



OFFICER DECISION RECORD

Decision Ref. No:			
Service Area:	Housing & Communities	Date:	15.05.2024
Contact Name:	Kelly Deane	Tel No:	01202 127942
E-mail:	Kelly.Deane@bcpcouncil.gov.uk		
Subject:	St. Catherine Road Community Garden- removal of status of an Asset of Community Value		
Decision taken:			
To remove the designation of St. Catherine's Road Community Garden as an Asset of Community Value, as defined by the Localism Act 2011.			
Reasons for the decision:			
It is no longer considered that the land is land of community value including for the following reasons:			
<ul style="list-style-type: none">• Planning permission for the development of Southbourne Cross Roads Carpark has now been secured upon appeal and the Council has a pre-existing agreement for the site's development.• The Community Garden that was designated as an Asset of Community Value and formed part of the car park has now been cleared, the site made secure and is no longer a community garden.• The intended development of the site concludes that it is not realistic to think that there is a time in the next five years when there could be non-ancillary use of the building or land that would further (whether or not in the same way as before) the social wellbeing or social interests of the local community for it to remain an Asset of Community Value.			
A more detailed analysis of the situation is set out in the Appendix to this record.			
Background:			
The Localism Act 2011			
The Localism Act 2011 requires local authorities to keep a list of assets (meaning buildings or other land) which are of community value.			

History of the site

An application was made by the St Catherine's Road Community Group, an unincorporated body to list the above location as an Asset of Community Value on the 18 May 2022.

The application was processed in line with the guidance associated with the Act and it was determined that the Community Garden was an Asset of Community Value in July 2022.

Removal of an asset of community value from the register.

A request to remove the Asset of Community Value listing was received on 15 March 2024 from the Estates department within BCP Council (full details in the attached appendix to this Officer Decision Record).

Options and Conclusions

Details of alternative options considered and conclusions reached can be found in the appendix to this report

Consultations undertaken:

Estates Team.
St. Catherine's Road Community Group.

Note: It is the responsibility of the 'Responsible Officer' – that is the Officer making the decision – to obtain the comments and signature of the Chief Finance Officer and Monitoring Officer **before** taking the decision and then send the completed record of the decision to Democratic Services for publication.

Finance and Resourcing Implications:

There are no known direct financial implications arising from this decision.

Name: Adam Richens

Date: 14 May 2024

Signature (of Chief Finance Officer) 

Legal Implications:

Regulation 2 of the Assets of Community Value (England) Regulations 2012 provides that:

"A local authority must as soon as practicable after receiving information that enables it to do so make the following amendments to an entry on the list—

..

(c) remove the entry if—

...

(ii) the authority for any reason no longer considers the land to be land of community value."

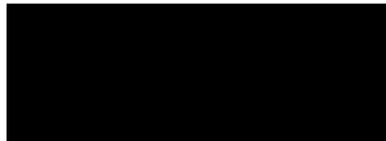
There is no specific prescribed statutory test as to what would constitute a reason for the purposes of regulation 2. However, section 88 of the Localism Act 2011 sets out legal tests by which land in a local authority's area is land of community value.

Details of various relevant tribunal decisions that relate to the assessment of whether land is of community value are set out in the appendix to this report.

Name: Janie Berry

Date: 14 May 2024

Signature (of Monitoring Officer):



Risk Assessment:

A decision by the Council of this nature is potentially subject to Judicial review.

Name: Cat McMillan

Date: 13.05.24

Signature (of Officer Completing Assessment):



Impact Assessments:

This decision will remove from the register land previously identified as an asset of community value. However, in itself, its removal will not result in the loss of open space to the public as the land has already been fenced off and the site cleared. The land has the benefit of a planning permission which if implemented would mean the asset was no longer capable of use as open space.

Information for publication

Appendix to the report

Background Papers

Appendix - Report on the Nomination of St Catherine's Road Community Garden.

Communications requesting original nomination, subsequent request to nominate on behalf of Estate Unit and related attachments, correspondence from representative of original nominee together with original decision to nominate.

Any declaration of interest by the Officer responsible for the decision	Nature of Interest
No	n/a

Note: No Officer having a personal financial interest in any matter should take a decision on that matter. Other interests of a non-disqualifying matter should be recorded here.

Any conflict of interest declared by a Cabinet Member who is consulted by the Officer taking the decision	Name of Cabinet Member	Nature of interest	Details of any dispensation granted by the Monitoring Officer
No			

Decision taken by: (print name and designation)

Kelly Deane, Director of Housing & Communities

Signature: 

Date of Decision: 14.05.24

Date Decision Effective: 15.05.2024

Date of Publication of record of decision: (to be inserted by Democratic Services)

Note: A record of this decision should be kept by the Service Area within which the decision falls.