

CHAPTER 3, PART 5 OF THE LOCALISM ACT 2011
ASSETS OF COMMUNITY VALUE (ENGLAND) REGULATIONS 2012

NOMINATION OF BUILDING OR LAND TO BE INCLUDED IN
LIST OF ASSETS OF COMMUNITY VALUE

DELEGATED REPORT

Reference: PR86-020

Case Officer: Darren McBride

Site Address: The Green, Wye, Ashford, Kent TN25 5AJ

Title Number(s): K98308 (Part), K142786 and TT43347 (Part)(Freehold)

Nominating Body: Wye with Hinxhill Parish Council

Nomination Validated: 16 June 2022

Deadline Date: 11 August 2022

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Introduction

Under the Localism Act 2011 ('the Act'), the Council must maintain a list of buildings or other land in its area that are of community value, known as its 'List of Assets of Community Value.'

There are some categories of assets that are excluded from listing, the principal one being a residential property. There is, however, an exception to this general exclusion where an asset which could otherwise be listed contains integral residential quarters, such as accommodation as part of a pub or a caretaker's flat.

Generally, buildings or land are of community value if, in the opinion of the Council:

- 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
- 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 community¹.

Buildings or land may also be of community value if in the opinion of the Council:

¹ Subsection 88(1) of the Act

- 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 social² interests of the local community, and
- 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 community³.

Buildings or land which are of community value may only be included in the 'List of Assets of Community Value' in response to a community nomination by certain specified bodies such as parish councils or voluntary or community organisations with a local connection.

A valid community nomination must contain certain information, including:

- a description of the nominated building or land including its proposed boundaries
- a statement of all the information which the nominator has with regard to the names of the current occupants of the land, and the names and current last-known addresses of all those holding a freehold or leasehold estate in the land
- the reasons for thinking that the Council should conclude that the building or land is of community value
- evidence that the nominator is eligible to make the community nomination

A valid community nomination must be determined within eight weeks. In this instance, the nomination was validated by the Council on 16 June 2022 and so must be determined by 11 August 2022.

If the Council accepts a valid nomination then it must be included on the 'List of Assets of Community Value.' If the Council does not accept that the asset nominated meets the statutory definition, or if it is one of the excluded categories, then the valid nomination must be placed on a 'List of Assets Nominated Unsuccessfully by Community Nomination.'

Procedure

Information about this community nomination has been sent to the following:

- Wye with Hinxhill Parish Council (the nominating body)
- Freehold Owner(s)
- Cllr G Clarkson (Leader of the Council)
- Cllr P Feacey (Portfolio Holder for Community Safety and Wellbeing)⁴
- Cllr K Howard-Smith (Deputy Portfolio Holder for Community Safety and Wellbeing)⁵

² Note: the wording of this condition is different to all the other conditions in that it refers to furthering 'the social wellbeing or interest of the local community' rather than 'the social wellbeing or *social* interests of the local community'. However, in *St. Gabriel Properties Limited v London Borough of Lewisham and another (2015)*, Judge Warren held that the word 'social' should be read in here (*para. 27*)

³ Subsection 88(2) of the Act

⁴ The nomination was received prior to the recent Cabinet reshuffle.

- Cllr N Ovenden (Ward Member)

If the Solicitor to the Council and Monitoring Officer includes the asset in the Council's 'List of Assets of Community Value' then the owner has the right, within eight weeks from the date when written notice of listing is given, to request the Chief Executive to review the decision.

If the owner is not satisfied with the outcome of the internal listing review then they have the right to appeal to the General Regulatory Chamber of the First-Tier Tribunal against the review decision.

The property will remain listed during the review and appeal process.

Consequences of Listing

If an asset is listed nothing further happens unless and until the owner decides to dispose of it. If the owner does decide to dispose of the asset then, unless an exemption applies, the owner must first notify the Council in writing.

Interim Moratorium

There is then a six week interim period from the point the owner notifies the Council. The Council must then inform the nominating community group who may then make a written request to be treated as a potential bidder. If they do not do so in this period then the owner is free to sell their asset at the end of the six week period.

Full Moratorium

If a community interest group does make a request during this interim period, then a full six month moratorium will operate. The community group does not need to provide any evidence of intention or financial resources to make such a bid.

