

Community Right To Bid Determination Form
Localism Act 2011
The Assets of Community Value (England) Regulations 2012
Determination by Planning Manager (Development Management)

Nomination Reference: BL/2020\ENQ\08837	
Date of Nomination: 24 th January 2020	
Site Address:	Field on Whitehall Road, Blackburn BB2 6DU
Land/Property Description	Land - Green environmental space

Asset Owners:

Name & Address of Asset Owner	Connection to the asset
Blackburn With Darwen Borough Council, Town Hall, Blackburn BB1 7DY	Freeholder

Nominating Organisation:

Name of Organisation: Whitehall Road Neighbourhood Group	Proof of eligibility to make a community nomination:
Type of Organisation: Unincorporated Group	At least 21 locally registered voters signed petition

Summary of Reasons given by Nomination Organisation as to why the asset should be identified to qualify as an asset of community value:

An extract from the submission is below.

The playing field has been in use since at least 1931. It is used on a daily basis for children's play, football, informal sports and dog walking. It is a safe place for children from the local areas to play and acts as a focal point for residents from Whitehall Road, Ravenswing Ave, parts of Revidge Road, Mollington Road and Edgeware Road.

It is the only flat playing field which is suitable for playing team sports such as football in the local area outside Corporation Park and serves the wider communities around New Bank Road, Leamington Rd etc. which have very dense populations and have less than the minimum standard of green space according to the Green Space Index published by Fields in Trust.

Whilst there is one other flat playing field in Corporation Park, this serves a large area and issues with anti-social behaviour and concerns about safety mean that the park tends to be used more as a family outing rather than children having 'free play'.

It's become very clear that the loss of our playing field would have a detrimental effect on the dynamics of our local community.

The Whitehall Road field is overlooked by houses on two sides and is flat and open which means that it isn't troubled by anti-social behaviour or gangs of youths.

The local residents have offered to the Council to take on the maintenance of the field and we already undertake litter picking and removal of dog mess.

The residents have already submitted an application for the land to be designated as local green space as it is classed as Protected Open Space in the current local plan. This application was supported by the Open Spaces Society and the Wildlife Trust.

If the application is successful, the residents would like to improve the quality of the area of the playing field used for football/cricket by making a more even surface.

We would also like to create a small wildflower meadow in the corner of the field which is currently overgrown by brambles which would attract more diverse wildlife and would improve visual appeal.

We would also consult with the Wildlife Trust to see how we could improve the provision of wildlife habitat especially near the small stream running along the northerly edge which is already used by frogs and newts.

Response to the Consultation:

Comments from Council's Legal Officer, 3rd March 2020:

There is nothing in the title which would affect the ACV nomination. The covenants on the land relate to leaving modest strips on the edge of land open in order for highways to be created at a later date and or provide continued access to the site. The plans are not

readily available but I do not think this is a necessity to review in detail. None of these things I believe would affect the use of the site under the nomination.

Comments from Council's Head of Property, 12th February 2020:

Please could you consult with Planning and Leisure Department's on this please, regarding the use that has been identified in the nomination form.

Comments from Council's Strategic Growth Planning Policy Manager, 6th February 2020:

There is nothing in the regulations for the local authority to consult Sport England with regards the nomination as they have no land interests. The site's current status in Local Plan Part 2 on the Proposals Map is as a Green Infrastructure site that deals with all open spaces in a similar way from a Local Plan perspective. Policy 38 seeks to develop a more connected network of open spaces. It is confirmed that an application produced by the Whitehall Road Neighbourhood Forum was also received on the 16th December 2019, to designate the playing field on Whitehall Road, Blackburn as Local Green Space as laid out in the National Planning Policy Framework (NPPF). Paragraphs 99 to 101 introduce a Local Green Space designation (LGS) to protect local green areas of particular importance to local communities. Further guidance is provided in the Planning Practice Guidance (PPG) on Open space, sports and recreation facilities, public rights of way and local green space. The application for Local Green Space status will therefore be assessed through the Local Plan review process in accordance with this guidance. This includes reference to the fact that 'plans must identify sufficient land in suitable locations to meet identified development needs and the Local Green Space designation should not be used in a way that undermines this aim of plan making'

