

East Herts Council Report

Audit and Governance Committee

Date of meeting: 26 September 2023

Report by: Councillor Carl Brittain, Executive Member for Financial Sustainability

Report title: Assets of Community Value Report 2023

Ward(s) affected: All

Summary – this report updates Members on the current Community Asset Register.

RECOMMENDATIONS FOR COMMITTEE:

a) That Committee Members review the Asset Register

1.0 Proposal(s)

1.1 Committee Members are encouraged to review the register and comment on any issues regarding Assets of Community Value

2.0 Background

2.1 Committee Members from the previous administration asked for an annual update in regard to Assets of Community Value (ACV), the first of which was provided in September 2021.

What are Assets of Community Value?

- 2.2 The Localism Act (2011) was brought in by the Conservative/ Liberal Democrat Coalition government to increase community involvement and accountability in delivery of public services. Legislation pertaining to Assets of Community Value (ACV) was designed to provide an additional safeguard for community facilities such as pubs, village halls, shops and local sports grounds. Specifically, it creates an opportunity for local groups to take on ownership of such facilities that are threatened with closure.
- 2.3 The Regulations Section 88(2) of the Localism Act defines an asset / land of community value if:
 - a) There is a time in the recent past (or current) 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
 - b) 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
- 2.4 The thresholds for meeting these tests are quite low and largely in the gift of the local authority who maintain the register. For example, even if a building such as a village pub has been closed for several years and has no clear

owner wishing to return it to use, it is still entirely feasible that this *could* happen and therefore the pub meets the criteria. Crucially, even a live planning application to convert the pub to residential use does not negate this.

- 2.5 Groups such as parish councils and constituted local voluntary and community organisations are able to nominate local land or buildings to be included in the list of community assets maintained by the relevant local authority. In two tier areas, this is the District/ Borough Council. Details of the nomination process can be found on our website: [Assets of Community Value \(ACV\) | East Herts District Council](#)

What happens when a building or land is nominated?

- 2.6 Following receipt of a nomination form, the Council notifies the freeholder and, if relevant, leaseholder, with an invitation to submit information or evidence in regards to any objections to the nomination. The local ward Member is also informed. A panel date is set to consider all the information, usually with four-six weeks of the nomination being received. The panel is chaired by the Head of Communications, Strategy and Policy who is responsible for determining whether assets should be accepted or not. This is done in consultation with other panel members including the Council's Policy Officer and representatives from Planning and Legal.
- 2.7 Once a decision is made, the owner is notified. In the case of it being added to the register the owner has 28 days to

appeal this process. An appeal will be undertaken internally by another senior officer not hitherto involved in the nomination. If the appeal is not upheld, the asset is then added to the register. If the owner is still unhappy with the appeal decision, their only option is to appeal to the first tier tribunal. To date, only two owners have pursued this option and in both cases the tribunal judge upheld the Council's decision to add them to the register (the Rose and Crown Pub, Aston, and the Cock Inn, Stocking Pelham).

- 2.8 As part of the registration process the Council updates the title via the Land Registry so that the ACV status will show on any future searches.
- 2.9 If an asset is placed on the register, the owner is obliged to notify the local authority when intending to dispose of it, which will trigger a moratorium period of six weeks. During this time, the community group can apply to be treated as potential bidders through by submitting an expression of interest. If the owner does not give notice to the local authority, any future disposal will be deemed unlawful.
- 2.10 The owner will be able to begin the sale process after an interim period of six weeks if no bidder has come forward. If a written intention to bid is received in that time, then a full six month moratorium period will take place which gives community groups time to prepare a bid. During that six months the owner is not able to

dispose of it to any other buyer. In practice this means they are able to advertise but not agree a sale.

- 2.11 The sale itself takes place under normal market conditions and whilst the community group will be given an opportunity to submit a bid the owner is not compelled to accept it.
- 2.12 Certain buildings and land are excluded, including residential property and land, hotels, land (specifically places of worship) owned by the church of England and land used by public utilities. A property will remain on the list for five years. It can be re-nominated after that point.

How well used is the legislation?

- 2.13 After an initial period of publicity and interest, the provisions of the Localism Act have received little attention or support from national government in recent years. However, at local level, communities have been continuing to make use of the tool albeit the number of assets purchased by local groups remains relatively low.
- 2.14 The Department for Levelling Up, Housing and Communities does not collect formal statistics on either the number of listed assets or the number bought by community groups. However they did provide a grant to the Plunkett Foundation to maintain an overall list nationally which can be found here: [Keep it in the Community Homepage \(force.com\)](https://www.force.com/keep-it-in-the-community-homepage)

2.15 ACV status is usually applied for in the case of village and town pubs in an attempt to prevent them being closed in anticipation for residential development. We have seen a similar pattern in East Herts also however a number of other types of assets have also been listed including woods and shops.

Does an ACV registration make any difference?

2.16 This is an important question. There are very few examples nationally of where adding an asset to the register has resulted in a community group taking on ownership through the moratorium process. Where a local group has the necessary funds to make a realistic bid and the landlord is co-operative and engaged, the legislation probably isn't needed. Where an owner has no intention of disposing for anything less than market value, they will simply keep their asset advertised and wait for the six months to elapse before moving ahead with a sale.