During this full moratorium period the owner may continue to market the asset and negotiate sales, but they may not exchange contracts (or enter into a binding contract to do so later). There is one exception: the owner may sell to a community interest group during the moratorium period.

After the moratorium – either the interim or full period, as appropriate – the owner is free to sell to whomever they choose and at whatever price, and no further moratorium will apply for the remainder of a protected period lasting 18 months (running from the same start date of when the owner notified the Council of the intention to dispose of the asset).

Compensation

Private owners (not public bodies) may claim compensation for loss and expense incurred through the asset being listed. This may include a claim arising from a period of delay in entering into a binding agreement to sell which is wholly caused by the interim or full moratorium period; or for legal expenses incurred in a successful appeal to the First-Tier Tribunal. The assumption is that most claims will arise from a moratorium period being applied; however, the wording

⁵ Ditto

of the legislation does allow for claims for loss or expense arising simply as a result of the asset being listed.

The Council is responsible for administering the compensation scheme, including assessing and determining compensation awards.

As with the listing itself, an owner may request an internal review of the Council's compensation decision. If the owner remains unsatisfied then they may appeal to the General Regulatory Chamber of the First-Tier Tribunal against the review decision.

Assessment

The nominating body is 'a voluntary or community body' with 'a local connection', as defined in Regulations 4 and 5 the Assets of Community Value (England) Regulations 2012 ('the Regs').

The community nomination contains the information required by Regulation 6 of the Regs for it to be considered by the Council.

Pausing here, the land was the subject of a previous successful nomination in 2017. This latest nomination seeks to return the land to the List. The 2022 Nomination can be found on the Borough Council's website here:

[nomination-form16-06-2022.pdf \(ashford.gov.uk\)](#)

The 2022 Nomination is comprised of the nomination form itself together with a series of appendices (some of which are themselves divided into sub-appendices). Clearly it would be inappropriate to reproduce in this report the entire Nomination (which runs to over 50 pages excluding an extensive number of 'hot links' to additional online material). Instead, in order to keep this report as manageable as possible, I will confine myself to the nominating body's lengthy written answers to the two questions contained in the 2022 Nomination form⁶. The full 2022 Nomination, including its appendices and 'hot links' can be found on the Borough Council's website using the link above.

The community nomination form asked the nominating body to provide their reasons for thinking that the Council should conclude that the building/land is of community value. The questions and answers state as follows⁷:

Q1. What is the current main use of the land/building(s)?

Introduction – Please consider this fresh nomination for The Green in the following context:

1. Wye with Hinxhill Parish Council first nominated The Green 26th April

⁶ To minimise the risk of corrupting this report I have removed the many 'hot links' contained in the nominating body's 2022 Nomination. Those links can instead be found in the 2022 Nomination documentation as published on the Borough Council's website (link above).

⁷ All emphases, parentheses etc. are as contained in the original 2022 Nomination form. My only intervention is that in [] parenthesis at the nominating body's paragraphs (28).

2017. Subsequently, Ashford Borough Council listed as an asset of community value (ACV) 20th June 2017, under reference PR86-020.

2. After five years the current listing will expire automatically Monday 20th June 2022. Therefore, this is a fresh nomination. Wye Parish Council seeks to renew and extend the ACV listing – without interruption – and to continue the moratorium protection that a renewed listing will provide for local community use as an open amenity space.

3. The range of community uses detailed in PR86-020 continues, and these uses have not changed in any substantive way since 2017. Nor has the land ownership or boundary changed since 2017. Consequently, the main use recognised in the current ACV listing remains current for this nomination, and the supporting evidence provided in 2017 remains relevant today.

Summary of the current main use of the land:

4. The response provided to question B4.1 in the 2017 nomination PR86-020 remains relevant, and the following extract is repeated as follows:

5. 'The Green is an open amenity space of grass and trees in the heart of Wye, bounded by The Green (a road of the same name), and the High Street. The boundary is defined by a yew hedge and a high garden wall to the west, and low brick walls to its south east and north sides. There are two openings in the low wall which permit public access on foot, but these are too narrow for vehicle access.'

6. 'Currently, The Green is only used as a public open space, although the land is not in public ownership. In short, it functions as a pocket park, as it is open all year round, free to enter and used for play, informal sport, socialising, recreation, and quiet reflection. Twice each month The Green hosts the Wye Farmers' Market.'