Comments from Council's Leisure Facilities Manager, 31st January 2020:

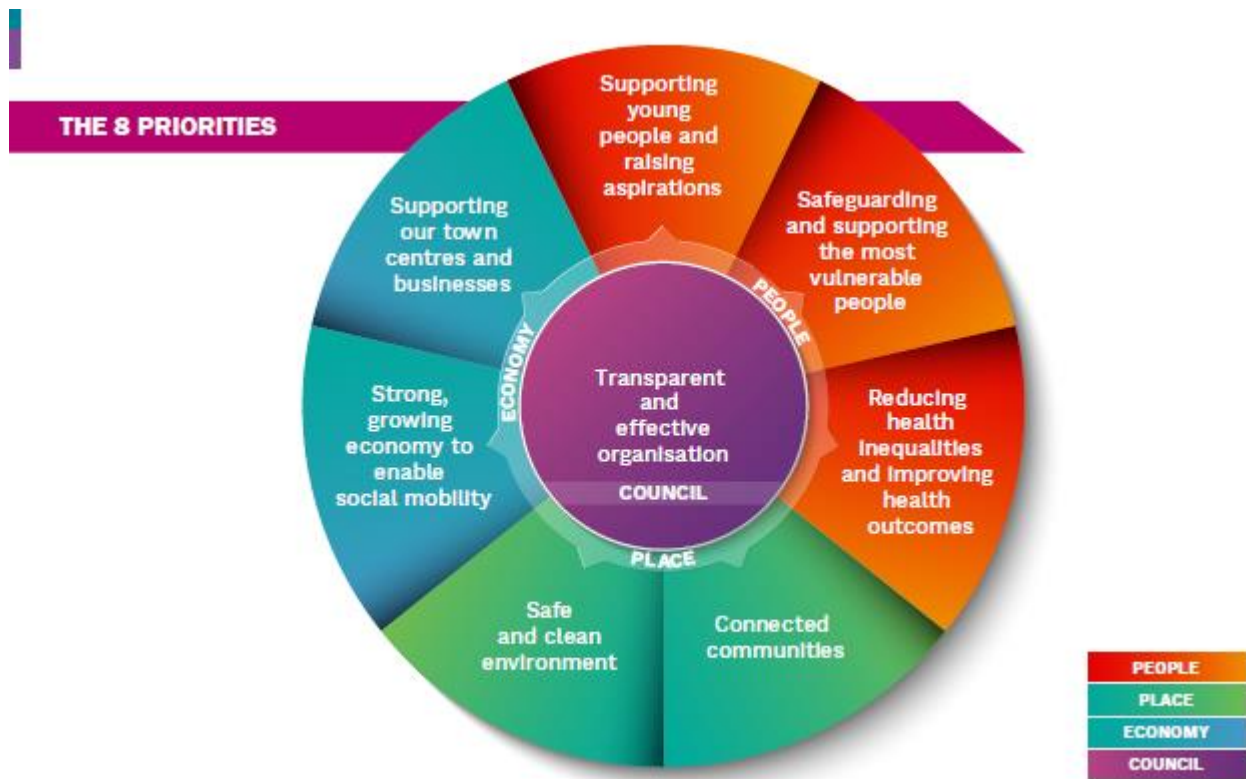
The land is just public open space. I believe the grass is cut periodically by the Environment Department. These fields have never had a football pitch marked out or had goals on them and as such have never hosted a football match of any description.

