

## **REPORT TO INTERIM DIRECTOR OF REGENERATION & STRATEGY**

### **NOMINATION FOR ASSET OF COMMUNITY VALUE**

**ADDRESS: LAND KNOWN AS DENIS' FIELD, LAND TO WEST SIDE OF WOODLANDS AVENUE, TODMORDEN, OL14 5LT**

**12 June 2020**

#### **1.0 PURPOSE OF THIS REPORT**

- 1.1 The purpose of this report is to consider the nomination from Save Denis' Field Group to list the property at Denis' Field, Land to west side of Woodlands Avenue, Todmorden on the List of Assets of Community Value (the "**List**") in line with the Localism Act 2011 (the "**Act**").

#### **2.0 BACKGROUND**

- 2.1 Part 5 Chapter 3 of the Act details the legislation in respect of Assets of Community Value and sets out how the Community Right to Bid works. The right came into force on 21 September 2012 and its purpose is to give communities a right to identify property that is believed to further their social interests or social wellbeing and nominate such property to be placed on the List. It also gives community interest groups a fair chance to make a bid to buy the property on the open market if the owner decides to sell the property whilst it is still on the List.
- 2.2 On 25 February 2020, a nomination was received from Save Denis' Field Group, which included an online application, along with separate documents sent via email, including a Land Registry Title and Plan for the property, Land Registry SIM Search and a post script with additional information.

The nomination was due to be considered by a deadline of 21 April 2020, however, we agreed a 2 month extension with the group due to the situation with Covid-19 affecting our ability to consider the nomination by the deadline, with members of the group working at home and a member of the group being part of the Voluntary Sector team who were working on Calderdale Council's Covid-19 response. Following the extension, we allowed the group to provide a further post script to support the application and also a short film that has been recorded, which is called The Save Denis' Field Film.

A plan has been provided showing the extent of the subject site, which is part of the land within title WYK311918, and is attached at Appendix A.

The property is owned by Calderdale MBC.

### **3.0 BRIEF DESCRIPTION OF SITE**

- 3.1 The land comprises a field used by local residents, a play park area, plus mature trees and fruit trees, alongside 'wild' nature areas.

There have been no development proposals and planning applications for the property, however, the site has been considered under the reference of LP0901 in the emerging local plan as a proposed housing site with an indicative residential capacity of 16 dwellings. This is on the basis that an equivalent or better play area is developed on the adjacent site owned by the council (LP0902), together with a flat kick about area.

### **4.0 SCHEDULE 1 EXCLUSIONS**

- 4.1 The Council's Legal Services have confirmed that the nomination does not fall within any of the exclusions specified within Schedule 1 of the Assets of Community Value (England) Regulations 2012 (the "**Regulations**") as land which is not of community value and therefore may not be listed.

### **5.0 ELIGIBILITY OF NOMINATING GROUP**

- 5.1 The application from the Save Denis' Field Group satisfies the criteria to be an eligible group in accordance with section 89(2) (b) (iii) of the Act and Regulations 4 and 5. They are an unincorporated community group who have at least 21 local members, the group has a local connection to Calderdale and it is situated within the borough. Its activities are concerned with the asset in question given that the sole purpose of the existence of the group is to keep the land in community use and they would like to develop further community initiatives.

### **6.0 SUBMISSION OF NOMINATING GROUP**

- 6.1 In summary, the application states that The Save Denis' Field group has a membership of 50 + active members in the Upper Calder Valley and 285 in the SDF Facebook group. The group members help to tend the community orchard and have been planting flowers in this area. They would like to develop further community initiatives and plant wildflower corridors in keeping with the Calderdale 'Corridors of Colour' Scheme. Also, they would like to put up bird nesting boxes and bat boxes.

They would like to use small garden areas around the field edges for community use, especially for a parent and children gardening club. The group would like to discuss with the local authority the possibility of further tree planting, small scale community gardening (raised beds/allotments at the eastern end of the field) and holding small community events on the site to promote sport, recreation, the local community and nature.

The group is especially interested in promoting children's sport and recreational activities. A number of local groups, including the local Muslim group, local football teams and the local Primary Schools have all stated an interest in using the field for games and sport.

The group has an active website [www.savedenisfield.uk](http://www.savedenisfield.uk) and Facebook group.