2.17 Most of the assets listed in East Herts are relatively uncontroversial and go unchallenged. However some have become complicated and this is largely in the case of village pubs that have been closed and where the owner is attempting to convert the building to residential use. Local groups often apply for ACV status in this instance to provide some level of protection against this happening and often in the context of galvanising local support to keep them open. This has been the case in the past regarding the former pubs mentioned above (the Rose and Crown, Aston, and the Cock Inn, Stocking Pelham)

and has also been the case in regards to more recent additions including the Bell Inn, Benington and the White Horse, Wareside.

- 2.18 It should be noted that an ACV status is no guarantee of preventing conversion to residential development. Any planning application would be considered on its own merits. However in some cases the ACV status may be of relevance to planning determinations. Whilst falling short of a material consideration in East Herts it does provide a proxy for community interest and commitment to retain local facilities (noted in the rulings by the judges in the first tier tribunal cases referenced above).
- 2.19 It is worth noting that whether a local group has the necessary funds or capacity to take on ownership of a community asset is irrelevant to the nominating process. In some cases local groups simply wish to prevent the loss of a community facility and slowing it down by six months is all that can be realistically achieved.
- 2.20 In East Herts the current list of assets can be found a Appendix A and also on our website: [Assets of Community Value Register | East Herts District Council](#)
- 2.21 Currently there are 26 assets listed, 1 other in the process of being registered (Little Hadham Community Orchard) and 1 other being considered, having recently been nominated (the Baker's Arms, Bayford).

3.0 Reason(s)

- 3.1 The Community Asset register has to be kept up to date by East Herts Council, as outlined in the 2011 Localism Act.

4.0 Options

- 4.1 There are no options to not maintain the register as it is a statutory requirement

5.0 Risks

- 5.1 N/A

6.0 Implications/Consultations

- 6.1 Owners of any assets registered (including any leaseholders or tenants) are consulted with upon receiving a nomination

Community Safety

No

Data Protection

No

Equalities

No

Environmental Sustainability

No

Financial

No

Health and Safety

No

Human Resources

No

Human Rights

No

Legal

No

Specific Wards

No

7.0 Background papers, appendices and other relevant material

7.1 Appendix A – Current Community Asset Register

Contact Member

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Appendix A – Community Asset Register, East Herts as at 11/9/23

Asset & notes	Nominating Group	Date added	Expiry date
White Horse, Wareside. Community group notified of owner's intention to sell on 17 th April and they did not submit an expression of interest on the basis that the prospective buyer wanted to re-open the pub. However the sale appears to have fallen through.	Wareside Community Group	01/04/23	31/3/28
Wareside CofE School, Wareside	Wareside Parish Council	29/03/23	29/03/28
Water Lane Hall, Bishop's Stortford. Notice of a relevant disposal was immediately given to the nominating group, triggering the 6 month moratorium period. This expired 19 th March and the protected period will end 19 th March 2024	Bishop's Stortford Civic Federation	13/9/23	19/3/24
Feathers Inn, Wadesmill	Thundridge Parish Council	29/3/23	28/3/28
The Bell Inn, Benington. This was already on sale when the pub was nominated. The community group triggered the moratorium process on 10 th August and it expired February 2023 meaning the protected period lasts until 24 th February 2024	Friends of the Bell	01/8/22	24/2/24
The Bull Inn PH, Much Hadham	Save The Bull Action Group	12/08/22	12/08/27
The Farmers Boy Pub, Brickendon	Brickendon Liberty Parish Council	17/02/22	17/02/27
The Yew Tree PH, Walkern	Walkern Parish Council	08/04/2017	08/04/2027
The White Lion PH, Walkern	Walkern Parish Council	08/04/2022	05/04/2027
Walkern & Sandon United Reform Church, Walkern	Walkern Parish Council	08/04/2022	08/04/2027
Budgens, Walkern	Walkern Parish Council	08/04/2022	08/04/2027
The Boot Public House, Dane End,	The Book Pub Local Residents Group	08/11/21	08/11/26

ZisZis Food Store 155 London Road, Hertford Heath, SG13 7PN	Hertford Heath Parish Council	29/07/21	29/07/26
The Silver Fox 16-18 London Road, Hertford Heath, Sg13 7RH	Hertford Heath Parish Council	29/07/21	29/07/26
Coutryman Inn, Chipping. Notice to dispose was given 22/7/22 and the community group triggered a moratorium process which expired 16/12/22. The protected period will end 16/12/23	Buckland and Chipping Parish Council	01/7/21	16/12/23
Astonbury Woods Astonbury Lane, Hertfordshire	Aston Parish Council	17/05/21	17/05/26
Hertford Heath Village Hall, Hertford Heath,	Hertford Heath Parish Council	20/03/21	20/03/26
The Goat Public House, Hertford Heath	Hertford Heath Parish Council	20/11/2020	19/11/2025
The Village Hall, Hertford Heath	Hertford Heath Parish Council	20/11/2020	19/11/2025
Mission Room, Hertford Heath	Hertford Heath Parish Council	20/11/2020	19/11/2025
Holy Trinity Church, Hertford Heath	Hertford Heath Parish Council	20/11/2020	19/11/2025
Hertford Heath School, Cub and Beaver Hut, Hertford Heath	Hertford Heath Parish Council	20/11/2020	19/11/2025
Boxwood, Walkern, Hertfordshire.	Friends of Fairlands Farm CIC.	20/11/2020	19/11/2025
College Arms Pub, Hertford Heath	Hertford Heath Parish Council	11/09/2020	10/09/2025
Hertford Corn Exchange, Hertford,	Hertford Civic Society	03/03/2020	02/03/2025
The Crooked Billet, Ware	Community group	10/04/2019	09/04/2024