7. In short, The Green continues to serve as an informal open amenity space. As such, the present main use of The Green furthers the social wellbeing or social interests of the local community.

8. For consistency, transparency and ease of reference, Wye Parish Council's 2017 nomination PR86-020 forms Appendix 2 to this fresh nomination, and the decision forms Appendix 3. For an illustrated example of current community use of The Green on Easter Saturday 16th April 2022, please see the recent illustrated report in the Wye Parish Newsletter 79 (**APPENDIX 4**).

Q2. How does the current main use of the land/building(s) further the social wellbeing or social interests of the local community...?

9. As stated in B4.1 above, the main use recognised in the current ACV listing remains current, and the supporting evidence provided in 2017 remains relevant today.

10. Ashford Borough Council considered this matter in 2017 and the decision document (Ref PR86-020) (APPENDIX 3) summarised the range of community uses and social benefits of The Green as follows:

"The comprehensive information submitted by the nominating body indicates that the land:

- Is an attractive open amenity space of grass and trees close to other village facilities in the heart of Wye, making it a natural focal point and feature of community life where local people spend time socialising informally with their friends and neighbours;*
- Functions as a 'pocket park';*
- Is open all year round, free to enter and used for play, informal sport, socialising, recreation, and quiet reflection;*
- Supports many informal social and recreational activities;*
- Hosts, twice monthly, the Wye Farmers' Market. The Market provides covered stalls selling local produce and has close links with the Wye Community Farm;*
- Hosts the Wye Beer and Food Festivals (supplemental to the Market), which also celebrate local produce and crafts;*
- Hosts seasonal market events (e.g. Valentine's Day, Shrove Tuesday, Easter, May Day, Apple Day, Hallow'e'en and carol singing for charity at Christmas) which include live music and public entertainments, educational experiences and competitions for children, and a regular bouncy castle;*
- Hosts monthly Parish Council drop-in events (coinciding with the Market days);*
- Provides a valuable, safe and sheltered place for families to be together away from traffic, where children can play outdoors, meet friends, have picnics, kick a football around, climb trees and enjoy being in the fresh air."*

11. Additional to Ashford Borough Council's bullet points above, the current main use of the land continues to further the social wellbeing or social interests of the local community. This use is evidenced as follows:

12. Unlike many shops and facilities, the Wye Farmers' Market continued to operate on The Green throughout the first COVID-19 lockdown. However, to create more space for social distancing and safe social interaction, the market stalls relocated from the road to The Green itself in March 2020.

13. Over the past five years since the Parish Council nominated The Green as an ACV, various news items have recorded Wye Farmers' Market events: 1st January 2022, 16th January 2021, 18th July 2020, 6th June 2020 and 15th April 2017.

14. The Parish Council news report 1st April 2020 stated that *"To slow the spread of coronavirus Covid-19 on Monday 23rd March the government closed 'all outdoor and indoor markets and non-essential business premises'. The main exception being 'market stalls which offer essential retails such as grocery and food.'* This news report also recorded that *'although residents will miss the familiar stalls on the Green, it is clear that for the foreseeable the market cannot function as a social occasion, or as a place to meet and enjoy a chat in the spring sunshine.'*

15. Wye Farmers' Market went online during April and May 2020. The Green acted as a collection point for pre-ordered local produce from 4th April 2020. Customers had the option of collecting their produce either via a timed slot and a one-way system, or a home delivery.

16. The market stalls returned to The Green in its traditional format 6th June 2020 and this twice-monthly event has continued ever since. As COVID-19 restrictions eased the social element of Market Day returned, long before most indoor events and consequently The Green continues to further the social wellbeing or social interests of the local community.

17. Arguably, after months of forced isolation and caution over two years of the pandemic the community value and social wellbeing benefit provided by The Green as a safe green space where residents can have social contact and interact is more appreciated than it was in 2017.

18. APPENDIX 5 (attached) shows photographs of the Easter Farmers' Market 16th April 2022 and community judging the painted Easter Egg Competition. There were 44 entries, as **APPENDIX 3** records the winners in each age category, and photographs of some of the entries.

APPENDIX 6 (attached) shows the publicity for this competition Wye 2nd April.

APPENDIX 7 (attached) summarises Wye Farmers' Market's social function.