6.2 Their submission also states that Denis' Field lies off Stansfield Hall Road, near Woodlands Avenue OL14 5LT. It is identified in the Calderdale Local Plan as LP0901, is owned by Calderdale and the site is 0.73 ha in size. Their submission states it is an extremely valuable public amenity consisting of a playing field, a play park area plus mature hardwood trees and 40 fruit trees alongside a number of 'wild' nature areas.

6.3

They say that the site is known locally as Denis' Field (identified on Calderdale Local Plan as LP901) and is primarily a site for the use by the local community for their recreation and sport. They state it is a rare green space near crowded housing which consists of a playing field, a play area with play apparatus, mature deciduous trees, a community orchard of 40 fruit trees, wildflower areas and scrub and bramble areas. They state it is a public site and its primary use is for recreation by the local community which is close to the immediate community and is of great value to them. They state people are able to access the site easily on foot and children who live in the streets around the Stansfield Road / St Joseph's RC Primary School area are able to access the field and play area safely by using the footbridge over the railway line.

The nomination states that most of the properties in the large residential area north of the town centre are Victorian and do not have gardens and Denis' Field (LP0901) is a vital safe outdoor play space. It is the only public recreational space in the locality and only one of two in Todmorden and they have considered the various uses of the land as follows:

"Sporting - The site is used by large numbers of local children. They use the field for games of football and cricket. In September 2019, the Save Denis' Field group held a well-attended Fun Day with games and races and in January 2020 the group held a successful Wassail event in the orchard area.

Recreation - The site has been a popular outdoor recreational space used by the public for more than 30 years, when the field was purchased by Calderdale Council and was designated as a public space. Local people enjoy picnics on the grass, dog walking and playing games, plus tending the community fruit tree orchard. The site is a tranquil place of peace.

Education - The site is a place where children can experience nature first hand safely. The whole 'Denis' Field' site is a varied and attractive area, with the play park, the large flat cut grass area, mature hard wood trees, the large orchard area, wildflower areas and 'wild' bramble areas.

Wildlife - Denis' Field supports a wide variety of wildlife. Many birds nest there. Jays, woodpeckers, sparrow hawk, tits, finches, including rare bull finches are seen there. Roe deer, foxes, hedgehogs and badgers visit the field. The site has a large number of impressive mature hardwood deciduous trees, including some horse chestnut trees and many lime trees. The site acts as both a wildlife habitat and a wildlife corridor."

They state that the site is only 0.73 ha, but it offers a wide variety of environments for the local community to use, such as grass, play apparatus, the orchard, scrub areas plus the mature tree, the play area and the long tree corridor by the railway line, while children can play safely and can experience nature first hand.

In the Autumn 2019 Todmorden Town Council agreed with the aims of the Save Denis' Field Group - that the field should be preserved and kept as a public amenity to be used for local people, especially children for sport, recreation and leisure activities.

- 6.4 Finally, the group stated that Todmorden Town Council Development Committee resolved unanimously that Denis' Field should be designated a Green Space within the Neighbourhood Plan and that the committee would advise Calderdale MBC of this decision.
- 6.5 The Save Denis' Field group provided an additional post script to confirm that they would like to enhance this site, which is an essential public green space for the local neighbourhood which includes more than 300 houses all of which do not have gardens in the immediate vicinity (over the railway footbridge).

The Save Denis' Field group stated that they are not requesting a financial asset transfer. The group wishes to work with Calderdale Council and Todmorden Town Council to develop the site and improve it as a local community asset for recreational and leisure use. Todmorden Town Council has applied for the site to be given Local Green Space status; the group is of course supportive of this. They would change the group's name to 'Friends of Denis' Field/Park'. They say that the park at this point might require a more official identity - 'Stansfield Park' or 'Stansfield Hall Park'.

The group is keen to raise funds to purchase and install bird nesting boxes (including owl boxes), bat roosting boxes, more benches and litter / dog waste bins. They would plant wildflower corridors, spring flower bulbs and more fruit trees. They are interested in discussing with Calderdale Council the organising of children and family gardening projects and other community projects and activities.

## **7.0 RESPONSE OF LANDOWNER**

- 7.1 The owner, Calderdale Council, has provided no additional comment or information in respect of the nomination.

