

# Public Document Pack



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30 June 2021

Dear Councillor

## **NOTICE OF DELEGATED DECISION – (DD09 21) APPLICATION TO INCLUDE PHOENIX CENTRE IN COUNCIL’S LIST OF ASSETS OF COMMUNITY VALUE**

Please find attached details of a decision taken by Roger Walton, Strategic Director (Operations and Commercial), to include the Phoenix Centre, Sandwich on the Council’s List of Assets of Community Value.

As a non-Key Officer decision, call-in does not apply (paragraph 18(a) of Part 4 (Rules of Procedure) of the Constitution).

Members of the public who require further information are asked to contact Kate Batty-Smith, Democratic Services Officer on 01304 872303 or by e-mail at [democraticservices@dover.gov.uk](mailto:democraticservices@dover.gov.uk).

Yours sincerely

A handwritten signature in black ink that reads "Kate Batty-Smith". Below the signature is a short horizontal line.

Democratic Services Officer

ENCL

1 **NOTICE OF DELEGATED DECISION - (DD09 21) APPLICATION TO INCLUDE PHOENIX CENTRE ON COUNCIL'S LIST OF ASSETS OF COMMUNITY VALUE**  
(Pages 2-5)

## Decision Notice

## Delegated Decision

<b>Decision No:</b>	<b>DD09</b>
<b>Subject:</b>	<b>APPLICATION TO INCLUDE THE PHOENIX CENTRE, SANDWICH ON THE COUNCIL'S LIST OF ASSETS OF COMMUNITY VALUE</b>
<b>Notification Date:</b>	<b>30 June 2021</b>
<b>Implementation Date:</b>	<b>22 June 2021</b>
<b>Decision to be taken by:</b>	<b>Roger Walton, Strategic Director (Operations and Commercial)</b>
<b>Delegated Authority:</b>	<b>Delegation 281 of the Scheme of Officer Delegations (Section 6) of Part 3 (Responsibility for Functions) of the Constitution</b>
<b>Decision Type:</b>	<b>Executive Non-Key Decision</b>
<b>Call-In to Apply?</b>	<b>No (<i>Call-in does not apply to non-Key Officer Decisions</i>)</b>
<b>Classification:</b>	<b>Unrestricted</b>
<b>Reason for the Decision:</b>	An application has been received to include the Phoenix Centre, Jubilee Road, Sandwich within the Council's list of Assets of Community Value.
<b>Decision:</b>	To include the Phoenix Centre, Jubilee Road, Sandwich within the District Council's list of Assets of Community Value (ACV).

## 1. Introduction

- 1.1 In determining this application, I have been mindful that I need to determine the nomination in accordance with the provisions of Chapter 3 of the Localism Act 2011 and the Assets of Community Value (England) Regulations 2012.
- 1.2 This requires that community nominations to include a property within the District Council's list of Assets of Community Value meet a series of tests including:
- (a) That the provisions of section 89 of the Localism Act are met with regards to the validity of the nomination.
  - (b) Whether the actual current use (not an ancillary use) of the building or other land is one that furthers the social wellbeing or social interests of the local community; AND whether it is realistic to think that there can continue to be non-ancillary use of the building or other land that will further the social wellbeing or social interests of the local community (whether or not in the same way as the current use) and if not;
  - (c) Whether 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 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.

## **2. Matters Considered in Reaching the Decision**

2.1 In determining the nomination, I have taken the following into consideration in reaching my decision:

- (a) Chapter 3 of Part 5 of the Localism Act 2011;
- (b) The Assets of Community Value (England) Regulations 2012;
- (c) Nomination Form submitted by Friends of the Phoenix Centre, received by email on 27 April 2021.

## **3. Review of Application and Submissions**

### **Context**

3.1 The Phoenix Centre is a building owned by Dover District Council which used to be known as Sandwich Youth Club and before that Sandwich Youth & Recreation Club. In 2004, the management of the property was taken over by a Trust which became a Company Limited by Guarantee in December 2006: The Phoenix Community Resource Hub Ltd.

