

# Decision Notice

## Delegated Decision

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<b>Decision No:</b>	<b>DD09</b>
<b>Subject:</b>	<b>APPLICATION TO INCLUDE BETTESHANGER COUNTRY PARK ON COUNCIL'S LIST OF ASSETS OF COMMUNITY VALUE</b>
<b>Date of Decision:</b>	<b>23 June 2023</b>
<b>Notification Date:</b>	<b>23 June 2023</b>
<b>Implementation Date:</b>	<b>23 June 2023</b>
<b>Decision taken by:</b>	<b>Roger Walton, Strategic Director (Place and Environment)</b>
<b>Delegated Authority:</b>	<b>Delegation 265 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 Betteshanger Country Park within the Council's list of Assets of Community Value.
<b>Decision:</b>	To include the Betteshanger Country Park 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) Nomination Form submitted by Sholden Parish Council and received on 30<sup>th</sup> April 2023.

## 3. Review of application and submissions

### Context

- 3.1 Betteshanger Country Park, formerly known as Fowlmead Country Park, is located to the east of the Deal to Sandwich Rrad and covers the site of the spoil tip of the former Betteshanger Colliery which closed in 1989.
- 3.2 In considering the nomination received from Sholden Parish 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. Sholden Parish Council is a Parish Council, and Betteshanger Country Park 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 Sholden Parish Council states as follows:

*"Since the park's creation, it has evolved to host a wide range of rare and endangered species, many of which are red listed. Ecological reports as far back as 2002 until the current date from a host of NGO's and other wildlife experts have revealed the parks spoil to be of outstanding ecological value. Many of the UK's colliery spoil sites are now designated SSSI's and Natural England who are looking to designate more SSSI'S, have confirmed Betteshanger Park's ecological value. This alone presents a unique educational opportunity right in the heart of the local community.*

*Public Health England's recent report 2020, on 'improving Access to Quality Green space' states how vitally important it is for communities physical and mental wellbeing to have freely accessible quality green space to visit and unwind in. Deal has national 'Walkers Are Welcome' status and the park boasts an Olympic standard cycle track. The park borders SSSI and Ramsar sites and is adjacent to the Sandwich Bay Bird Observatory Trust who monitor thousands of rare migratory*

*birds in and out of the UK each year which could be viewed from the parks bird viewing platform had it not been allowed to fall into disrepair by the current owners.*

*Deal and its surrounding villages also boast a proud mining heritage, knowledge of which must be passed onto the next generation, and the full potential of this educational opportunity has not yet been fully realized. There is a vast array of worthwhile, well-paid careers for the towns young people to explore in wildlife and land management and it's resulting eco -tourism. Working partnerships could also be formed with the Wildlife organisations who have been working with Friends of Betteshanger for education and conservation purposes.*

*It is vital for the preservation of Betteshanger Country Park that it is officially designated as a community asset in order to protect it from large scale commercial development and corporate gain, the proceeds of which would be syphoned out of the area and would not benefit the local community.*

*The parks official designation would ensure that unique wildlife habitats would be safeguarded and appreciated. Low key activities such as walking and cycling could be enjoyed by all age groups and the local community could go there to unwind, relax, enjoy nature, play learn and socialise for free. As an important community asset that contributes to wellbeing and quality of life for all, it would correspond with DDC's emerging local plan, protecting the parks green infrastructure as one of Kent's most important biodiversity sites."*

- ii. The submission made by the Parish Council sets out very clearly the benefits that Betteshanger Country park provides to both the local community and the wider area. Indeed, the Park's own website: <https://www.betteshanger-park.co.uk/> makes it quite clear as to the range of activities offered at the site.
- iii. I am therefore satisfied that an actual current use of the site furthers the social wellbeing or social interests of the local community. There is also nothing to suggest that there cannot 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.
- iv. I therefore consider on balance 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.**

- i. 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**

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 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
- c) 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?**

None.

**6. Supporting Information**

None.