## **8.0 RESPONSE OF PARISH COUNCIL**

- 8.1 Todmorden Town Council was notified, and they confirmed that they wholeheartedly support that this site becomes an Asset of Community Value and they have earmarked this site in their emerging Neighbourhood Plan as a designated green space.

## **9.0 RESPONSE OF OTHER PARTIES**

- 9.1 No other relevant responses have been received.

## **10.0 EQUALITY, DIVERSITY, COHESION & INTEGRATION CONSIDERATIONS**

- 10.1 Equality, diversity, cohesion and integration considerations do not form part of the eligibility criteria upon which nominations are assessed. However, consideration has been given to ensure that all people have an equal opportunity to nominate assets of community value.

## 11.0 CONSULTATION WITH WARD MEMBERS

11.1 The Council's role is to assess the community nomination against the criteria set out in the Act, therefore no formal consultation and engagement is necessary, although out of courtesy Ward Members are informed of the nomination.

## 12.0 RECOMMENDATION

12.1 It is recommended that the Interim Director of Regeneration & Strategy accepts the nomination to list the property known as Denis' Field, Woodlands Avenue, Todmorden, on the basis that the nomination meets the criteria laid down in the Act, which is Section 88 1 (a) in relation to actual use and section 88 (1) (b) as the property could continue to be used in the next five years for non-ancillary uses that would further the social wellbeing or interests of the local community.

12.2 Section 88 (1) (a) (b) and (2) (a) (b) of the Act state as follows:-

*(1) For the purposes of this Chapter but subject to regulations under subsection (3), a building or other land in a local authority's area is land of community value if in the opinion of the authority—*

*(a) an actual current use of the building or other land that is not an ancillary use furthers the social wellbeing or social interests of the local community, and*

*(b) it is realistic to think that there can continue to be non-ancillary use of the building or other land which will further (whether or not in the same way) the social wellbeing or social interests of the local community.*

*(2) For the purposes of this Chapter but subject to regulations under subsection (3), a building or other land in a local authority's area that is not land of community value as a result of subsection (1) is land of community value if in the opinion of the local authority—*

*(a) there is a time in the recent past when an actual use of the building or other land that was not an ancillary use furthered the social wellbeing or interests of the local community, and*

*(b) it is realistic to think that there is a time in the next five years when there could be non-ancillary use of the building or other land that would further (whether or not in the same way as before) the social wellbeing or social interests of the local community.*

12.3 It is considered that the current use of the property satisfies the criteria and test set out in section 88 (1) (a) and (b).

12.4 The land is currently in use, and this use, which is not ancillary, furthers the social well-being or social interests of the local community. The evidence provided in the nomination sufficiently demonstrates that the activities for sport, recreation and educational related uses, continue to bring benefit to the local community.

The activities include sporting use by local children and fun days and recreational uses by the local community, such as picnics, dog walking and playing games, and tending the community fruit tree orchard. The overall use of the asset satisfies the test and it is considered that it is realistic that this will continue in the future.

We did consider the proposals in the emerging local plan for this site to be a proposed housing site; however, there is currently no firm intention to redevelop the site, with no planning consent in place and no intention to start works on the land at the time of considering this nomination.



The local authority has considered the facts of previous cases where it was successfully argued that it wasn't realistic for the use to continue, such as *Greyhound Inn Developments Ltd v Bromsgrove DC CR/2017/0004* and *New Barrow Limited v Ribble Valley BC CR/2016/0014* to assist it with applying the test. The local authority has compared the facts of this nomination (with regards to the s.88 (1) (b) test) from the cases stated above, and on the basis that there is no firm intention to start works for redevelopment at the site, at the time of considering the nomination, the local authority is of the view that it is realistic to think there will be a continuation of the community use at the site.

12.5 As section 88 (1) (a) and (b) are satisfied, it is not necessary to consider sections 88 (2) (a) and (b).

12.6 There is no submission from the owner to consider in response to the nomination.

12.7 In conclusion, it is considered that the criteria set out in the legislation are satisfied and the nomination of this property as an Asset of Community Value should be confirmed.

The asset will be now be added onto the List as an Asset of Community Value.

Signature of Estates Manager	
	Lee Wigley
	Dated:12 June 2020
Signature of Interim Director of Regeneration & Strategy	
	Marc Cole
	Dated:18 June 2020

# APPENDIX A

Plan of nominated area:

