

North Yorkshire Council

26 January 2024

Assessment of Assets of Community Value Nomination NYCACV0032 Kirk Deighton Football Ground and Associated Pavilion, Barr Field, Kirk Deighton

Report to the Assistant Chief Executive Local Engagement

1.0 PURPOSE OF REPORT

1.1 To determine whether Kirk Deighton Football Ground and Associated Pavilion, Barr Field, Kirk Deighton should be placed on the Council's List of Assets of Community Value (ACVs)

2.0 SUMMARY

2.1 The nomination is for Kirk Deighton (Football Ground and Associated Pavilion) Barr Field, Kirk Deighton. The recommendation is that the Assistant Chief Executive Local Engagement:

- (i) Determines that the nomination for Kirk Deighton Football Ground and Associated Pavilion is successful and meets the definition of community value as detailed in the Localism Act 2011
- (ii) It should be placed on the North Yorkshire Council Assets of Community Value List of Successful Nominations

3.0 BACKGROUND

3.1 [The Localism Act 2011](#) requires the Council to consider all valid nominations for properties and/or land to be placed on the List of Assets of Community Value. This is also known as the 'community right to bid'. Land or property considered of community value can be nominated by a voluntary or community body that complies with [regulation 5](#)

3.2 When a listed asset comes up for sale a community interest group can trigger a delay (moratorium) in any sale process. The purpose is to create a "window of opportunity" to secure funding and bid for the property on the open market. The owner is not obliged to accept a bid from a community interest group and can sell to whomever they choose

3.3 The Assets of Community Value (England) Regulations 2012 provide a mechanism for the owner of land listed as an ACV to request an internal review and also appeal to the first-tier tribunal against the listing. Although first-tier tribunal decisions are not binding precedents any appeal decisions provide judicial guidance to the operation of the

legislation. The guidance provided by these decisions is becoming increasingly useful to local authorities in the assessment of Assets of Community Value nominations

3.4 Private owners may claim compensation from the Council for loss and expenses incurred through their property being listed. More details are provided in the 2012 Regulations.

3.5 This report ensures that the Council considers the nomination for Kirk Deighton Football Ground and Associated Pavilion as required by the Act.

4.0 NOMINATION CONSIDERATION

a) Description of asset

4.1 Kirk Deighton is a village and civil parish in the Harrogate district of North Yorkshire, England. It is situated north-west of Wetherby and near the A1(M). The village is on the border between West Yorkshire and North Yorkshire in North Yorkshire. Kirk Deighton has a population of less than 500 people, measured at 484 in the 2011 Census.

4.2 Kirk Deighton Football Ground and Associated Pavilion, Barr Field, Kirk Deighton is situated on the junction of Deighton Road and Knaresborough Road on the edge of Kirk Deighton village. The property consists of a football field, pavilion and car park. The pavilion, containing a lounge/bar area, with changing rooms and toilet facilities, is in a poor state of repair.

b) Nomination

4.3 The valid nomination to list Kirk Deighton Football Ground and Associated Pavilion as an Asset of Community Value was received on 6 December 2023. A copy is attached at **APPENDIX A** and in accordance with the Assets of Community Value (England) Regulations 2012 a decision is required by 30 January 2024. The nominating group is Kirk Deighton Parish Council.

4.4 Ownership information was difficult to establish as the property has not been registered however there was a current application for registration. Contact was made with Kirk Deighton Football Club who indicated that they were owners of the land and property.

4.5 In response to the nomination Kirk Deighton Rangers AFC confirmed that the land was put up for sale on 6 December 2023. They have also indicated a willingness to work with the Parish Council.

c) Community Value Consideration

4.6 In terms of making a decision on this matter the nomination together with any additional information received within the agreed timescale has been used to assess if the property/land listed meets the definition of community value as detailed in the Localism Act 2011 (Section 88) and shown below:

“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 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 a non-ancillary use of the building or land which will further the social wellbeing or social interests of the local community, although the use does not have to be the same.”