19. The Wye Heritage Centre adjacent to The Green reopened after COVID-19 lockdown 3rd July 2021. This is now a registered charity and it continues to serve coffee and home-made cakes twice a month on Wye Farmers' Market Days. The Wye Heritage website states that *"entry is free to all"* and invites the public to *"pop in and have a cup of coffee and view our latest display, on the first and third Saturdays each month."* (APPENDIX 8 attached)

20. Since 2011 the Wye Heritage Centre has opened its doors to coincide with the Wye Farmers' Market on The Green to reach the most residents.

For convenience and ease of reference, the 2017 statement of grounds and supporting evidence for ACV listing in response to B4.1 is reproduced verbatim and in full below:

21. The Green is an open amenity space of grass and trees in the heart of Wye, bounded by The Green (a road of the same name), and the High Street. The boundary is defined by a yew hedge and a high garden wall to the west, and low brick walls to its south east and north sides. There are two openings in the low wall which permit public access on foot, but these are too narrow for vehicle access.

22. Currently, The Green is only used as a public open space, although the land is not in public ownership. In short, it functions as a pocket park as it is open all year round, free to enter and used for play, informal sport, socialising, recreation, and quiet reflection. Twice each month The Green hosts the Wye Farmers' Market. Walkers passing through Wye on the North Downs Way National Trail, or the National Cycle Route 18 often stop for their sandwiches on The Green.

23. The central location of The Green and its proximity to other village facilities, eg the Post Office, Wye Newsagency and the Coop, makes it a natural focal point and feature of community life. This space supports many informal social and recreational activities for both residents and visitors to Wye.

24. Since 1999 Wye Farmers' Market has been held twice-monthly on and around The Green. Supplemented more recently by the Wye Beer and Food Festivals that also celebrate local produce and crafts. Many of the markets have seasonal themes and events. These include live music and public entertainments, e.g. educational experiences and competitions for children, and a regular bouncy castle.

25. The themed markets reflect the changing seasons and seasonal produce e.g. Valentine's Day, Shrove Tuesday, Easter, May Day, Apple Day, Hallow'een and carol singing for charity at Christmas. The Twitter feed provides a detailed commentary and numerous images of events held on The Green since 2013.

26. The social value of Wye Farmers' Market cannot be overstated. People like to meet and to stop and talk in a way that does not happen in other settings. Social exchanges are most evident in the summer months when The Green is a very attractive space that enables people to spend time socialising informally with their friends and neighbours.

27. Since 2011, Wye Heritage has provided public access to the Latin School opposite The Green on the 1st and 3rd Saturdays of every month. The opening times deliberately mirror the Wye Farmers' Market on The Green, and each of these community-based organisations supports and adds to the social attractions of the other.

28. The Farmers' Market provides covered stalls and a busy street collection location for various local and national charities. The regulars include Wye Scouts, Amnesty International, Christian Aid and the Poppy Appeal. The market has close links with the Wye Community Farm, which has a regular produce stall and runs competitions e.g. "guess the weight of the lamb" and uses its presence to recruit volunteers.

29. The Parish Council held a monthly drop-in at Wye Farmers' Market for residents between 2010 and autumn 2016. The informality of The Green enables even reticent residents to ask questions and gather information about local issues and keep up to date with local projects eg the Wye Neighbourhood Plan, Wye MUGA and Our Place Wye. Councillors have been joined on occasions by PCSOs to get to know local residents. The Parish Council has long known that Wye Farmers' Market is an excellent place to meet people in a neutral setting, and to canvas opinions about new ideas and pass on information. Newcomers to the village often stop to ask questions and introduce themselves.

30. After 115 years the closure of Wye College in 2009 was a significant day in the history of Wye. Hundreds of residents, and hundreds more former staff and students from around the world gathered in Wye to mark the event on the 27th June with A Day of celebration for the life of Wye College.

31. Two contemporary quotes from College and village perspectives capture the sense of occasion and the choice of venue: "... Join an informal Wye Community Picnic on the College Green and the Latin School Garden. Bring your own picnic and enjoy the company of fellow residents and Wye alumni. A display of photographs from across the years at Wye will be featured in the Latin School." (Invitation to alumni from the Wye College Agricola Club).

32. "Finally, ...there is to be a Village Picnic on Saturday 27 June. All parishioners are invited to gather and enjoy this informal event. The picnic will follow a special service in the parish church at 12.00 to mark the end of an era - and the start of a very different, but we all hope, positive future for Wye." (Annual Parish Meeting 29th April 2009, Parish Council Chairman's Report, closing remarks).

