Our Ref: ACV/2023/00026
Enquiries to: Simon Day

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Decision to list Land at Fitzgerald Farm, Bemerton, Salisbury, Wiltshire, SP2 9NG as an Asset of Community Value

Having considered all the information and submissions provided, following the nomination of the above asset to be listed as an Asset of Community Value, Wiltshire Council has decided to enter the property onto the list of Assets of Community Value (available online at http://www.wiltshire.gov.uk/planninganddevelopment/planningcommunityrighttobid.htm). The information will be entered onto the local land charges register and the property will remain on this list until **19 January 2029.**

This decision has been taken for the following reasons:

In undertaking this decision we have noted that the presence of a public right of way does not automatically qualify the land for listing as an asset of community value; and the status of the public right of way would be unaffected regardless of listing. It is the overall current or recent use of the public right of way and the land as a whole that is the key consideration in applying the statutory tests.

We have considered that there is good evidence provided by virtue of the public comments that the right of way is not used solely as a means of walking from one place to another; rather that it is also used widely for recreational walking and exercise. There have also been multiple references to birdwatching and interesting flora and fauna, including protected species. Taking these together, it is considered that current non-ancillary use of the land furthers the social interests (cultural, recreational and sporting) interests of the local community and it is realistic to think it could continue to do so in future.

An entry has been made on the Land Register and the owner of the asset cannot dispose of it without:

- letting the local authority know that they intend to sell the asset or grant a lease of more than 25 years;
- waiting until the end of a six week 'interim moratorium' period if the local authority does **not** receive a request from a community interest group to be treated as a potential bidder;
- waiting until the end of a six month 'full moratorium' period if the local authority **does** receive a request from a community interest group to be treated as a potential bidder (in the first six weeks).

The owner of the property does not have to sell the asset to the community interest group. There is also a 'protected period' (18 months from the time that the owner notified the local authority of their intention to dispose of the asset) – during this time there can be no further moratoriums on sale and the owner is free to dispose of the property as they see fit.

Some types of disposal of assets, even though they are listed, are exempt from this process and in those circumstances the owner does not need to notify Wiltshire Council. It is up to the property owner to determine if the disposal is exempt, and to demonstrate this to the Land Registry on

registering the new owner. A number of the exemptions are set out in the Localism Act and these include disposals which are gifts, or which arise as part of the settlement of a will, which are made within families, or relate to 'business to business' going concern sales. A number of other exemptions are defined in the Assets of Community Value Regulations – including sale due to insolvency, incapacity or divorce.

Landowners have the opportunity to request a review of the decision to enter an asset on the Assets of Community Value register, within 8 weeks of listing. Reviews are considered by an officer of sufficient seniority not involved in the original decision. Decisions to list can be overturned based on these factors:

- The eligibility of the asset;
- The eligibility of the nominator;
- New evidence;
- Improper factors being taken into account in the original decision.

Landowners wishing to request a review of the decision should contact: Parvis Khansari, Corporate Director for Place, via parvis.khansari@wiltshire.gov.uk by **15 March 2024** with information on why they believe the asset should not be listed (based on the criteria set out above) and whether an oral hearing is requested. A review of the decision will take place within 8 weeks of any request being received from the landowner.

We hope that any change to this decision will not be necessary, however, and that the opportunity that the asset being listed provides for community groups to be treated as potential additional bidders, should a relevant disposal be entered into, will be welcome.

Should a relevant disposal occur during the next 5 years and the landowner incur loss or expense in relation to the land which would be likely not to have been incurred if the land had not been listed; the landowner will be entitled to claim compensation from Wiltshire Council. If the landowner believes this to be the case, claims for compensation must be made to Wiltshire Council in writing, detailing the compensation sought for each part of the claim and the related evidence, before the end of 13 weeks after the loss or expense was incurred (or finishes being incurred).

The **Community Right to Bid: Non-statutory advice note for local authorities** published by the Government provides further information on this last point.

Documents in relation to this nomination can be viewed on the Council website https://development.wiltshire.gov.uk/pr/s/planning-application/a0i3z00001BDqN0.

Signed

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Economic Development & Planning