

HIGH PEAK BOROUGH COUNCIL

Individual Executive Decision

17th August 2023

TITLE:	Community Right To Bid – Nomination of a Community Asset (Roughfields, off Padfield main Road, Hadfield, High Peak Derbyshire SK13 1HF)
EXECUTIVE COUNCILLOR:	Councillor Anthony McKeown, Leader of the Council
CONTACT OFFICER:	David Smith, Head of Communities, Culture and Climate Change
WARDS INVOLVED:	Padfield

Appendices Attached:

Appendix 1 - Assets of Community Value Assessment Form

Appendix 2 – Roughfields – Location Plan

1. **Reason for the Report:** The Borough Council has received a nomination from Save Roughfields for land known locally as Roughfields. Roughfields, off Padfield main Road, Hadfield, High Peak Derbyshire SK13 1HF to be registered as an asset of community value and in accordance with the Council's policy must decide whether to approve or refuse the nomination.

2. **Recommendation**
 - 2.1 That the nomination to list Roughfields, off Padfield main Road, Hadfield, High Peak Derbyshire SK13 1HF as an asset of community value be approved for the reasons set out in the report.

3. **Executive Summary**
 - 3.1 Save Roughfields has made a nomination under the Localism Act 2011 (provisions relating to the community right to bid) For land referred to Roughfields, off Padfield main Road, Hadfield, High Peak Derbyshire SK13 1HF for The Royal Oak Inn, 275 Sheffield Road, Glossop,

Derbyshire, SK13 5QY to be listed by the Council as an asset of community value.

3.2 Officers, following the Council's policy, have assessed the application using the agreed criteria (as attached at Appendix 1).

3.3 The recommendation to list Roughfields as an asset of community value does not amend or negate any existing Council policy already applicable to the site.

4. **How this report links to Corporate Priorities**

4.1 The community rights measures in the Localism Act 2011 have the potential to support the delivery of the Council's corporate aims and priorities.

5. **Options and Analysis**

5.1 That the nomination is approved (recommended).

5.2 That the nomination is not approved (not recommended).

6. **Implications**

6.1 Community Safety - (Crime and Disorder Act 1998)

No implications.

6.2 Workforce

No implications.

6.3 Equality and Diversity/Equality Impact Assessment

No implications.

6.4 Financial Considerations

The Council has identified £8,140,680 in capital receipts from the disposal of land to finance the General Fund Capital Programme. The proposed disposal of the Padfield site accounts for a significant portion of the total budgeted amount.

This is not a material factor in assessing whether the site meets the criteria for registration, but clearly has on-going implications for the Council.

6.5 Legal

The Council is required under the Localism Act 2011 to consider nominations from eligible organisations to register land/property as an asset of community value. The Council has a Community Right to Bid Policy (approved in December 2012) which sets out the process the Council will follow.

6.6 Sustainability

No implications.

6.7 Internal and External Consultation

The Ward Councillor has been informed about the nomination. The Ward Councillor is supportive of the nomination.

6.8 Risk Assessment

Owners of properties listed by the Council can appeal against the decision of the Council to list their property as an asset of community value and, if successful, recover their costs.

7. **Background**

7.1 The Community Right to Bid provides a mechanism for parish councils and voluntary bodies to request that buildings and/or land in their community is registered with the Council as an 'Asset of Community Value'. The owner of any land and buildings registered with the Council is then required to inform the Council of their intention to dispose of these assets. Should eligible organisations express an interest in acquiring the land or buildings a moratorium on the sale is triggered during which time community groups or parish councils can seek to raise funds to make a bid to purchase the asset. Once listed, land remains on the register of assets of community value for 5 years from the date of entry unless it is appropriately disposed of.

7.2 The moratorium operates to prevent certain proposed disposals of land being made until specified conditions are met.

- *Notification.* The owner must firstly notify the local authority that it wishes to enter into a relevant disposal.
- *Interim moratorium period.* The community interest group then has six weeks to notify the local authority that it wishes to be treated as a potential bidder. If no such request is made, then the owner can proceed with disposal of the land and no further moratorium period will apply for a protected period lasting 18 months.

- *Full moratorium period.* If the community interest group requests to be treated as a potential bidder within 6 weeks, then the moratorium on disposal runs for 6 months. As before, no further moratorium period will apply for a protected period lasting 18 months.

7.3 The right does not restrict in any way decisions by the owner of a listed asset about whom they can sell their property to, or at what price, and they do not confer on parish councils or voluntary bodies a right to buy. It is important to recognise that:

- The right granted on registration is NOT a right to buy. It does not create a right of first refusal or any preferential pricing or a right to buy of any kind.
- The price for land remains its open market value even if a moratorium is triggered.
- The owner may continue to market the property and negotiate potential sales during the moratorium period.
- The prohibition during the moratorium period is only on entering into a binding contract to dispose of the land (unless the disposal is to a community interest group)
- Registration does not compel the owner to enter into any negotiations with a community interest group or to engage with them in any other way.
- At the end of the moratorium period, the owner can sell to anyone it chooses at whatever price it is able to obtain.

7.4 In 2015 the Government provided additional protection for property registered as an Asset of Community Value by removing permitted development rights such that planning permission is required if an owner wishes to demolish or change the use of a registered property.

8 The Application

8.1 The Council received a nomination on 17 October 2022 from Save Roughfields requesting that Roughfields, off Padfield main Road, Hadfield, High Peak Derbyshire SK13 1HF should be listed as an Asset of Community Value under the community right to bid measure of the Localism Act 2011 (Part 5 Chapter 3: Assets of Community Value). High Peak Borough Council are the landowners.

8.2 The application was received with several supporting statements from local residents about the historic use of the site for the social wellbeing or social interests of the local community.

8.3 The site covers approximately 11.02 acres (4.46 hectares) and is located north-east of Hadfield Town Centre. It is used for activities such as walking, dog walking and football. In the past, the site was used for more structured activity but this has reduced over time. The land is identified on the attached map (Appendix 2).

8.4 The land is:

- allocated in the High Peak Local Plan: Policy DS 6 Roughfields Glossop (Land amounting to 4.7 hectares is allocated for residential development of approximately 102 dwellings – this extends beyond the area covered by the application for registration as an Asset of Community Value).
- approximately 25,000 sqm of the site to the southeast is safeguarded for a new primary school and nursery.
- included in the Council's published five-year land supply statement which states that housing is anticipated to be delivered on the site from 2026 onwards.
- part of the Accelerated Housing Delivery Programme which was originally approved back in 2016. CBRE have been commissioned to market the site for disposal for residential development.
- included in the Medium Term Financial Plan for disposal in 24/25 or 25/26. The Council has identified £8,140,680 in capital receipts from the disposal of land to finance the General Fund Capital Programme. The proposed disposal of the Padfield site accounts for a significant portion of the total budgeted amount.

8.5 CBRE were commissioned to market the site in May 2022 and marketing material have been produced. However, the site has not yet been placed on the market and there are no definite timescales for the development of the site.

8.6 Officers have assessed the nomination (**Appendix 1**) and confirmed that:

- Save Roughfields is eligible to make the nomination.
- The land is not exempt from listing.
- The land has been used by members of the community for activities that have furthered the social wellbeing or social interests of the local community.

8.7 The Council is required under Section 88 (1)(b) Localism Act 2011 to determine whether *“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”*. This is commonly referred to as the “realistic to think” test.

8.8 It has been suggested that the words “can continue” do not require the local authority to be able to envisage a lengthy period of continuance (Adamyk: Assets of Community Value – Law and Practice (2017)).

8.9 Case law has identified that the "realistic to think" test presents a lower threshold than the balance of probabilities and that "realistic" does not mean "most likely" but instead means having to show a sensible and practical idea of

what could be achieved, and it thus permits of a number of possibilities. In *J Haley v West Berkshire District Council*, the First-tier Tribunal held that: *"whether something is realistic does not mean that it must be more likely than not to happen. A use may be "realistic", even though it is one of a number of possibilities"*.

- 8.10 *Ali v Rother* (2015) concerned an application for woodland to be declared an asset of community value in the face of the owner's plans to develop the land. The Tribunal considered an appeal against listing by the landowner and dismissed the appeal on the grounds that it was realistic to think that even if the woodland had development potential, it would be years before it could be realised, and at least one of the realistic possibilities was that the appellants' development aspirations would come to nothing and the existing use of the woodland would continue.
- 8.11 In *TV Harrison CIC v Leeds City Council* (2021) a community interest company successfully challenged the refusal to list a sports ground as an asset of community value. The Council had argued that the land had been allocated for housing under the Leeds Site Allocations Plan; that there were "firm and settled plans" to develop the land for housing, subject to the grant of planning permission; and that it was "reasonable for the Council to conclude that it is not realistic to think that there can continue to be non-ancillary use of the site which will further (where or not in the same way) the social well-being or social interests of the local community". The Court concluded that the Council had acted unlawfully in refusing to list the sports ground and had taken a wholly one-sided approach in its reasoning. The court stated that although the owner's development intentions would be relevant, particularly in the planning context, any factors casting doubt on the owner's ability to achieve those aims had to be considered.
- 8.12 Delivery of High Peak Borough Council's Accelerated Housing Programme as planned would result in the discontinuance of the current usage of the land. However, at this time this has not progressed much beyond the programme planning stage and it is not therefore reasonable to conclude that delivery of the proposed housing is the sole possible future use of all of the site nor that the current usage of the land could not continue in the meantime.
- 8.13 Accordingly, the Council's officers have assessed that the criteria for listing have been met and recommend that the Roughfields, Hadfield, be listed as an Asset of Community Value.

Neil Rodgers
Executive Director (Place)

Web Links and Background Papers

Location

Contact details

Statement of Five Year Housing Land Supply (as at 1st April 2022)

https://www.highpeak.gov.uk/media/7546/High-Peak-5-year-Housing-Land-Supply-April-2022/pdf/High_Peak_5_year_Housing_Land_Supply_April_2022.pdf?m=1664443954337

Accelerated Housing Delivery Programme - soft market testing. Report to Economy and Growth Select Committee 7 February 2019

<https://democracy.highpeak.gov.uk/documents/s11457/Accelerated%20Housing%20Delivery%20Programme%20-%20soft%20market%20testing.pdf>

High Peak Local Plan
Adopted: April 2016

https://www.highpeak.gov.uk/media/160/The-High-Peak-Local-Plan-Adopted-April-2016/pdf/The_High_Peak_Local_Plan_Adopted_April_2016.pdf?m=1514473710280