

**Wards Affected:**

Olney

**COMMUNITY RIGHT TO BID – THE NOMINATION OF FIELD 13, HULTON DRIVE, EMBERTON**

Responsible Cabinet Member: Councillor E Gifford – Cabinet member for Community Services

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**Executive Summary:**

*Field 13*, Hulton Drive, has been nominated by Emberton Parish Council as an Asset of Community Value under the Localism Act 2011, sometimes called the *Community Right to Bid*. The Council is required by the Localism Act 2011 to decide whether to approve such nominations and to maintain and manage lists of such assets in line with the statutory framework.

**1. Recommendation(s)**

That *Field 13*, Hulton Drive not be listed as an ‘asset of community value’.

**2. Issues**Context

The *Community Right to Bid* (CRtB) is part of the Localism Act (2011) and came into force in September 2012. The CRtB aims to ensure important assets remain in public use and stay part of community life and the Council is required to maintain and manage lists such of assets in line with the statutory framework and to determine whether a property should be listed as an asset of community value if properly nominated. This report seeks to:

- 2.1 To invite the Council to decide whether to approve the nomination.
- 2.2 The Council adopted an approach to managing the CRtB process on 26 February 2013.
- 2.3 If the nomination is approved, the Council will add *Field 13*, Hulton Drive to the ‘assets of community value’ list and respond to Emberton Parish Council (EPC) and publish details. Once listed, entries will be made in the local land charges register and at the Land Registry.

Ownership and Management

The owner of the site is Milton Keynes Council. The site is leased to a Mr. Brian Reynolds of Hungary Hall Farm, Weston Underwood, MK46 5LB.

## Nomination for listing for an asset of community value

- 2.4 A nomination was received from EPC on 18 February 2015.
- 2.5 Regarding whether or not the main use of the land and/or building furthers the social wellbeing or social interests of the local community at the present time and whether it is realistic to think that this can continue into the near future (even if the type of social use or benefit might change), EPC wrote that:

*“This land has been used for the grazing of sheep for the past twenty years. Many residents and visitors walk past this land to access Emberton Country Park. There is a right of way across this field with stiles being sited diagonally opposite each other. Children from Emberton School have in the past walked past the field to gain access to the park for nature trips, taking in the sights of the spring lambs. Residents living in Hulton Drive, Olney Road, West Lane and the paddock have had uninterrupted views over this field toward the country park and beyond. The peace and quiet associated with the absence of development on the land gives residents a sense of well-being.*

*“The parish council believes that this land will continue to be used in its current purpose but would also hope that this land could be integrated into the boundary of the existing playing field.”*

EPC added these comments which relate to land next to the nominated site:

*“The playing field has on numerous occasions been used for fun days, fetes and sports days, benefitting not only residents but also visitors to the area. In 2012 the Parish Council hosted an event for the whole of the village to celebrate the Queen’s Diamond Jubilee. Emberton School has on occasions used the field for its sports day as well as a football team from Emberton and Olney and two senior cricket teams from Wellingborough and Woollaston. In the past the Parish Council has looked into the possibility of incorporating a running track into the playing field but lack of space has prevented this happening. With a lot of hard work and grants, this could become a reality.”*

Although use of other property is not relevant to the question of whether the nominated site should be listed as an asset of community value, the remarks indicate that EPC wish to use the nominated site for the same purposes as the neighbouring playing field in future. To do so they would need the agreement of this Council as landowner.

A copy of the nomination was sent to the leaseholder by First Class post on 20 February 2015 with a request that they reply by noon on 18 March 2015 indicating whether they have any objections to the listing – no reply has yet been received.

## Stakeholder Engagement and Representations

- 2.6 An engagement exercise was carried out with key stakeholders within the locality including ward and parish councillors, and officers in Planning, Legal, and Property Services. Input from the Parish Clerk was that numerous properties lie within line of sight of *Field 13*, Hulton Drive and obtain wellbeing from the site’s appearance and use, in addition to the experiences of other users of the site.

The Legal team's recommendation, shared by Property Services, was that the site should not be listed as an Asset of Community Value as its community benefit, based on an appreciation of the site's scenic value, was ancillary to its main use as grazing land.

Property Services further commented (although this is not critical to whether the site should be listed as an asset of community value) that the site was identified within recent 'land categorisation' work as being of potential development value. This was caveated by input from the Planning and Transport team, which said that although it had been identified as land with development potential, this land is protected as open space through Local Plan policy Open Countryside (S10) and Areas of Attractive Landscape (S12) and so unlikely to ever get developed.

Input from the Parish Clerk held that numerous properties lie within line of sight of *Field 13*, Hulton Drive and obtain wellbeing from the site's appearance and use. A site visit made by the report author and the Property Services representative resulted in the conclusion that the field is obscured from local view by a considerable tree-line and that no properties have any useful direct line of sight to the nominated land.

No other input affecting the listing of the site was received.

## 2.7 Summary and Council's response

In order to list land or buildings the Council must be of the opinion that:

- *An actual current use of the building or other land ( which 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.*

**or**

- *There is a time in the recent past when an actual use of the building or other land (that was not an ancillary use of the building or other land) furthered the social wellbeing or social interests of the local community and*
- *It is realistic to think there is a time in the next five years (where 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*

Based on the reasons stated in the nomination and the balance of the input from Council officers, the opinion is that *Field 13, Hulton Drive* does not meet the criteria listed above and so should not be listed as an asset of community value. The test as to whether a property should be listed as an asset of community value depends on whether the property's main use or recent main use, rather than ancillary use, furthers social wellbeing or social interest. The site is currently let to a farmer, the main use of the site is for the grazing of sheep, and the social wellbeing and social interests of the local community are ancillary in this case.

## 2.8 The full process is summarised in the attached flow charts in Annex A.

### 3 Implications

#### 3.1 Resources and Risk

The CRtB legislation will be implemented within existing resources. The Council has received New Burdens Grant to offset any future claims up to £20,000.

A property that has been listed under the Localism Act 2011 as an asset of community value can be treated as a material consideration by the planning authority and may therefore have an effect on whether planning consent is granted in future, although it is not possible to say in advance of any actual application how much weight would be given to that as a material consideration as compared with other material considerations. Further, if this site is not going to be considered as a community asset then there will be no claims under the CRtB legislation.

N	Capital	Y	Revenue	N	Accommodation
N	IT	Y	Medium Term Plan	Y	Asset Management

#### 3.2 Carbon and Energy Management

None

#### 3.3 Legal

Adoption of the approach should facilitate compliance with the relevant legislation. As mentioned above the Localism Act 2011 requires the Council to decide whether the application to nominate *Field 13* as an asset of community value should be approved or not.

#### 3.4 Other Implications

As set out within the report

N	Equalities/Diversity	Y	Sustainability	Y	Human Rights
N	E-Government	Y	Stakeholders	N	Crime and Disorder

Background Papers:

Annex A – Flow Charts for Decision Process for *Field 13*, Hulton Drive, Emberton

Annex B – Boundary Plan of *Field 13*, Hulton Drive, Emberton

Annex C – Community Right to Bid submission and consultation feedback