4.7 There are examples of football grounds and associated facilities that are recognised as having community use and assets have been listed on this basis by other local authorities. Each nomination is, however, assessed individually and it is for local authorities to determine whether each one meets the definition of community value as detailed in the Localism Act 2011. In assessing the community value of Kirk Deighton Football Ground and Associated Pavilion all information received has been considered

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

I. Actual current use (or in the recent past) that is not an ancillary use

4.8 The term “ancillary use” is not defined in the Act, and it is left to each local authority to determine. In the context of assessment, the frequency, regularity and whether uses are still in place have been identified as factors for consideration. It was thought that this condition meant that the community use had to be the primary use of the asset, but this was dispelled by Judge Warren in **Firoka (Oxford United Stadium) Limited v Oxford City Council** (9 May 2014) and the test is whether the use is significant, which does not require it to be the predominant use.

4.9 The nomination identified the following uses:

- The land at Barr Field (circa 3.2 acres) has been used by the parish residents of Kirk Deighton for community purposes for over a century. Parish records denote gatherings at this location in the early part of the 20th century and subsequent use as orchards and informal allotments
- Association Football has been played continuously at the ground since 1968. Both senior and junior teams played at the site. The junior teams transferred to the Grange Park sports ground in Wetherby in the early 2000’s. However, it remains the home ground of Kirk Deighton Rangers senior team who are members of the West Yorkshire Association Football League. Matches are played at the ground throughout the season and the ground is used regularly for training.
- The premises have been used for summer activities, parish events and other social events (eg birthday parties)
- Local Pigeon Racers use the field to release their birds
- It has acted as a link between Kirk Deighton and the wider community, in particular Wetherby, as a number of the players at the club have come from the areas surrounding Kirk Deighton, although many have a historic link to the club
- Barr Field is the only large green space in the parish which can accommodate both parking and the events together and so is particularly valued by the community for this reason. When the Bay Horse public house

closed for a significant period of time, the football club opened its doors to the village as an alternative gathering place.

- 4.10 The nomination of Kirk Deighton Football Ground and Associated Pavilion identifies the main purpose association football, with references supporting this use. For the purposes of assessment, association football is the non-ancillary use of the ground and pavilion and it is the actual current use. ***There is therefore sufficient information provided to demonstrate significant actual use that is non-ancillary and therefore this criteria is met.***

II. Furthering the social wellbeing/interests of the local community

- 4.11 There are no clear definitions provided in the legislation as to what constitutes 'social wellbeing/interests' except that social interests can include 'cultural, recreational and sporting interests. Similarly, there is no definition or guidance as to what constitutes the 'local community'. The judgement in **Pullan v Leeds City Council** (25 April 2016) was that, in relation to the Old Cock public house, the entire town of Otley was considered to be the local community.
- 4.12 The nomination states that Kirk Deighton Football Ground and Associated Pavilion has been used by the parish residents of Kirk Deighton for community purposes for over a century. "Parish records denote gatherings at this location in the early part of the 20th century and subsequent use as orchards and informal allotments"
- 4.13 The nomination states that the Trustees of the Kirk Deighton club acquired Barr Field on 8 April 1968 with the stated intention to retain the grounds either in the hands of the football club or some other sporting organisation or charity in perpetuity. The ground and pavilion are still owned by the Trustees. Association Football has been played continuously at the ground since 1968 and both senior and junior teams played at the site. It is the home ground of Kirk Deighton Rangers AFC senior team who are members of the West Yorkshire Association Football League. Matches are played at the ground throughout the season and the ground is used regularly for training.
- 4.14 There has been continuous community usage of Barr Field for a significant period of time and "it is very much regarded as an integral part of the Kirk Deighton community. Other than football, the premises have been used for summer activities, parish events and other social events (eg birthday parties). Local Pigeon Racers use the field to release their birds"
- 4.15 The point is made that Kirk Deighton Football Ground and Associated Pavilion "has acted as a link between Kirk Deighton and the wider community, in particular Wetherby, as a number of the players at the club have come from the areas surrounding Kirk Deighton, although many have a historic link to the club". It is also stated that Barr Field is the only large green space in the parish which can accommodate both parking and events together and so is "particularly valued by the community for this reason. When the Bay Horse public house closed for a significant period of time, the football club opened its doors to the village as an alternative gathering place".
- 4.16 It is stated that Kirk Deighton has an ageing population (particularly the village itself) and in order to keep the parish "alive", the Parish Council is actively pursuing ways in which families can be encouraged to settle in the village. It is felt that sporting clubs and

green open spaces with facilities to engage in sporting activities are integral to this and therefore any loss of accessible green space in the parish would be extremely disappointing. “At a time when sports fields are disappearing and there is concern about encouraging children to spend more time exercising (and those of more advancing years too!), the potential loss of such a facility would be a significant one”

4.17 The nomination form states that Barr Field itself is also of great significance to the parish because of its location on the border of West and North Yorkshire. It forms part of the green space/corridor between Wetherby and Kirk Deighton and North and West Yorkshire and preserves the distinctive identity of each.

4.18 In conclusion the nomination provides the following evidence of furthering the social wellbeing and interests of the local community:

- Kirk Deighton Football Ground and Associated Pavilion has been used by the parish residents of Kirk Deighton for community purposes for over a century
- The Trustees of the Kirk Deighton club acquired Barr Field on 8 April 1968 with the stated intention to retain the grounds either in the hands of the football club or some other sporting organisation or charity in perpetuity
- The ground and pavilion are still owned by the Trustees. Association Football has been played continuously at the ground since 1968 and both senior and junior teams played at the site. It is the home ground of Kirk Deighton Rangers AFC senior team who are members of the West Yorkshire Association Football League. Matches are played at the ground throughout the season and the ground is used regularly for training
- Other than football, the premises have been used for summer activities, parish events and other social events (eg birthday parties).
- Local Pigeon Racers use the field to release their birds
- Kirk Deighton Football Ground and Associated Pavilion “has acted as a link between Kirk Deighton and the wider community, in particular Wetherby, as a number of the players at the club have come from the areas surrounding Kirk Deighton
- Barr Field is the only large green space in the parish which can accommodate both parking and events together and so is “particularly valued by the community for this reason. When the Bay Horse public house closed for a significant period of time, the football club opened its doors to the village as an alternative gathering place
- The Parish Council is pursuing ways in which families can be encouraged to settle in the village and it is felt that sporting clubs and green open spaces with facilities to engage in sporting activities are integral to this
- At a time when sports fields are disappearing and there is concern about encouraging children to spend more time exercising (and those of more advancing years too!), the potential loss of such a facility would be a significant one

4.19 The actual uses summarised in Paragraph 4.11- 4.17 are predominantly sport related (football), across all age groups and there is evidence of benefit for the whole community. There is also additional evidence of other community uses such as parish events, birthday parties and local pigeon racing (another sporting event). These uses have been for a significant period of time (a century) with documented evidence of community use.

- 4.20 The wider community benefit is also evidenced with Kirk Deighton Football Ground and Associated Pavilion acting “as a link between Kirk Deighton and the wider community, in particular Wetherby, as a number of the players at the club have come from the areas surrounding Kirk Deighton”. It is also stated that Barr Field is the only large green space in the parish which can accommodate both parking and events together and so is “particularly valued by the community for this reason and the football club has previously opened to the village as an alternative gathering place. The nomination also states that the Parish Council is pursuing ways in which families can be encouraged to settle in the village and sporting clubs and green open spaces with facilities to engage in sporting activities are integral to this.
- 4.21 The predominant sporting use with other community uses identified are typical of a village football ground and pavilion by junior and adult teams. It is recognised in the ACV regime that “Social interests” includes in particular cultural, recreational and sporting interests therefore sporting use over a significant period of time is recognised as a social interest. In addition to this in **Oxford United Stadium Limited v Oxford City Council** the role of a football club in the local community was recognised as going far beyond the actual playing of matches and the existence of a hometown club, intrinsically linked to the use of its home ground also fosters community pride. The wider community benefit is also detailed with other specific local uses, players from the local community playing in the football team, the local value of the facility to host parking and events together, the use as an alternative gathering place and the promotion of active use as a consideration for families to settle in the village. ***The uses detailed are therefore considered to further the social wellbeing or social interests of the local community and this criteria is therefore met.***

III. Local Community

- 4.22 In terms of local community there are references in the nomination form to the following:
- “The land at Barr Field has been used by the parish residents of Kirk Deighton for community purposes for over a century”
 - “There has been continuous community usage of Barr Field for a significant period of time, and it is very much regarded as an integral part of the Kirk Deighton community”
 - “Barr Field is the only large green space in the parish”
 - It is felt that sporting clubs and green open spaces with facilities to engage in sporting activities are integral to the Parish Council “pursuing ways in which families can be encouraged to settle in the village”
 - “For historic, sporting and cultural reasons, Barr Field is extremely precious to the parish and the community”
 - “There is a great deal of interest and excitement about the possibility of acquiring this property for the parish”
- 4.23 ***It is therefore reasonable to determine that the identification of the local community required by the legislation is the village and Parish of Kirk Deighton and this criteria is therefore met,***

(b) It is realistic to think that there can continue to be a non-ancillary use of the building or land which will further the social wellbeing or social interests of the local community, although the use does not have to be the same.

- 4.24 The test does not require the likely future use of the relevant building to be determined but rather to determine whether future community use is one of a number of realistic options for the building (**Patel v London Borough of Hackney and Worthy Developments v Forest of Dean DC**).
- 4.25 The test is also not whether such future use is wholly unrealistic but whether it is realistic to think that there could be a relevant non-ancillary use in the next five years (Judge Lane at Para. 26 in **General Conference of the New Church v Bristol CC** supra. 12 February 2015). In addition, “what is realistic may admit a number of possibilities none of which needs to be the most likely outcome” (**Evenden Estates v Brighton and Hove City Council**)
- 4.26 It has been established that the threshold to satisfy the “realistic to think” test is low. The First Tier Tribunal in **King v Chiltern District Council** commented that “the test is not a demanding one. “Parliament has chosen to set the bar low”
- 4.27 This criteria requires the realistic assessment that there can continue to be non-ancillary use of the building or land which will further (whether or not in the same way) the social wellbeing or social interests of the local community. In the case of Kirk Deighton Football Ground and Associated Pavilion this would be predominantly sporting use with other community uses identified.
- 4.28 As stated in paragraph 4.5 Kirk Deighton Rangers AFC have confirmed that the land is currently for sale. They have also indicated a willingness to work with the Parish Council.
- 4.29 The land at Barr Field has been used by the parish residents of Kirk Deighton for community purposes for over a century. Association Football has been played continuously at the ground since 1968 and both senior and junior teams played at the site. The football ground and associated pavilion is currently used for football matches and training. The nomination states that this may continue and that the football club lease the pitch and continue to use it for their matches.
- 4.30 The nomination states that there is a great deal of interest and excitement about the possibility of acquiring this property for the parish. If the nomination is successful, the Parish Council Intend to use the moratorium timescales within the ACV regulations “to raise the funds in order to acquire it “.
- 4.31 It is also stated that there is great demand for allotments in the area and there is the potential for part of the land to be used for this purpose whilst retaining the rest for social activities and village/local events such as fetes, sporting events and also overflow parking for other village venues such as the Bay Horse and the Cricket Club as and when required. At times it may be used for overflow residential parking if ever needed.

