: Judith Plumley

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. Summary of Nomination

3.1. The site in question (letter and plan attached at Appendix 1) is proposed as a Community Asset by Corfe Mullen Parish Council on the grounds that:

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- The facility supports the sporting and social wellbeing of the local community
 - It is a local meeting point for people
 - It is a social hub for the area
 - It is a source of local employment
- 3.4 The nomination is proposed by the Parish Council which is a formally constituted body under the terms of the Localism Act.
- 3.5 The site is privately owned and currently leased to the leisure provider but the latter has pulled out of the building which is now empty and residents are concerned that it could be sold for redevelopment.
- 3.6 Whilst there is protection afforded by the NPPF and Core Strategy, the protection is not completely insurmountable. Any redevelopment of the site or alternative use would have to conform to para 74 of the National Planning Policy Framework which states:
- 74. Existing open space, sports and recreational buildings and land, including playing fields, should not be built on unless:*
- *an assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements; or*
 - *the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location; or*
 - *the development is for alternative sports and recreational provision, the needs for which clearly outweigh the loss.*
- 3.7 Policy HE4 of the Core Strategy (CS) will also need to be complied with once the CS is adopted. This also gives protection to existing open spaces, unless their whole or partial development would result in greater benefits to the community than retaining the existing facility.
- 3.8 Nevertheless there could still be a risk (under the first bullet point above) of losing the facilities if the developer was able to show that the buildings and land were surplus to requirements, and given the standard which suggests that a 20 minute radius of travel is acceptable for leisure facilities this is not without possibility.
- 3.9 The Parish Council has indicated that they would be prepared to instigate a community led initiative to purchase and run the facilities, should the site be marketed for anything other than a leisure facility. I understand that they are in discussion with a third party who have expressed an interest in running the facility should sufficient funds be raised to purchase the site.
- 3.10 Under the Localism Act, even if the community was able to raise the asking price, the owner is not obliged to accept their offer, but is obliged to give them up to 6 months to raise the money. Given that this could potentially deter other

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purchasers, there is also a risk that compensation would be due to the owner if a sale fell through as a result. The District Council would be obliged to pay compensation up to the first £20,000 in any one year.

- 3.11 It is believed that the facilities meet the conditions for listing as an Asset of Community Value under the Localism Act.

IMPLICATIONS

Corporate Plan & Council Objectives

- 3.2. C1 – Provide communities with opportunities to take greater involvement in running public services

Legal

- 3.3. 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.

Environmental

- 3.4. There are no environmental implications as a result of this report.

Financial and Risk

- 3.5. The Act allows private owners to claim compensation for loss and expense incurred through the asset being listed or previously 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.
- 3.6. 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.
- 3.7. 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.
- 3.8. 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.
- 3.9. 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.

Equalities

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3.10. In managing the Assets of Community Value scheme the Council will need to observe the requirements of the Equality Act 2010.

4. CONCLUSION

4.1. The Council has received a nomination for the Virgin Active leisure Facilities at Corfe Mullen to be considered as an Asset of Community Value.

4.2. Under the Localism Act, the Council has the power to list the asset giving the community the right to bid in the future if necessary.

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.