

List of Assets of Community Value - Recommendation Report:

Nominated Asset:

Loddiswell Old School Playing Field, Elmwood Park, TQ7 4SA

Nominating Organisation:

Wild About Loddiswell (unincorporated group with over 21 individual members registered locally to vote)

Details of the nomination:

This former school playing field is owned by Devon County Council. The former primary school within the village was disposed of by the County Council in 2018, following the construction of a new school and playing field on the edge of the village in 2017. The use of the playing field ceased accordingly in 2017.

There has been no permitted public access to the site since the use of the site as a playing field ceased in 2017.

The nominating group propose that the current main use of the site which supports the community wellbeing and interests is on the basis of the wildlife value of the site. The nominating group describe the site as the last remaining green space in the village, having developed into a tussocky meadow over the course of the last 5 years, which by its nature supports a range of mammals and birds.

The nomination considers that the use of the site could be furthered in the future *‘as a community orchard and nature reserve, providing a peaceful green space accessible to all.’*

The nominating group (volunteers) would maintain the site, seeking external funds from grants to enhance the site.

Support for the nomination has been expressed by the Ward Member and Parish Council. Further to questions posed by the new Ward Member (post May 2023 elections), some points of clarity have been added to the report to give a more complete and balanced background to the situation with the nominated land.

Landowner representation:

The landowner, Devon County Council, has objected to the nomination. The reasons cited include:

- Lateness of the nomination – there having been opportunity to nominate since closure of the playing field in 2017 – the County Council having spent significant time and expense bring the site forward for development, consulting and adjusting proposals in response to community feedback.

- Lack of requirement for open space in Loddiswell – citing the village being surrounded by countryside with a nearby open space at the village recreation ground.
- The site being imminently advertised for sale
- The site being vacant since 2017, prior to which the site was a school playing field without a right for public access to the land.
- The site has been managed by the County Council since 2017 with no use supporting social interests of community events.
- The grass and hedges at the site having been cut back in 2021/22 in readiness for disposal and development, without any objection which is at odds with the nomination in 2023 as a wildlife site. (NB – The Ward Member understands that there has been local objection to the recent cutting of the grass and hedges).

The County Council have given some background as to the history of the site since 2017:

- The County Council funded and built a new school and playing field May 2017, on the understanding with the District Planning Authority, before the school was built, that the former school playing field would be developed for housing.
- Department of Education approval was obtained in 2016 in relation to disposal of this part of this field as part of the school site.
- An Outline Planning Application for this playing field site was submitted in late 2019 for 25 homes.
- The case planning officer requested an extension in Nov 2020 to deal with the application and in February 2021 the application was amended to propose 17 dwellings. This was re-advertised in February 2021 accordingly.
- The Parish Council minutes (Loddiswell Minutes 122402 Minutes April 2021) note Cllr Kemp's comments regarding a meeting and request to preserve the wooded area and limit housing.
- A site meeting was held 14th October 2021 with the County Council, Planning Authority and the District, County and Parish Council represented.
- A further meeting with the Planning Authority was held in March 2022 and the County Council agreed to withdraw the existing application and submit a pre-app for 10 dwellings, following feedback from the previous community consultations.
- A favourable response to the pre-app was received Oct 2022
- The site was formally declared surplus by the County Council Nov 2022, on the public website and with a period of Councillor call in.
- The County Council and its agents have carried out regular visits to the site since 2017 and have not found members of the public accessing the field and they have not consented to any members of the public using this site.

Assessment and recommendation:

The site has been vacant since 2017, since which time there has been no permitted public access to the site.

The County Council obtained Department of Education approval to dispose of this former playing field site in 2016. The County Council have been progressing proposals since at least 2019 for development of this site, including most recently in 2022 referencing a favourable response to a pre-application for 10 dwellings.

It is noted that Outline planning application made in Nov 2019 for 25 dwellings, was re-advertised in 2021 for 17 dwellings before being withdrawn by the applicant in 2022. The applicant was neither refused nor determined by the District Council.

No evidence has been provided by the County Council backing up the suggestion of an 'understanding' between the County Council and District Council about redeveloping the former school playing field for housing. It is noted that no reference to the redevelopment of the former school playing field for housing was made in the County Council planning officer report when determining the application for a new school in 2017. It is also noted that the former school playing field site is not allocated for housing within the Joint Local Plan.

The first requirement of section 88 (1) of the Localism Act is that there is a current non-ancillary use of the land that furthers the social wellbeing or interests of the local community, and if this test is met, that it is realistic to think that the same or another use of the land could continue to further the social wellbeing or interests of the local community.

The current position is that there is no permitted public access to or use of the land in question and it is therefore difficult to conclude that the current use of the land furthers the social wellbeing or interests of the local community.

In addressing the first current (or recent) non-ancillary use test, and in the context of there being no permitted public access, the nominating group rest their case on the wildlife value of the site which has developed since 2017. It is reasonable to expect that the site having received limited management for 6 years would have developed inherent wildlife value.

In the context of a publicly accessible site, it might be reasonable that wildlife value could contribute to a decision about designating a site, in so much as a site with wildlife value may have a positive impact on resident's social wellbeing. Particularly if combined with a use of a site such as allotments or as a nature reserve which would be a clear non-ancillary use of a site furthering social wellbeing or interests.

It is difficult however to consider that wildlife value alone may warrant designation of a site as an Asset of Community Value, in particular in the context of a site which does not have any permitted public access. Extending this argument would mean that a private wildlife area or garden without public access could be nominated as an Asset of Community Value which seems at odds with the spirit of the Localism Act.

Accordingly, it is considered that wildlife value alone for a site without permitted public access does not constitute an actual current non-ancillary use of the land further social wellbeing or interests, and does not meet s88(1)(a) of the Localism Act.

Whilst this land has been vacant or unused since 2017, and whilst it is a fact that the landowner has not as yet obtained planning permission for a housing development, their journey to this objective has begun and they have outlined in their objection some of the planning history involved.

The landowner has had positive pre-application discussions with the District Council planning department. Whilst there are no guarantees that the Local Planning Authority will grant planning permission for the intended housing development it is probable that the current position of no permitted public access to or use of the land will continue whilst a satisfactory housing proposal is sought.

Section 88 (2)(a) of the Localism Act refers to non-ancillary recent use of the land furthering the social wellbeing or interests of the local community. It is a significant fact that there has been no permitted public access to or use of the land in question since 2017, therefore the site does not meet s88(2)(a) of the Localism Act.

Recommendation:

Not to list the Old School Playing Field as an Asset of Community Value and to place it on the unsuccessful nominations list. The asset does not comply with the statutory definition of an Asset of Community Value, as defined at s88(1)(a) and s88(2)(a) of the Localism Act 2011, as there is no identified non-ancillary current use of the land which furthers the social wellbeing or interests of the local community. Whilst the land is 'vacant' the current, primary use of the land is to support the activity of the County Council in facilitating a proposed housing development.

(NB – as the nominated site did not meet the 'current or recent use' tests, it has not been considered against the 'continued future use' tests)

Author: Rob Sekula, 25th May 2023