

Decision Notice

Delegated Decision

Decision No:	DD14
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Subject:	APPLICATION TO INCLUDE AYCLIFFE CHURCH HALL ON THE COUNCIL'S LIST OF ASSETS OF COMMUNITY VALUE
Date of Decision:	4 August 2022
Notification Date:	12 August 2022
Implementation Date:	4 August 2022
Decision taken by:	Roger Walton, Strategic Director (Operations and Commercial)
Delegated Authority:	Delegation C253 of the Scheme of Officer Delegations (Section 6) of Part 3 (Responsibility for Functions) of the Constitution which gives powers to the Strategic Director (Operations and Commercial) as follows: 'To exercise the powers and functions of the Council in relation to Assets of Community Value.'
Decision Type:	Executive Non-Key Decision
Call-In to Apply?	No (<i>call-in does not apply to non-Key Officer decisions</i>)
Classification:	Unrestricted

Reason for the Decision:	An application has been received to include the Church Hall, Old Folkestone Road, Aycliffe, Dover within the Council's list of Assets of Community Value.
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Decision:	To include the Church Hall, Aycliffe, Dover within the District Council's list of Assets of Community Value (ACV).
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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 regard 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) Department for Communities and Local Government publication 'Community Right to Bid: Non-statutory advice note for local authorities'
- (d) Nomination Form submitted by Dover Town Council and received on 14 June 2022
- (e) Planning application submitted to Dover District Council by Seacoast Homes Ltd (22/00684)

3. Review of Application and Submissions

Context

- 3.1 The Church Hall, Aycliffe, is located within the Castle ward on the west side of Dover on a site set back from the Old Folkestone Road and surrounded by residential properties.
- 3.2 In considering the nomination received from Dover Town Council, 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

- i. Section 89(2)(b)(i) 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 parish council in respect of land in England in the parish council's area".
- ii. Dover Town Council is a parish council, and the Church Hall, Old Folkestone Road, Aycliffe, Dover is in Castle ward which is within the boundaries of the Parish Council and so clearly this test is met.

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.

- i. The application submitted by Dover Town Council states as follows:

"Until just before the pandemic, the hall was the last remaining community space in Aycliffe which is a part of Dover with very poor connectivity with the rest of the community and having high levels of deprivation. Owned by the Church of England, the hall though in poor repair was the only community/shared space available to the residents of Aycliffe - except for the primary school which has restrictions and

limitations for public access. The hall was used for family birthdays and celebrations, as the meeting place for the 2 residents' forums, for public consultations, as a polling station, for toddler groups, morning -ins for the elderly, a karate club, jumble sales and coffee mornings. It served as the collection and drop off point for children wanting to go to the nearest youth club - then held at Astor School. The Post Office was located in the hall - on Mondays - when the Post Office closed the full-time service and withdrew. This allowed people to collect pensions and other benefits, meet socially, and conduct transactions with the Post Office including banking. Since the closure of the hall due to a need for a new roof, Aycliffe has had no Post Office. Conversations had been had by the Town Council with the local Parish Secretary with regard to the need for roof repairs, but we were unaware that the Diocese of Canterbury had made the decision to simply dispose of the hall and land until a recent planning application proposing the demolition of the hall and loss of the Community Centre.”

- ii. It is understood that the property was the responsibility of the Parochial Church Council of St Mary the Virgin in Dover who took a decision some two years ago to dispose of the property as the cost of repairs was such that they could not be justified given the level of use and because St Mary's Church itself provided similar community functions.
- iii. It is understood that the property is now owned by Seacoast Homes Ltd who have submitted a full planning application to the Council for the proposed demolition of the existing vacant mixed-use former Aycliffe Church Centre and Post Office building ('the site'), and redevelopment as a 7-room short-term accommodation building with associated access, parking and communal gardens.
- iv. Clearly, as the property is closed and has been sold for development, there is no current use that could be described as furthering the social wellbeing or social interests of the local community, so this test is not 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.

- i. The application submitted by Dover Town Council states as follows:

“As stated above, the Aycliffe community is isolated from the rest of the town by the incursion of the A20 - there is poor connectivity by public transport and the cycling or pedestrian options are unattractive due to the pollution and heavy traffic on the A20 to one side and the steepness and length of the route via Military Hill. As a result, the deprived community have no close or easily accessible amenities or facilities other than the primary school, a MUGA with no changing facilities, a small playground, and a small convenience store. There is no other community centre or hall for uses such as those described above. The permanent loss of a shared community space will lead to further erosion of wellbeing and socialisation opportunities for a community besieged by TAP, suffering the noise and pollution of the A20 and living without many of the opportunities other communities expect to have.”

“The land and building could be acquired with the support of the Town Council or local charity - funds would need to be raised - to rebuild and repair perhaps with extension to the hall to provide a community hub/centre going forward. This would

alleviate some of the difficulties and challenge residents in Aycliffe suffer by restoring and improving social facilities in the local area.”

- ii. From the information contained within the submission by the Town Council and also the planning statement, which forms part of the planning application it would seem fairly clear that the property had served the community in various ways up until its closure in early 2020. As regards whether this can be considered to be ‘in the recent past’, based on the evidence submitted and given that the property was only closed a little more than 2 years ago, I am quite satisfied that the property has previously been used for activities which furthered the social wellbeing or interests of the local community.
- iii. I will now consider the point as to whether 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.
- iv. The current situation is that the building has been closed, sold to Seacoast Homes Ltd, and is the subject of a current planning application which would see the current building demolished and the site used for housing purposes. Should this application be granted, and the development proceed in accordance with the plans as submitted, then clearly it would be unrealistic to think that community use in any form could be re-established in the foreseeable future.
- v. However, until such time as these plans have been approved and the development as proposed has taken place, a range of potential outcomes can legitimately be contemplated which include, for example, the current planning application being refused, the applicant choosing not to proceed with these proposals and so forth.
- vi. Based on the submission made by the Town Council, I am satisfied that there are clear alternative proposals for the property that, were the current circumstances to change, would enable community use to be re-established and I am equally satisfied that the Town Council would have sufficient resources available to itself to enable such proposals to be delivered.
- vii. I am therefore content to conclude that it is realistic to think that there is a time in the next five years when non-ancillary use of the building or other land could be re-established that would further (whether or not in the same way as before) the social wellbeing or social interests of the local community. This viewpoint is consistent with that taken by the judge in *Patel v Hackney BC (CR/2013/0005)*.

4. Conclusion

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

- a) That the nomination meets the definition of a community nomination as set out in Section 89(2)(b)(i) of the Localism Act 2011.
- b) That the nominating body has not provided reasonable justification to satisfy the test set out in section 88(1)(a) 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.
- c) That the nominating body has provided reasonable justification to satisfy the test set out in section 88(1)(b) of the Localism Act 2011 that at a time in the recent past there was 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.

- 4.2 Taking these points into account, I have therefore decided that the Church Hall, Old Folkestone Road, Aycliffe, Dover should be included within the District Council's list of Assets of Community Value.

5. Any Conflicts of Interest Declared?

None.

6. Supporting Information

Application from Dover Town Council.