- 4.32 The parish does not have a village green, and it is envisaged that this space could be used in this way. The parish would create an area of accessible green space which would remain as a legacy for the parish and probably run through a charitable foundation or similar, being held on trust for the parish. Maintenance potentially could be facilitated by all these activities. Management would be through either the present trustees of the adjacent village hall or a new set of trustees.
- 4.33 The nomination states that fundraising to upgrade the pavilion would start immediately on acquisition and “there would be no shortage of volunteers to assist in bringing the venue up to the necessary standard to hold events that generate significant revenues. This would be a venue for the parish, run by the parish and, with the significant achievements of the newly formed Kirk Deighton Events Committee as a demonstration of what the parish can achieve (with limited venues and revenue), we have no doubt that the new facility would be both supported and cherished by the parish and, importantly the surrounding areas, within a very short space of time”.
- 4.34 There were no current planning applications on the property and Planning Services had no objections/comments to make on the property being designated as an Asset of Community value. There were some other none planning history cases associated with this site that were consistent with the development of the site as a football club.
- 4.35 The following is a summary of relevant points:
- Kirk Deighton Rangers AFC have confirmed that the land is currently for sale. They have also indicated a willingness to work with the Parish Council
 - The land has been used by the parish residents of Kirk Deighton for community purposes for over a century
 - Association Football has been played continuously at the ground since 1968 and both senior and junior teams played at the site
 - The current use may continue and the football club lease the pitch and continue to use it for their matches
 - The nomination states that there is a great deal of interest and excitement about the possibility of acquiring this property for the parish. If the nomination is successful, the Parish Council Intend to raise the funds in order to acquire it
 - Various potential community uses are identified if the ground should be purchased, including:
 - Allotments, social activities/village/local events such as fetes, sporting events and also overflow parking for other village venues such as the Bay Horse and the Cricket Club and overflow residential parking if needed
 - The parish does not have a village green, and it is envisaged that this space could be used in this way
 - The parish would create an area of accessible green space which would remain as a legacy for the parish and probably run through a charitable foundation or similar, being held on trust for the parish
- 4.36 The nomination states that fundraising to upgrade the pavilion would start immediately on acquisition and “there would be no shortage of volunteers to assist in bringing the venue up to the necessary standard to hold events that generate

significant revenues. There is a local committee set up to run events and the new facility would be both supported and cherished by the parish and, importantly the surrounding areas, within a very short space of time. In addition to this maintenance potentially could be facilitated by the activities identified. Management would be through either the present trustees of the adjacent village hall or a new set of trustees.

- 4.37 As stated previously the test for this condition does not require the likely future use of the relevant building to be determined but rather to determine whether future community use is one of a number of realistic options. The test is also not whether such future use is wholly unrealistic but whether it is realistic to think that there could be a relevant non-ancillary use in the next five years. In addition, “what is realistic may admit a number of possibilities none of which needs to be the most likely outcome” and the test is not a demanding one. “Parliament has chosen to set the bar low” (See paragraphs 4.24-4.26)
- 4.38 The nomination provides evidence of community use for 100 years with football use particularly since 1968. The land is currently for sale, however, there is no evidence that the current use would not continue. The owners have indicated a willingness to work with the Parish Council and the Parish Council have indicated their willingness, and plans, to raise funds for a potential purchase for the community. They have identified potential future community uses and a group to lead on the development of community use. Future Community use is therefore one of a number of realistic options. ***It is therefore reasonable to determine that there can continue to be a non-ancillary use of the building or land which will further the social wellbeing or social interests of the local community, although the use does not have to be the same***

d) Conclusion

- 4.39 The aim of Part 5 Chapter 3 of the Localism Act and the Assets of Community Value Regulations is to encourage community- focused, local-led action to save and take over assets which are significant to them. The scheme is intended to give communities the opportunity to identify assets of community value and have them listed and, when they are put up for sale, have more time to raise finance and prepare a bid for them. These assets could include the Village shop, community centre or pub but assessment is based on the evidence submitted and it is for the local authority to determine each nomination.
- 4.40 Kirk Deighton Parish Council have nominated Kirk Deighton Football Ground and Associated Pavilion. The assessment is whether the details within the nomination, together with any additional information received, satisfy the two criteria as detailed in the Localism Act 2011(Section 88) see below:

Condition one - There is an actual current use of the building or land that is not an ancillary use furthers the social wellbeing or social interests of the local community

(See paragraphs 4.8-4.23)

- 4.41 The information provided demonstrates significant actual use of Kirk Deighton Football Ground and Associated Pavilion that is non-ancillary. The uses identified

also further the social wellbeing or social interests of the local community that is defined as the village and Parish of Kirk Deighton. ***This Condition is therefore met***

Condition Two - It is realistic to think that there can continue to be a non-ancillary use of the building or land which will further the social wellbeing or social interests of the local community, although the use does not have to be the same

(See paragraphs 4.24-4.38)

4.42 Future Community use is one of a number of realistic options. It is therefore reasonable to determine that there can continue to be a non-ancillary use of the building or land which will further the social wellbeing or social interests of the local community, although the use does not have to be the same. ***This Condition is therefore met.***

4.43 The evidence demonstrates that the nomination meets the definition of community value as detailed in the Localism Act 2011. It is therefore recommended that Kirk Deighton Football Ground and Associated Pavilion is listed as an Asset of Community Value and placed on the North Yorkshire Council List of Successful Nominations.

