

Decision Notice

Delegated Decision

Decision No:	DD25
Subject:	APPLICATION TO INCLUDE AN AREA OF LAND SITUATED ON EITHER SIDE OF ST CRISPIN'S CLOSE, WORTH ON COUNCIL'S LIST OF ASSETS OF COMMUNITY VALUE
Date of Decision:	17 October 2023
Notification Date:	17 October 2023
Implementation Date:	17 October 2023
Decision taken by:	Roger Walton, Strategic Director (Place and Environment)
Delegated Authority:	Delegation 265 to the Strategic Director (Place and Environment) of the Scheme of Officer Delegations (Section 6) of Part 3 (Responsibility for Functions) of the Constitution
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 an area of land situated on either side of St. Crispin's Close, Worth within the Council's list of Assets of Community Value.
Decision:	To include an area of land situated on either side of St. Crispin's Close, Worth 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 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 Worth Parish Council and received on 23 August 2023, with an additional plan received on 30 August 2023.

3. Review of application and submissions

Context

- 3.1 The application received relates to an area of open amenity land situated on either side of St. Crispin Close in Worth as shown at Appendix 1.
- 3.2 The applicant has indicated within the application that they believe that the land was previously agreed to be transferred to Worth Parish Council as part of the planning application for the adjacent housing development on the Bisley Nursey site. However, such a provision was not included within the Section 106 agreement, and it is understood that the land currently remains in the ownership of the developers Sunningdale Housing Developments (Bisley) Ltd.
- 3.3 In considering the nomination received from Worth 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 parish council in respect of land in England in the parish council's area.
- ii. Worth Parish Council is a Parish Council, and the area of land to which the application relates 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 Worth Parish Council claims that: "*Residents and visitors use the current area for rest, recreation, dog walking etc.*" although there is limited evidence included within the application to support this claim.
- ii. Essentially, the land is simply an area of open space either side of the road, laid out as a grass with limited planting, to which the public do have unrestricted access. However, the inclusion of this open space as part of the adjacent housing development was clearly intended to provide an area of land for recreation and so I am content to conclude that an actual current use (not an ancillary use) of the land does further the social wellbeing or social interests of the local community.

- iii. As regards whether the land could continue to further the social wellbeing or social interests of the local community, the applicant has stated as follows: *“Yes. There are plans for not only continuing the activities above but also for the construction of a boules pitch. There are also concerns that the Parish may need the land in the future for a new Village Hall. This is already an area of open space that provides great value and amenity, already furthering the social wellbeing and social interests of the local community. For the possible future protection such an amenity, designation as an Asset of Community Value will provide current and future residents with some safeguards concerning the future of a valued piece of real estate.”*
- iv. Given the conditions relating to the provision of the open space contained within the planning consent, there is no reason to suggest that there cannot continue to be non-ancillary use of the land that will further the social wellbeing or social interests of the local community.
- v. I therefore consider on balance that the requirements of the Localism Act 2011 as set out at Section 88(1)(a) and (b) is 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 land 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 therefore 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.

7. Appendices

Appendix 1: Plan of area of land relating to this ACV application.

Appendix 1: Plan of area of land relating to this ACV application.

