Decision Notice pursuant to section 92 of the Localism Act 2011 (the 2011 Act) and pursuant to the Listing Review Hearing Procedure that the Council has adopted under section 92 (5) of the 2011 Act

Reference: ACV/2023/00013

Property

Land to the North of Park Street, Heytesbury, Warminster, BA12 0HQ

Parties

Landowner:

Heytesland Limited

Council Officer:

Simon Day

Additional Interests person(s)

Nominating Body:

Heytesbury Imber and Knook Parish Council

Reviewing Officer

Mr David Redfern, Director – Leisure, Culture & Communities

Introduction

On the 29th June 2023, John Cap, the Parish Clerk for Heytesbury Imber and Knook Parish Council ("the Nominator"), submitted a Nomination Form for listing land to the North of Park Street, Heytesbury, Warminster, BA12 0HQ ("the Property") as an Asset of Community Value ("ACV"). (See appendix i).

In their letter dated 24th August 2023, Freeths LLP, acting on behalf of Heytesland Limited (the "Owner") made representations to Wiltshire Council with regard to validity of the Nomination. (See appendix ii).

Within this letter, it is asserted that the Property is not a building or land of community value and is not eligible for listing as an ACV. In particular, it asserted that the main use of the Property is agricultural land and that the nomination includes land outside of the Owner's title.

By way of email on 18th September 2023 Freeths LLP gave notice to the Council that the Owner seeks a review of the decision of the Council dated 8th

September 2023 to list the Property as an ACV.

I was appointed the Reviewing Officer under the Council's procedure for dealing with such requests for review.

As part of this review, I sought legal advice in respect of ownership of the land included within the Plan submitted by the Nominator (appendix i).

As a result of this advice, I have concluded that by operation of law there has been an error in the original Decision. I have determined this on the basis that there is an error within the original Nomination Form, in that it included land outside of the Owner's ownership.

In the alternative, if the Nominator had intended to include land outside of the Owner's ownership, it failed to identify the additional owners within the Nomination Form.

In addition, the Council erred in not identifying the correct ownership of the land contained within the Nomination, in respect of which the Council apologises to the Owner and other interested parties in respect of this oversight.

Due to this, I have not considered in any detail the further representations made by the Owner and have made a decision to overturn the original Decision.

Decision

The Plan as submitted by the Nominator includes land outside of the Owner's title number WT280388, and includes land registered to third party owners under title number WT116836 and a parcel of unregistered land.

Therefore, the designation of the Property based on the area of land contained within the Plan submitted by the Nominator should be removed from the list of Assets of Community Value as soon as practicable.

Reasons for Decision

The Law

1. The ACV Regime is contained in Chapter 3 of Part 5 of the Localism Act 2011. The 2011 Act applies to England and Wales, and (for England only) is supplemented by the Assets of Community Value (England) Regulations *SI/2012/*2.

2. Regulation 8 of the Assets of Community Value (England) Regulations 2012 provides that when considering whether land should be included in the list, a local authority must take all practicable steps to give the information that it is considering listing the land to the owner of the land or any lawful occupant of the land.

3. In addition, Section 91(1) of the Localism Act 2011 requires a local authority to provide written notice of the inclusion of land to its list to the owner or occupier of the land.

4. Unfortunately, due to its oversight, the Council has not complied with the above requirements.

Review

5. The following plan was submitted by the Nominator within the Nomination made on 29th June 2023.



6. The below is a Snapshot obtained from the Land Registry's 'MapSearch' which show's the Owner's title number WT280388.



7. In comparing the two images, the plan submitted by the Nominator extends beyond the boundary of title WT280388 to the Southwest, where Park Street adjoins Newtown Road.

8. The following Snapshots obtained from the Land Registry confirms that these parcels of land are owned by third parties. The first showing land contained in title WT116836



The second containing unregistered land



9. The Nomination Form provided incorrectly identifies the land demarcated in the accompanying Plan as forming title WT280388.

10. I understand the Nominator may be disappointed by this decision, but this will not prevent them from submitting a further application for nomination for listing. If the Nominator wishes to make such application, they would need to ensure they include details of each property owner and an updated plan.

Additional Help

If you need additional support in relation to this or future contact with us, please let us know as soon as possible. If you have difficulty reading this notice we can make reasonable adjustments to assist you, in line with the requirements of the Equality Act 2010.

Date of Decision 02 November 2023