

Meeting: Cabinet **Date:** 18 January 2022

Wards affected: Preston/Roundham with Hyde

Report Title: Listing of the whole of Parkfield as an Asset of Community Value

When does the decision need to be implemented? 18 January 2022

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- 1 That the decision of the Cabinet on 16 November 2021, (as set out in Minute 277/11/21) be rescinded; and the application for the Parkfield Estate to be registered as an asset of community value be reconsidered and determined.

2. Reason for Proposal and its benefits

- 2.1 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

- i) That the decision of the Cabinet on 16 November 2021, (as set out in Minute 277/11/21) be rescinded; and that the nomination to list the following parts of Parkfield Estate registered under title numbers DN127384 and DN311422 in the Council's list of assets of community value be approved:
 - BMX Track
 - Skatepark
 - MyPlace

- Parkfield House Stable Block
- Parkwood House grounds
- Community Woods

as there is established community use; and

ii) that the nomination to list the following parts of Parkfield Estate in the Council's list of assets of community value be refused:

- Parkfield House
- Ranger Stores

as there is no established community use.

Appendices

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

Appendix 2: Official copy title plan DN127384 and DN311422

Appendix 3: Parkfield Estate plan

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 list the whole of Parkfield as an Asset of Community Value.

1.2 What is the current situation?

Part of Parkfield was previously listed as an Asset of Community Value ('ACV') on 30 September 2016. That listing did not include Parkfield House and grounds or the Community Woods.

That listing expired on the 29 September 2021. A nomination to relist the whole of Parkfield, including Parkfield House and grounds and the Community Woods, 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 and with reference to the supporting information provided within the nomination

This report is being presented to you again because the decision made on 16 November 2021, was determined on the basis that the **relisting should be the same as that previously approved in 2016**. However, having sought clarification from the applicant, they would now like to revise their nomination to include the whole of the site.

Council officers have reviewed the nomination in conjunction with the TDA. Each part of Parkfield Estate has been reviewed to determine if the criteria set out in section 88 Localism Act 2011 has been fulfilled.

Attached at Appendix 2 is a copy of the Land Registry title plans showing the extent of the Council's ownership. The area for consideration is outlined red with the exception of a small parcel of land edged green title DN611845, which relates to an electricity substation which cannot be included in the listing.

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.

Section 88(2) of the Act extends this definition to land which has furthered the social wellbeing or social interests of the local community in the recent past, and which it is realistic to consider will do so again during the next five years.

There is established community use in relation to the following parts of Parkfield Estate and it is clear that the criteria has been met and that the following parts of the property should be included in the Council's list of ACVs:

- BMX Track
- Skatepark
- MyPlace
- Parkfield House Stable Block
- Parkwood House grounds
- Community Woods

There is no established community use in relation to the following parts of Parkfield Estate and it is clear that the above criteria has not been fulfilled and that the following parts of the property should not be included in the Council's list of ACVs, but instead should be placed on the Council's register of Unsuccessful Community Nominations:

- Parkfield House
- Ranger Stores

2. Options under consideration

2.1 What options have been considered?

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

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'.

3.2 To note, as detailed in this report, were the Council to dispose of the assets, there would be a 6 month period to allow the community to raise funds to purchase such assets. There is no current intent for disposal.

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. In this instance Torbay Council is the freehold owner of the property.

- 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 occupiers have been notified of the proposals. The nomination 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 The Council has a statutory duty to determine the nomination in a set timeframe, if it does not do so it would leave the Council vulnerable to a potential ombudsman complaint. In view of the amendment to the area of nominated land, the Council has agreed an extension with the applicant until the date of the next Cabinet meeting to avoid any such complaint.
- 8.2 If the Council lists 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	There are a number of sport and community 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)	There are a number of sport and community activities on site.		
Public Health impacts (How will your proposal impact on the general health of the population of Torbay)	There are a number of sport and community activities on site.		

10. Cumulative Council Impact

10.1 None.

11. Cumulative Community Impacts

11.1 None.