33. The Green has four memorial benches for public use and four surviving memorial trees. This is tangible evidence of the public and civic character of the space. The presence of three litter bins on The Green, an area of less than 1/3 of an acre, provides a clear indication of the type and intensity of public use.

34. The inscriptions on the benches on The Green are illuminating. One reads "Presented by Wye Gardeners Society for the enjoyment of those who use the College Green 1973". Another bench is dedicated to "Margery Joan Coulter 1910-1983" One of the last members of a Wye family, whose carrier business served Wye for over 400 years until 1963.' The inscription on the third bench has weathered and is indistinct, but the date is clearly 1950. The plaque on the fourth bench is missing, but the bench is clearly some age.

35. The largest living memorial on The Green is a mature tulip tree dedicated to Basil Furneaux, who died in 1969. The plaque records that he was both a Governor of Wye College and a founder member of the Kent Men of the Trees. As such it is one of the earliest plantings by this charity.

Although Basil Furneaux lived in Tunbridge Wells, his ashes are buried in Wye churchyard, beneath a plaque on the Latin School garden wall. The site of his memorial tree nearby was chosen carefully.

36. In 1999 Wye Village Design Group chose The Green as the venue to launch its public consultation on the draft Wye Village Design Statement. (A photograph and reference in the text can be found on page 2). The introduction states that although the document "... particularly emphasises design, it is also concerned with social and economic well-being." The caption for another photograph on page 18 is also significant: "The farmers' markets on The Green encourage the purchase of local produce and crafts. They also foster community spirit and help local shops by bringing trade into the village." This observation remains true today. Arguably the market is even more important now for community spirit. Following the loss of both banks and several shops Wye has fewer places where people meet casually.

37. Ashford Borough Council adopted the Wye Village Design Statement as supplementary planning guidance in 2000. In October 2016 Ashford Borough Council adopted the Wye Neighbourhood Development Plan 2015-2030, which encapsulates the design principles in the Wye Village Design Statement within policy WNP2.

Conclusion

38. Registration of The Green as an Asset of Community Value will protect a valuable open space for the benefit of present and future residents and visitors to Wye, and support community activities and wellbeing.

APPENDIX 9 Reference: Burnham, P. de Saxe, M. (2003), A New History of Wye the heritage of a Kent village, 180pp

For convenience and ease of reference, the 2017 statement of grounds and supporting evidence for ACV listing in response to B4.2 is reproduced verbatim below:

39. 'The Green is an asset of high community value as it supports a wide range of free outdoor social activities, informal sport and recreation.

40. The central location, ease of access and attractive historic setting of The Green combine to ensure that this important place for community life supports a wide range of beneficial community activities. All of which further social wellbeing and social interests, as discussed above.

41. Unsurprisingly, given the high density of dwellings in central Wye, most of these have very small gardens. This is especially true of the houses that front The Green. Consequently, The Green provides a valuable, safe and sheltered place for families to be together away from traffic, where children can play outdoors, meet friends, have picnics, kick a football around, climb trees and enjoy being in the fresh air.

42. The Green has an unbroken link with the medieval form of the village, and its function as Wye's market place and centre for community life in the surrounding area. If form follows function then this historic connection and layout dates from a Royal Charter granted in 1225.

43. This document permitted Battle Abbey, the landowner, to hold a weekly market and an annual fair on a large open space in Wye. The surviving part of which is The Green. The shape of this land, referred to in medieval documents as "The Forum," is still defined by the Listed 14th century and 15th century buildings that surround The Green.

44. The survival of part of this medieval enclosure adds to the strong sense of community in Wye, and defines its character and sense of place. As does its continuing use as a 21st century market place. The setting of The Green provides an attractive public place where people feel at ease, want to stay and to return. This atmosphere provides an important, if subliminal precursor to improved social wellbeing.

45. The Wye Neighbourhood Development Plan recognises the high social and economic value of The Green. This is now adopted planning policy for Wye. Policy WNP1b designates The Green as a Local Green Space, which provides protection from development in all but "very special circumstances."

