



CHELTENHAM

BOROUGH COUNCIL

Notice under Section 91 of the Localism Act 2011 - Two pieces of land at Westdown Gardens, Cheltenham, Gloucestershire, GL52 6AX

On Thursday 9 September, Cheltenham Borough Council received a nomination form to list two pieces of land at Westdown Gardens as an asset of community value from Fairview Community Association (FCA).

In line with the Council's agreed process, the nomination form, and supplementary information submitted by FCA, has been assessed by the Strategy and Engagement Manager who made an initial recommendation.

The initial recommendation, to list the two pieces of land as an Asset of Community Value, has been passed the Executive Director for People and Change, who has the authority to make the decision under the Constitution, part 3E.3 and Appendix A.

After reviewing both the nomination form, and the Strategy and Engagement Manager's assessment form, the Executive Director for People and Change's decision is that the two pieces of land at Westdown Gardens, should be listed as an Asset of Community Value.

In the opinion of the Executive Director for People and Change is that Fairview Community Association satisfies the criteria set out in Section 89 of the Localism Act 2011 and Regulations 4 and 5 of the Assets of Community Value (England) Regulations 2012 to act as nominator. The requirement that "Nominations can be accepted from any unincorporated group with membership of at least 21 local people who appear on the electoral roll within the local authority" has been met. FCA do not have a formal membership structure and instead have submitted a list of 34 names of people who have participated in Fairview Community Association (FCA) committees, events, or as volunteers and are included in FCA's contact databases and that are on Cheltenham Borough Council's electoral roll.

In addition, FCA can demonstrate a local connection to the asset being a community association for an area that includes the site, evidenced through their website and social media activities.

He is also satisfied that the two pieces of land referred to in the application meets the criteria set out under Section 88 of the Localism Act 2011 in that it furthers the social wellbeing and social interests of the local community. FCA has supplied evidence that the land is well used by local residents for a variety of informal activities and that these activities contribute to the wellbeing of the community.

There is evidence of this use has been ongoing for at least 5 years and there no reason to assume that this will not continue in the future if the land is available.

He is also satisfied that the two pieces of land do not fall within any of the exemptions set out in Schedule 1 of the Assets of Community Value (England) Regulations 2012.

The Executive Director for People and Change will arrange for the two pieces of land marked yellow on the plan attached to this letter to be added to the Council's List of Assets of Community Value.

The listing will also be published on the Council's website. The Asset will remain on the Council's List of Assets of Community Value for a period of five years from the date of this notice unless removed with effect from some earlier time in accordance with the provisions of the regulations.

The Localism Act 2011 requires that the Council draw particular attention to the following:
(a) the consequences for the land and its owner of the land's inclusion in the list; and
(b) the right to ask for review.

The consequences for the land and its owner of the land Asset's inclusion in the list

A local land charge under the Local Land Charges Act 1975 will be registered against the Asset to record that it has been included in the Council's lists of Assets of Community Value.

Where the Asset is registered at the Land Registry, 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 if they wish to enter into a relevant disposal (as defined in Section 96 of the Act) of the Asset. Owners should contact:
Strategy and Engagement Manager
Cheltenham Borough Council
Municipal Offices
Promenade
Cheltenham
GL50 1PP

Some types of disposal of listed assets are exempt and these are set out in full in Annex A of the document Community Right to Bid: Non-statutory advice note for local authorities.

Annex A also identifies circumstances where, although there is no requirement in the legislation that the owner has to explain to the Council that the disposal is exempt, it would be helpful for them to do so.

Once the Owner notifies the Council of an intended relevant disposal there is a six week period in which a Community Interest Group can ask to be treated as a potential bidder for the Asset. During this interim moratorium period the owner can only sell the Asset to a Community Interest Group.

If a Community Interest Group does make a written request to be treated as a bidder of the Asset there will be a six month moratorium during which the owner can only dispose of the Asset to a Community Interest Group.

The owner is advised to refer to Part 5 Chapter 3 of the Act and the Regulations in full and to seek legal advice if they wish to dispose of the asset. A disposal of listed land which contravenes the Regulations and Act will be ineffective.

After the moratorium period – either the 6 weeks if there has been no community interest, or the full 6 months – the owner is free to sell to whomever they choose and at whatever price, and no further moratorium will apply for the remainder of a protected period lasting 18 months (running from the same start date of when the owner notified the local authority of

wishing to sell). The process and lengths of the moratorium periods are contained in section 95 of the Act.

The right to ask for review

Asset owners have the opportunity to request a review of the decision to include the Asset into the Council's list of Assets of Community Value. Owners wishing to request a review of the decision should do so in writing to:

Executive Director of Finance and Assets
Cheltenham Borough Council
Municipal Offices
Promenade
Cheltenham
GL50 1PP

The written request must be made within 8 weeks from the date on the covering letter to this notice and must set out the grounds for review and whether an oral hearing is requested.

The review will normally take place within 8 weeks of the Council having received the written request for review. Private owners may claim compensation for loss and expense incurred through the asset being listed including a claim arising from a period of delay in entering into a binding agreement to sell which is wholly caused by the interim or full moratorium period. Regulation 14 of the Regulations contains more detail on this. Part 5, Chapter 3 of the Localism Act 2011 and the Assets of Community Value (England) Regulations provide further detailed information.

The land refers to the two grass patches either side of the road marked in yellow at the end of the western end of Westdown Garden