3.2 For the past 15 years or so the building has been run as an active community centre and popular venue, supporting a whole range of activities, which has been set out on the nomination form as follows:

- Seniors Gentle yoga;
- Sandwich Chess Club;
- Pilates classes;
- Sandwich Concert Band;
- Living Lively Singing group;
- Sure Start the KCC run mother and toddler group;
- Sandwich Peer Support Group - mental health support group;
- Karate with KKS, Karate for children – with support for those on the autistic spectrum;
- Happy Feet Children's Dance School;
- Tea & Tap – Ballet and tap for the over 50's;
- Deal Area Emergency Foodbank;
- Kent Association of Local Councils;
- Social Services Family Access visits;
- The Phoenix Singers;
- Youth Project;
- Sexual Health support for young people and vulnerable adults;
- Children's parties for the under 10's;
- Remembrance events;
- CAHMS;
- NHS Podiatry Team;
- Charity events;
- Local group AGM's;
- Training events and seminars.

3.3 However, like many venues, it is understood that the Trust has struggled to remain viable in the face of the Covid Pandemic and the resultant lockdowns and, as a consequence, the Trustees advised the Council earlier this year that they had taken the decision to 'wind up' the Charity, as per their constitution, and to return the building to the control of their landlord, Dover District Council, although at the time of writing

this process has not yet been concluded and the Trust is still in occupation of the premises.

- 3.4 The decision taken by the Trust to close the centre has created understandable concern within the local community which, it is assumed, is what has led to the nomination from the 'Friends of the Phoenix Centre' to include the Phoenix Centre, Sandwich within the Council's list of Assets of Community Value.
- 3.5 In considering the nomination received from the 'Friends of the Phoenix Centre' I shall now consider in turn whether each of the three 'tests' noted at paragraph 1.2 above are met:

**A. Validity of the Nomination**

3.5.1 Section 89(2)(b)(iii) of the Localism Act notes that "For the purposes of this Chapter "community nomination", in relation to a local authority, means a nomination which... is made by a person that is a voluntary or community body with a local connection.

3.5.2 The 'Friends of the Phoenix Centre' group is, based on the nomination received, understood to be an unincorporated body with 29 members, comprising 26 who live and vote in Dover District and 3 who live in the area covered by Thanet District Council. Whilst this is not a constituted group, I am satisfied therefore that the 'Friends of the Phoenix Centre' meets the definition of a voluntary or community body with a local connection.

**B. Does the actual current use (not an ancillary use) of the building further the social wellbeing or social interests of the local community; AND is it realistic to think that there can continue to be non-ancillary use of the building or other land that will further the social wellbeing or social interests of the local community.**

3.5.3 The Phoenix Centre has been actively used by the local community for many years and there is strong evidence to support the case that the building has been run as an active community centre and popular venue, supporting a whole range of activities.

3.5.4 Whilst the pandemic has clearly impacted upon these activities, it is still reasonable to conclude that, as it stands, there is an actual current use of the building or land which can be said to further the social wellbeing or social interests of the local community.

3.5.5 As regards whether it is realistic to think that non-ancillary use of the building or other land that will further the social wellbeing or social interests of the local community can continue, the decision taken by the Trust to relinquish the lease does pose some questions in this regard. However, there is clearly significant interest within the community in maintaining community use of the property and so it is entirely realistic to conclude that such use that will further the social wellbeing or social interests of the local community can continue.

3.5.6 I therefore consider that the requirements of the Localism Act 2011 as set out at Section 88(1)(a) and (b) are met.

**C. Whether 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 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.**

3.5.7 Given that I have determined that the current use of the premises is furthering the social wellbeing or social interests of the local community and that it is realistic to think that there can continue to be non-ancillary use which will further (whether or not in the same way) the social wellbeing or social interests of the local community, there is no need to consider whether the test set out at C. above is satisfied.

#### **4. Conclusion**

In conclusion, taking all these points into account, I am satisfied:

- That the nomination meets the definition of a community nomination as set out in Section 89(2)(b)(iii) of the Localism Act 2011.
- That the nominating body has provided reasonable justification to satisfy the test set out in section 88(1)(a) & (b) of the Localism Act 2011 as to whether an actual current use of the building or other land that was not an ancillary use furthered the social wellbeing or interests of the local community, AND it is realistic to think that there can continue to 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

I have therefore decided that the property should be included within the District Council's list of Assets of Community Value.

#### **5. Any Conflicts of Interest Declared?**

No.

#### **6. Supporting Information**

None.