46. To achieve this status The Green passed the statutory tests applied by the Independent Examiner appointed by Ashford Borough Council. Specifically, whether The Green is *"local in character and reasonably close to the community; and, where it is demonstrably special, for example because of its beauty, historic significance, recreational value (including as a playing field), tranquillity or richness of its wildlife; and where the green area concerned is local in character and is not an extensive tract of land."*

47. Looking ahead, although The Green is both within the Wye Conservation Area and a Local Green Space, neither designation provides protection from changes in ownership or from indifferent or hostile approach to land management. In its current use The Green is a liability as it has costs, but produces no income. The reduction in the standard of grounds maintenance since the change of ownership in 2015 is clear and regrettable, and this is detracting from the value and attraction of The Green as an open space that benefits the community.

48. The Parish Council's 2017 Public Accommodation and Leisure Facilities Audit has identified shortfalls in community space and rising needs for different types of space, however, the Audit is primarily a quantitative assessment of the indoor facility needs of social and interest groups.

49. There is also a qualitative aspect of community life, but it is hard to measure. There is no question that Wye is most fortunate to have an active and committed community. However, to sustain the present level of activity and the high quality of community life, newcomers to Wye must be able to feel welcome, engage, integrate quickly and want to become

involved. The informality of Wye Farmers Market and the historic setting of The Green facilitates this assimilation process.

Q3. *Why do you consider that this, or some other main use to which the land/building(s) will be put which will further the social wellbeing or social interests of the local community, will continue and over what period...?*

The response provided to question B4.3 in the 2017 nomination Ref. PR86-020 remains relevant and this is repeated below verbatim:

50. 'Wye is a socially active and engaged village, with over 60 community groups that hold regular meetings and activities and new groups continue to form. Therefore, demand for facilities and meeting places in Wye remains strong, despite the loss of local employment since 2000, the final closure of Wye College in 2009, and years of austerity since.

51. The Parish Council has undertaken an audit of all community facilities and needs; the draft report identifies a clear shortfall. The facilities audit findings provide detailed evidence of the need for additional community space and facilities, already identified in the adopted Wye Neighbourhood Plan.

52. The Green is near to the centre of Wye and it is easily within the walkable village area, as identified in Policy Objective 1 in the Wye Neighbourhood Plan. This objective concerns sustainability and creation of a walkable, concentric village with good pedestrian access to community facilities.

53. The Green is readily accessible on foot and it is adjacent to a bus stop with services to Ashford and Canterbury. Only minor works are needed to the two entrances to The Green to comply with Equalities Act requirements.

54. In 2015 the Conservative Party manifesto for the general election, contained a commitment to create "... *an ambitious programme of pocket parks - small areas of inviting public space where people can enjoy relief from the hustle and bustle of city streets*". This recognises the need and value of such places.

55. Although the funding is targeted towards deprived urban areas, such green spaces provide a public benefit and asset for residents and visitors to any built-up place, and Wye is no exception. Accordingly, Wye with Hinxhill Parish Council is prepared to take responsibility for The Green, if the opportunity arises, to protect and enhance it for the benefit of the community and for future generations.

56. The Parish Council already owns and maintains Churchfield Green, two allotment sites and a burial ground, it also maintains the Recreation Ground on behalf of the Wye Village Hall and Recreation Ground Charity.

57. In conclusion, The Green is an important public open space with a continuing role to play in furthering the social wellbeing and social interests of residents of Wye and its neighbouring parishes, and Wye's many visitors from around the world.'

58. Furthermore, the following points expand on why the current main use of the land will further the social wellbeing or social interests of the local community will continue, and over what period.

Legal Charge

59. Land Registry Title K142786 contains a covenant dated 27th November 1961 which states that '*(a) that no building on or development of the property hereby assured shall be permitted and that the same shall be preserved as an open space to which the public shall have access at all reasonable times and be maintained as such...*'

60. Therefore, it is realistic to think that The Green will be retained as a central and accessible public open space.

Planning policy support

61. Wye Neighbourhood Development Plan 2015-2030 designated The Green as a Local Green Space (link to document stored on Ashford Borough Council's website). This is part of the Local Development Plan and it is the current planning policy for the ACV land. The Green is referenced in Policy WNP1b Local Green Spaces, and mapped in WNP Appendix F (12).

62. In 2019 Ashford Borough Council Planning Department calculated that the parish of Wye with Hinxhill had a deficit of 2.00 ha in provision of informal public open space. This deficit has not been addressed through the planning process, and it continues to increase with each residential planning permission approved since 2019.

