

Chiltern District Council

Section 91 of the Localism Act 2011 and Assets of Community Value (England) Regulations
2012

**Community nomination in respect of Land at Lye Green Farm & Land at Nashleigh
House, Lycrome Road, Chesham, Buckinghamshire, HP5 3LD**

DECISION NOTICE

1. The Nomination

On 9th May 2019 Chiltern District Council accepted a nomination under section 89 of the Localism Act 2011 ('the Act') to list Land at Lye Green Farm in Chesham, as an asset of community value. The nomination was made by Brown Not Green Chesham Ltd. A copy of the nomination is attached at Appendix 1 and a plan showing the boundaries of the nominated land (edged black) is attached at Appendix 2.

A summary of the nomination is set out below:

- (a) the land comprising of open fields and woodlands is located to the north-east side of Chesham abutting the residential settlement.
- (b) it comprises of approximately 35.450 Hectares.
- (c) the land is divided between two registered Titles. Copies of these indicate that Title BM334723 is owned by W J & M Mash of Torrington Farm, Grove Lane, Chesham, HP5 3QJ and Title BM20138 is owned by Geltex Properties Ltd of 5 Wigmore Street, London, W1U 1PB.
- (d) The land is currently used for agriculture (part grazing/part arable) but also attracts many members of the local community who use the fields and woodland for activities including walking, running, dog walking observing wildlife, kite flying, family picnics, kicking a football around etc .
- (e) It has been used by the local community, unhindered for many years; some Statements of Truth indicating that cricket matches occurred in the 1930's and '40's.
- (f) The presence of long established rear access gates from many properties onto the land and other access points around the land with no apparent actions by the Landowners to prevent or deter their use.
- (g) The nomination contains more than 50 Statements of Truth and letters from local people detailing how they have used, and observed others using, the fields and woodlands over many years for leisure purposes and these attest how the land contributes to the social well-being and social interest of the local community.

- (h) Brown Not Green Chesham Ltd is a not for profit private company limited by guarantee and is eligible under section 89(2) b) (iii) to make a community nomination in respect of the land at Lye Green Farm.
- (i) It was formed from a previous informal organisation of local people with the sole aim of protecting the land for the local and wider Chesham community particularly with the emerging proposals to remove the Green Belt status from the land.
- (j) Brown Not Green Chesham Ltd has 95 household members which represent nearly 200 individuals who have donated funds to become members and also received the support of over 1,800 individuals who signed the company's petition in 2016 calling for the land to retain its Green Belt status.
- (k) The community's response to the pending removal of the Green Belt status reflects the strength of feeling and a commitment to supporting the future of the Land at Lye Green Farm being available for the local community.
- (l) Brown Not Green Chesham Ltd has provided details as to how they would raise funds to purchase the land if the opportunity arose and if successful, its plans for managing the land in the future for the local community to ensure that it remains as an important community facility.
- (m) Their objective would be to maintain the status quo; namely to preserve the openness of the land primarily whilst maintaining the separate identities of Lye Green from Chesham but also to preserve the use of the land for both agriculture and for the many informal recreational uses enjoyed for decades by the residents of NE Chesham & Lye Green.

2. The Law and Statutory Guidance

Under section 87 of the Act the Council must maintain a list of land of community value in its area. A building or other land is of community value if in the Council's opinion an actual current use of the building or other land that is not ancillary use, furthers the social wellbeing or social 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, which will further (whether or not in the same way) the social wellbeing or social interests of the local community.

Where a building or other land is not currently land of community value, it can still be land of community value if in the Council's opinion:-

- a. there is a time in the recent past when an actual use of the building or other land that was not 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.

Under section 89 the Council can only include land in its list of assets of community value in response to a community nomination or where permitted by regulations. A community nomination in England can only be made by either a parish council in respect of land within its area or by a person that is a voluntary or community body with a local connection. Where a valid community nomination is made the Council must consider it and must accept the nomination if the land is within its area and is of community value.

3. Decision and Reasons

The Council accepts the nomination by Brown Not Green Chesham Ltd and includes Land at Lye Green Farm in Chesham in its list of assets of community value.

The reasons for this decision are as follows:

- (a) The land at Lye Green Farm comprising of approximately 35.450 ha lies within the administrative area of Chiltern District and within the parish of Chesham.
- (b) Brown Not Green Chesham Ltd are eligible under section 89(2) b) (iii) to make a community nomination in respect of the Land at Lye Green Farm, Chesham.
- (c) The community nomination made by Brown Not Green Chesham Ltd includes the matters required under regulation 6 of the Assets of Community Value (England) Regulations 2012
- (d) The land does not fall within a description of land which may not be listed as specified in Schedule 1 of the Assets of Community Value (England) Regulations 2012 (the Regulations)
- (e) The land is located on the north-east side of Chesham and comprises of open fields and woodlands abutting the residential settlement.
- (f) The Council notes that the open fields are in use as agricultural land (part arable/part grazing) but from the supporting information provided with the nomination, ie Statements of Truth, Statutory Declaration & letters together with observations at the time of Officer inspection, it is evident that the land over a long period of time has been, and is, well used by the local and wider community of Chesham for a number of purposes including walking, jogging, observing the wildlife and enjoying the openness of the countryside.
- (g) Whilst the land is currently used for agriculture, there is also "significant community use" of the land so this actual use is not ancillary to the agricultural

uses but coexistent with it, (as defined in the Banner Homes vs St Albans City and District Council Court of Appeal case 2018).