Assessment:

The Whitehall Road Neighbouring Group are eligible to make a nomination as an unincorporated group with a membership of at least 21 local people. The Council must consider whether the Land at Whitehall Road Blackburn meets the definition of an Assets of Community Value as set out in Section 88 of the Localism Act 2011 i.e in this case that it is currently in use that furthers the social well-being and interests of the local community, or a use in the recent past has done so, and also that it is realistic to think that there can continue to be non-ancillary use of the building or other land which will further the social well-being or social interests of the local community (whether or not in the same way).

There is no statutory definition of what "local community" is. It is on a case-by-case basis. With regards to social wellbeing/social interest - the statutory regime contains no definition of "social wellbeing or social interest of the community" save that "social interests" include in particular cultural, recreational and sporting interests (section 88(6)) but the phrase is not limited to such interests. Each local authority is to decide what interests it considers falls within the phrase. A common approach is to take account of the local priorities and

the Council's understanding of social well-being. The Council's Corporate Plan 2019-2023 sets out 8 core priorities, which brings together all of the Council's strategies and plans including the Social Integration Strategy, supporting communities and improving health and well-being.



Extract from Blackburn With Darwen Borough Council – Corporate Plan 2019-2023

Such criteria raise the question of the role of the local authority's views in the decision.

Whether the current use furthers the social well-being and interests of the local community?

The nomination states that the site is used on a regular basis for informal sports, dog walking and children's play. It is acknowledged that notwithstanding the comments from the Council's Leisure Facilities Manager during the consultation process referring to the fact that no formal football or cricket matches are played on the site, the site could be used on an informal basis by the local community. Whilst the evidence in the ACV nomination is weak, there is evidence submitted as part of the separate application to designate the site as a playing field in the Local Plan.

The site's position being bounded to the west and south by residential properties encourages it to be used for recreational purposes, which is endorsed by the arguments put forward in the nomination.



Extracts from Google Street View

Whether 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?

The site is currently allocated as Green Infrastructure as defined in the adopted Blackburn with Darwen Borough Local Plan Part 2 “*Site Allocations and Development Management Policies*” (December 2015). The Council responded to Sport England in early February advising the site is not a playing pitch (following advice from Leisure Facilities Manager

referring to the fact the site has never been marked as a football pitch or had goals on them). However, it will be considered in the current Open Space Audit assessment the Local Planning Authority is undertaking in support of the new Local Plan as an amenity site. This assessment will be published as evidence documents during the public consultation events on the new Local Plan in the autumn of 2020. National Planning Policy Framework (NPPF) (2019) Paragraphs 99 to 101 introduce a Local Green Space designation (LGS) to protect local green areas of particular importance to local communities. Further guidance is provided in the Planning Practice Guidance (PPG) on Open Space, sports and recreation facilities, public rights of way and local green space. The application for Local Green Space status will therefore be assessed through the Local Plan review process in accordance with this guidance. This includes reference to the fact that *'plans must identify sufficient land in suitable locations to meet identified development needs and the Local Green Space designation should not be used in a way that undermines this aim of plan making'*.

The application submitted by the nominating group relating to the Local Plan designation clearly demonstrates that the site will continue to be used to further the social well-being of the local community. To satisfy the second statutory test, as regard the future use of the nominated asset, it has also to be realistic to think that there can continue to be a non-ancillary use of the asset for the community benefit but it need not be the same as the current community use. As there is a current community use on the site, which has been demonstrated in the nomination, and the application relating to the Local Plan designation, this is normally unlikely to be a real issue.

Though there is no period specified during which the community use must continue, current planning case law suggests it is enough that it is realistic to consider that the current use will continue and there is not a need to prove that it is more likely than not to happen. Given the sites' Local Plan designation and the current Local Plan review process, it is reasonable to assume this site will continue to deliver community benefit.

Decision

I confirm that:

Nominated Asset: Field on Whitehall Road, Blackburn BB2 6DU

Should be an Asset of Community Value and included on the Council's Local Assets of Community Value Register and placed on the Local Land Charge Register.



Gavin Prescott
Planning Manager (Development Management)

Date: 16th March 2020

Background Papers: Nomination application, letter from the owners.

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