63. Therefore, given the established need and deficit public open space it is realistic to think that The Green will retain strong planning policy support to remain as a central and accessible public open space.

Public health

64. The COVID-19 pandemic may subside in time, but the risk to public health from new variants and other respiratory diseases will remain a consideration for facilities and event managers. As an outdoor venue, The Green is inherently safer as a place to socialise.

65. Ashford Borough Council summarised the social and public health benefits that the Green provides in its decision to list The Green as an ACV (see para 10 above and ref. PR86-020 APPENDIX 3).

66. In summary: The Green is an area of grass and trees close to other village facilities in the heart of Wye. This makes it a natural focal point and feature of community life where local people spend time socialising informally with their friends and neighbours; functions as a 'pocket park'; is open all year round, free to enter and used for play, informal sport, socialising, recreation, and quiet reflection; supports many informal social and recreational activities; hosts seasonal market events (e.g. Valentine's Day, Shrove Tuesday, Easter, May Day, Apple Day, Hallow'een and carol singing for charity at Christmas) which include live music and public entertainments, educational experiences and competitions for children, and a regular bouncy castle; and it provides a valuable, safe and sheltered place for families to be together away from traffic, where children can play outdoors, meet friends, have picnics, kick a football around, climb trees and enjoy being in the fresh air.

67. Therefore, it is realistic to think that the need to retain accessible public open spaces will remain important for public health, community resilience and to support the social wellbeing of the local community.

Public open space provision

68. Regarding public open space provision under S106, Wye Parish Council informed Ashford Borough Council in 2021 that '*The Green (TN25 5AJ) is a designated Local Green Space. This is an historic public open space within the Conservation Area planted with memorial trees. This land is in private ownership, but it enjoys open access. For example, as the location of Wye Farmers Market since 1999 and numerous informal public social events. This project is necessary to secure public access in perpetuity to this surviving area of the medieval market square and to enhance its amenity and wildlife value.*'

69. Therefore, it is realistic to think that given the established shortfall in provision and the increasing need for public open space and its added importance for public health, and its planning status Wye Parish Council will continue to prioritise retention of The Green.

Timescale

70. The Wye Farmers Market launched 19th June 1999 and it was the first in Kent. Having survived austerity and the COVID-19 pandemic it has proved to be both resilient and popular, as APPENDIX 5 shows the format is sustainable. Over the past twenty-three years, the issues of local food, food security, food miles, food quality and impacts on climate change continue to rise up the policy agenda and generate increasing public awareness and support.

71. Therefore, it is realistic to think that these trends will continue to develop and reinforce the reasons for Wye Farmers' Market to operate. In turn, this regular twice-monthly event will support local community activities and these will continue to support the social wellbeing and social interests of the local community.

72. The 'community catalyst' and enabling multiplier effect of Wye Farmers' Market continues to attract new community groups and activities to The Green. For example, The Wye Village Design Group had a stall at the launch in June 1999, Wye Heritage launched at a Market in September 2011 alongside the Wye Hops and Beer Festival to celebrate a century of hop breeding and development in Wye (1906-2006). Wye Active launched at the special 20th anniversary Wye Farmers' Market in June 2019.

73. Wye Active formed in 2019 as a voluntary group of local people who are working to make active travel choices, such as cycling and walking around Wye, easier, and safer for all. This aim has strong support in the Wye Neighbourhood Development Plan's central concept of Wye as a 'walkable village'. Wye Active also wants Wye to be a healthy and vibrant place in which to live, work and study. Wye Active has a central role in the Wye Breathes citizen science project.

74. Wye has a dynamic and diverse community and 17 groups have formed since 2007 when the Parish Council started to record community life and community facilities availability.

75. Therefore, based on past performance it is realistic to think that the local community will continue to develop and benefit from new and active groups' working to further social wellbeing and social interest and to improve community resilience.

76. Given the high level of present use and ongoing need for '*an attractive open amenity space of grass and trees close to other village facilities in the heart of Wye, making it a natural focal point and feature of community life where local people spend time socialising informally with their friends and neighbours*' (PR86-020) and given the proven resilience and popularity of the Wye Farmers Market held on The Green over the past twenty-three years, it is realistic to think that:

- a) the main uses of The Green described above will continue in the foreseeable future;
- b) these uses will continue to further the social wellbeing or social interests of the local community;
- c) other uses for The Green may emerge in the future which will also further the social wellbeing or social interests of the local community.