4.44 The Council must keep the list under review and remove assets as soon as practicable considering any circumstances that may change the opinion that land/property listed is of community value.

5.0 CONSULTATION UNDERTAKEN AND RESPONSES

5.1 NYC Internal consultation with the following services was undertaken and there were no comments received:

- Environmental Protection
- Community Safety/CCTV
- Food, Licensing or Occupational Safety

5.2 There were no current planning applications on the property and Planning Services had no objections/comments to make on the property being designated as an Asset of Community value. There were some other none planning history cases associated with this site that were consistent with the development of the site as a football club

6.0 ALTERNATIVE OPTIONS CONSIDERED

6.1 None. Not to consider the nomination for Kirk Deighton Football Ground and Associated Pavilion would not fulfil the Council's responsibilities required by the Localism Act 2011 and The Assets of Community Value (England) Regulations 2012.

7.0 IMPACT ON OTHER SERVICES/ORGANISATIONS

7.1 If successful, the fact that land/property is listed as an Asset of community Value may be taken into account as a material consideration for any future planning application.

8.0 FINANCIAL IMPLICATIONS

- 8.1 If the decision is to list the property, the owner can make a claim for compensation for which the Council is liable

9.0 LEGAL IMPLICATIONS

- 9.1 If the property/land is listed the council is required to apply to the Land Registry for entry of a restriction on the Land Register. This restriction will be in a form of wording in Schedule 4 to the Rules, as Form QQ. This is “No transfer or lease is to be registered without a certificate signed by a conveyancer that the transfer or lease did not contravene section 95(1) of the Localism Act 2011“. An owner of previously unregistered listed land, who applies to the Land Registry for first registration (or a mortgagee who applies for first registration on behalf of the owner), is required at the same time to apply for a restriction against their own title. The local authority is also required to apply to the Land Registry for cancellation of the restriction when it removes an asset from its list.
- 9.2 If the property/land is listed and the owner/leaseholder wishes to dispose of it, he must notify the council. Once this has taken place an interim moratorium period (6 weeks) will apply where disposal of the property may not take place (except if sold to a community interest group which can take place at any time). If, before the end of the interim moratorium period the council receives a written request from a community interest group to be treated as a potential bidder then a full moratorium period applies. Disposal may then not take place within 6 months from the date the Council receives notification from the owner (except if sold to a community interest group).
- 9.3 When a listed asset is disposed of, and a new owner applies to the Land Registry to register change of ownership of a listed asset, they will therefore need to provide the Land Registry with a certificate from a conveyancer that the disposal (and any previous disposals if this is the first registration) did not contravene section 95(1) of the Localism Act (the moratorium requirements).

10.0 EQUALITIES IMPLICATIONS

- 10.1 There are no Equalities implications

11.0 CLIMATE CHANGE IMPLICATIONS

- 11.1 There are no climate change implications

12.0 CONCLUSIONS

- 12.1 If successful, the owner will be informed of the decision review process and the nominating group will be advised that there is no provision within The Regulations (The Asset of Community Value (England) Regulations 2012) for them to seek a review of the Council’s decision.

13.0 REASONS FOR RECOMMENDATIONS

- 13.1 The evidence demonstrates that the nomination for Kirk Deighton Football Ground and Associated Pavilion meets the definition of community value as detailed in the Localism Act 2011.

21.0 RECOMMENDATION(S)

It is recommended that the Assistant Chief Executive Local Engagement:

- (iii) Determines that the nomination for Kirk Deighton Football Ground and Associated Pavilion is successful and meets the definition of community value as detailed in the Localism Act 2011
- (iv) It should be placed on the North Yorkshire Council Assets of Community Value List of Successful Nominations

APPENDICES:

Appendix A – Nomination Form

BACKGROUND DOCUMENTS:

Localism Act 2011

The Assets of Community Value Regulations (England) 2012

Community Right to Bid: Non-statutory advice note for local authorities

Assistant Chief Executive Local Engagement

County Hall

Northallerton

26 January 2024

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