- (h) Being on the edge of the residential settlement, the large area of open fields and woodlands provides a welcoming environment and place of escape and relaxation which benefits the health and well-being of the local community.
 - (i) In the Council's opinion, this use furthers the social wellbeing and social interests of the local community for the purposes of section 88 (1) (a) of the Act and that the land is of community value.
 - (j) From the evidence provided and observed at the time of the inspection there appears to have been very little attempt by the landowners to deter or prevent public access.
 - (k) Brown Not Green Chesham Ltd have provided details as to how they would raise funds to purchase the land if the opportunity arose and if successful, its plans for managing the land in the future for the local community to ensure that it remains as an important community facility.
 - (l) Their aim is to maintain the status quo; namely to preserve the openness of the land primarily whilst maintaining the separate identities of Lye Green from Chesham but also to preserve the use of the land for both agriculture and for the many informal recreational uses enjoyed for decades by the residents of NE Chesham & Lye Green.
 - (m) The level of support from local residents received by Brown Not Green Chesham Ltd through its petition for the Green Belts status to remain in place, the number of Statements of Truth submitted as part of the nomination and the company's membership support, suggest that this is a well-supported initiative by the local community.
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- (n) In the Council's opinion, it is realistic to think that the land can continue to further the social wellbeing and social interests of the local community for the purposes of section 88 (1)(b) of the Act.
 - (o) No planning applications have been submitted and it is understood that the Green Belt status of the subject land is still under consideration.

4. Next Steps

The Land at Lye Green Farm will be included in the list of assets of community value maintained by the Council under section 87 of the Act.

In accordance with section 91 of the Act the Council will send this notice to:-

- (a) the owner of the land
- (b) the occupier of the land if the occupier is not the owner
- (c) Brown Not Green Chesham Ltd as the nominee body

5. **Consequences of Listing**

The land will remain on the list of assets of community value for a period of 5 years from the date of this notice unless removed with effect from some earlier time in accordance with the provision of the Regulations.

Inclusion of the land in the list of community assets is a local land charge under the Local Land Charges Act 1975.

The Council is required under Schedule 4 of the Regulations to apply to the Land Registry for a restriction to be added to the registered title of the land that "No transfer or lease is to be registered without a certificate signed by a conveyancer that the transfer or lease did not contravene section 95(1) of the Localism Act 2011".

Under section 95 of the Act an owner must notify the Council by writing to the Head of Environment at Chiltern District Council, King George V House, King George V Road, Amersham, Bucks, HP6 5AW if they wish to enter into a relevant disposal of the land. Relevant disposal is defined in section 96 and (subject to exemptions in section 95(5) and Schedule 3 of the Regulations) means, a freehold disposal or the grant or assignment of a qualifying leasehold interest, with vacant possession.

A moratorium period is triggered by notification under section 95 to allow any community interest group to submit a written request to be treated as a potential bidder for the land. Owners are advised to refer to the Part 5 Chapter 3 of the Act and the Regulations in full and to seek legal advice if they wish to dispose of the land.

A disposal of listed land which contravenes the requirements of Act and Regulations will be ineffective.

6. **Right of Review**

In accordance with section 92 of the Act the owner of the land is entitled to request a review of this decision. The review will be carried out by a senior officer of the Council nominated by the Chief Executive. A request must be made in writing and received by the Council within 56 days of the date you receive this notice or such longer period as the Council may agree in writing. Please ensure that the request explains on what grounds the decision should be reviewed.

If a request is made the Council will complete the review within 56 days of receiving the request or such longer period as is agreed with the owner in writing. A request must be addressed to The Head of Legal and Democratic Services, Chiltern District Council, King George V House, King George V Road, Amersham, Bucks, HP6 5AW.

7. Right to Compensation

In accordance with paragraph 14 of the Regulations an owner or former owner of the land is entitled to claim compensation from the Council of such amount as the Council may determine, where they have incurred loss or expense in relation to the land which would be likely not to have been incurred if the land had not been listed.

A claim for compensation must be made in writing within 91 days of the loss or expense being incurred (or as the case may be) finish being incurred; must state the amount of compensation sought for each part of the claim and be accompanied by supporting evidence for each part of the claim.

If a claim is made the Council will consider it within 56 days of receiving the claim or such longer period as is agreed with the owner in writing. A request must be addressed to Head of Finance, Chiltern District Council, King George V House, King George V Road, Amersham, Bucks, HP6 5AW.

8. Additional Help

Further information about assets of community value is available on the Department of Communities and Local Government website www.dclg.gov.uk. If you need any additional support in relation disposal of the land, the right of review or right to compensation you are advised to seek independent legal advice.

Signed



Head of Environment

Dated.....

5/7/12