

Meeting: Cabinet **Date:** 16 November 2021

Wards affected: Preston/Roundham with Hyde

Report Title: Renewed listing of Parkfield as an Asset of Community Value

When does the decision need to be implemented? 24 November 2021

Cabinet Member Contact Details: Cabinet Member for Corporate and Community Services
(Councillor Carter)

Director/Assistant Director Contact Details: Assistant Director for Corporate Services
(Matthew Fairclough-Kay)

1. Purpose of Report

- 1.1 Parkfield was listed as an Asset of Community Value ('ACV') on 30 September 2016. That listing expired on the 29 September 2021. An application to relist has been received from the Paignton Town Centre and Preston Community Partnership and must be determined by the Cabinet in accordance with the requirements of the Localism Act 2011 and the Assets of Community Value (England) Regulations 2012.
- 1.2 The application has been considered by Officers who recommend approval of the above application and the re-listing of Parkfield as an ACV.

2. Reason for Proposal and its benefits

- 2.2 Following receipt of a community nomination for land to be listed as an ACV, a local authority must reach a decision whether or not to list nominated land within eight weeks of receiving the nomination.
- 2.2 The proposals contained in this report will potentially commit the Council financially in respect of: Potential Compensation payments; if an owner or former owner of land listed or previously listed as an ACV incurs loss or expense that it is likely they would not have incurred had the land not been listed as an ACV, they may be able to claim compensation under regulation 14 of the ACV Regulations 2012.

3. Recommendation(s) / Proposed Decision

That the application to re-list Parkfield, 38 Esplanade Road, Paignton in the Council's list of assets of community value be approved.

Appendices

Appendix 1: Application to include Parkfield submitted by the Paignton Town Centre and Preston Community Partnership.

Background Documents

Torbay Council Assets of Community Value Policy:

<https://www.torbay.gov.uk/planning-and-building/land-charges/assets-of-community-value/>

Supporting Information

1. Introduction

1.1 What is the proposal / issue?

To relist Parkfield as an Asset of Community Value.

1.2 What is the current situation?

Parkfield was listed as an Asset of Community Value. That listing expired on the 29 September 2021.

A community interest group, the Paignton Town Centre and Preston Community Partnership, have made an application for a new listing to protect the asset for a further 5 years.

A community asset is a local building or piece of land which the community considers to be of particular value to the local community. Section 88 of the Localism Act 2011 sets out the definition of a community asset. Land or a building will be considered of community value if in the opinion of the Council if:

- a) an actual current use of the building or other land that is not an ancillary use furthers the social wellbeing or social interests of the local community, and
- b) it is realistic to think that now or in the next 5 years there could continue to be a primary use of the building/land which will further (whether or not in the same way) the social, well-being or social interests of the local community.

Members' attention is particularly drawn to pages 8, 9 and 10 of the application appended to this report with regard to the merits of the Application and the established community use and value of the property. From the information contained in the application to list the property as an ACV, it is clear that the above test has been satisfied and that the property should be included in the Council's list of ACVs.

2. Options under consideration

2.1 What options have been considered?

2.1 Having received a valid application, the only other option would be to refuse to list the asset as an Asset of Community Value. However, given the previous listing of the property and the continued uses it is recommended that the property be relisted.

3. Financial Opportunities and Implications

3.1 What is the relationship with the priorities within the Partnership Memorandum and the Council's Principles?

The protection of Assets of Community Value supports the Partnership's priority of 'Thriving People and Communities'.

4. Legal Implications

4.1 The proposals contained in this report will potentially commit the Council financially in respect of: Potential Compensation payments; if an owner or former owner of land listed or previously listed as an ACV incurs loss or expense that it is likely they would not have

incurred had the land not been listed as an ACV, they may be able to claim compensation under regulation 14 of the ACV Regulations 2012. However, in order to claim such compensation, the claimant will need to prove and demonstrate their actual loss, so the likelihood of such claims is low.

- 4.2 The legal effect of listing the property as an ACV is set out in the Torbay Council Assets of Community Value Policy:

<https://www.torbay.gov.uk/planning-and-building/land-charges/assets-of-community-value/>

5. Engagement and Consultation

- 5.1 Torbay Council is the freehold owner of the property is the only party directly affected by the proposals. The application has been made by the local community partnership.

6. Purchasing or Hiring of Goods and/or Services

N/A

7. Tackling Climate Change

N/A

8. Associated Risks

- 8.1 If the Council does not determine the application before 24 November 2021, it will be in breach of its statutory duty to do so. This would leave the Council vulnerable to a potential ombudsman complaint.
- 8.2 If the Council register the property as an ACV in circumstances where it should not have done so, then the owner is entitled to appeal and may potentially recover the costs incurred in a successful appeal.
- 8.3 If the Council decides not to list the property as an ACV in circumstances where it should have done so, there is no right of appeal. The only remedy available to an aggrieved applicant would be by way of judicial review.

9. Equality Impacts - Identify the potential positive and negative impacts on specific groups

	Positive Impact	Negative Impact & Mitigating Actions	Neutral Impact
Older or younger people	Parkfield was built as a youth centre to improve the lives of young people in the Bay and there are a number of youth & sport activities on site.		
People with caring Responsibilities			No differential impact
People with a disability			No differential impact
Women or men			No differential impact
People who are black or from a minority ethnic background (BME) (Please note Gypsies / Roma are within this community)			No differential impact
Religion or belief (including lack of belief)			No differential impact
People who are lesbian, gay or bisexual			No differential impact
People who are transgendered			No differential impact
People who are in a marriage or civil partnership			No differential impact
Women who are pregnant / on maternity leave			No differential impact
Socio-economic impacts (Including impact on child poverty issues and deprivation)	Parkfield was built as a youth centre to improve the lives of young people in the Bay and there are a number of youth & sport activities on site.		

Public Health impacts (How will your proposal impact on the general health of the population of Torbay)	Parkfield was built as a youth centre to improve the lives of young people in the Bay and there are a number of youth & sport activities on site.		
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10. Cumulative Council Impact

10.1 None.

11. Cumulative Community Impacts

11.1 None.