Conclusion

77. In light of the previous decision PR86-020, the additional evidence above and appendices attached, the nominated asset continues to pass the tests under Section 88 (1) (a) and Section 88 (1) (b) of the Localism Act 2011. The Green is therefore land of community value.

*

The Council cannot list buildings or land on its own initiative – they must be nominated. Therefore, the onus is on the nominating body to give their reasons

for thinking that the Council should conclude that the building/land is of community value.

There is little guidance on the criteria a local authority should consider when deciding whether an asset is of community value. When the Act was at the Bill stage, the Minister stated that:

“...We have suggested that one of the criteria for assessing what is an asset of community value could be evidence of the strength of community feeling about supporting the asset’s being maintained for community use”

In this case, the nominating body is a parish council and so, although there is no evidence of the strength of community feeling, it is reasonable to assume that the Parish Council is representing the views, or is expressing the general wishes, of a significant percentage of their local community.

For a building or land in current use to be included on the ‘List of Assets of Community Value’ its actual current use – not ‘an ancillary use’ – must further the social wellbeing or social interests of the local community.

In this case, it seems that the situation remains essentially unchanged since 2017. The comprehensive information submitted by the nominating body restates that the land:

- Is an attractive open amenity space of grass and trees close to other village facilities in the heart of Wye, making it a natural focal point and feature of community life where local people spend time socialising informally with their friends and neighbours
- Functions as a ‘pocket park’
- Is open all year round, free to enter and used for play, informal sport, socialising, recreation, and quiet reflection
- Supports many informal social and recreational activities
- Hosts, twice monthly, the Wye Farmers’ Market. The Market provides covered stalls selling local produce and has close links with the Wye Community Farm
- Hosts the Wye Beer and Food Festivals (supplemental to the Market), which also celebrate local produce and crafts
- Hosts seasonal market events (e.g. Valentines Day, Shrove Tuesday, Easter, May Day, Apple Day, Hallow’een and carol singing for charity at Christmas) which include live music and public entertainments, educational experiences and competitions for children, and a regular bouncy castle
- Hosts monthly Parish Council drop-in events (coinciding with the Market days)
- Provides a valuable, safe and sheltered place for families to be together away from traffic, where children can play outdoors, meet friends, have picnics, kick a football around, climb trees and enjoy being in the fresh air

Furthermore, the nominating body now adds that:

- The Wye Farmers’ Market continued to operate on The Green throughout the first COVID-19 lockdown

- The Green acted as a collection point for pre-ordered local produce from 4 April 2020
- Arguably, after months of forced isolation and caution during COVID-19 lockdown the community value and social wellbeing benefit provided by The Green is more appreciated than it was in 2017.

In my view, these uses are all integral to the main use of the land as an informal open amenity space for the benefit of the local community. As such, these uses would further the social wellbeing or social interests of the local community.

The use of the land as a busy street collection location for various charities is likely to be considered an ancillary use, notwithstanding that one local charity – 2nd Wye Scouts – is a beneficiary. Likewise, use of the land for one-off events, such as marking the closure of Wye College in 2009 and as the venue to launch a public consultation on the draft Wye Village Design Statement, would probably be classed as ancillary to the main use of the land and/or as a use which would not (at least directly) further the social wellbeing or social interests of the local community.

Nevertheless, the actual current main use(s) of the land (as outlined above) lead me to conclude that it does further the social wellbeing or social interests of the local community. Moreover, the fact that the land is currently being used for these community purposes suggests that it is realistic to think that the current use can continue.

Conclusions

In my view, it is reasonable to conclude that the actual current use of the land does further the social wellbeing or social interests of the local community and that there can continue to be non-ancillary use of the land which will further the social wellbeing or social interests of the local community.

I have taken into consideration the potentially adverse impact that listing could have on the owner(s) of the land (as summarised above under the sub-heading *Consequences of Listing*) but the internal listing review process and appeal do allow the owner(s) the opportunity to challenge the decision to list.

Accordingly, in my view, this land should be included in the Council's 'List of Assets of Community Value.'

Recommendation

That the Solicitor to the Council and Monitoring Officer accept the nomination for this land to be included in the Council's 'List of Assets of Community Value.'

*

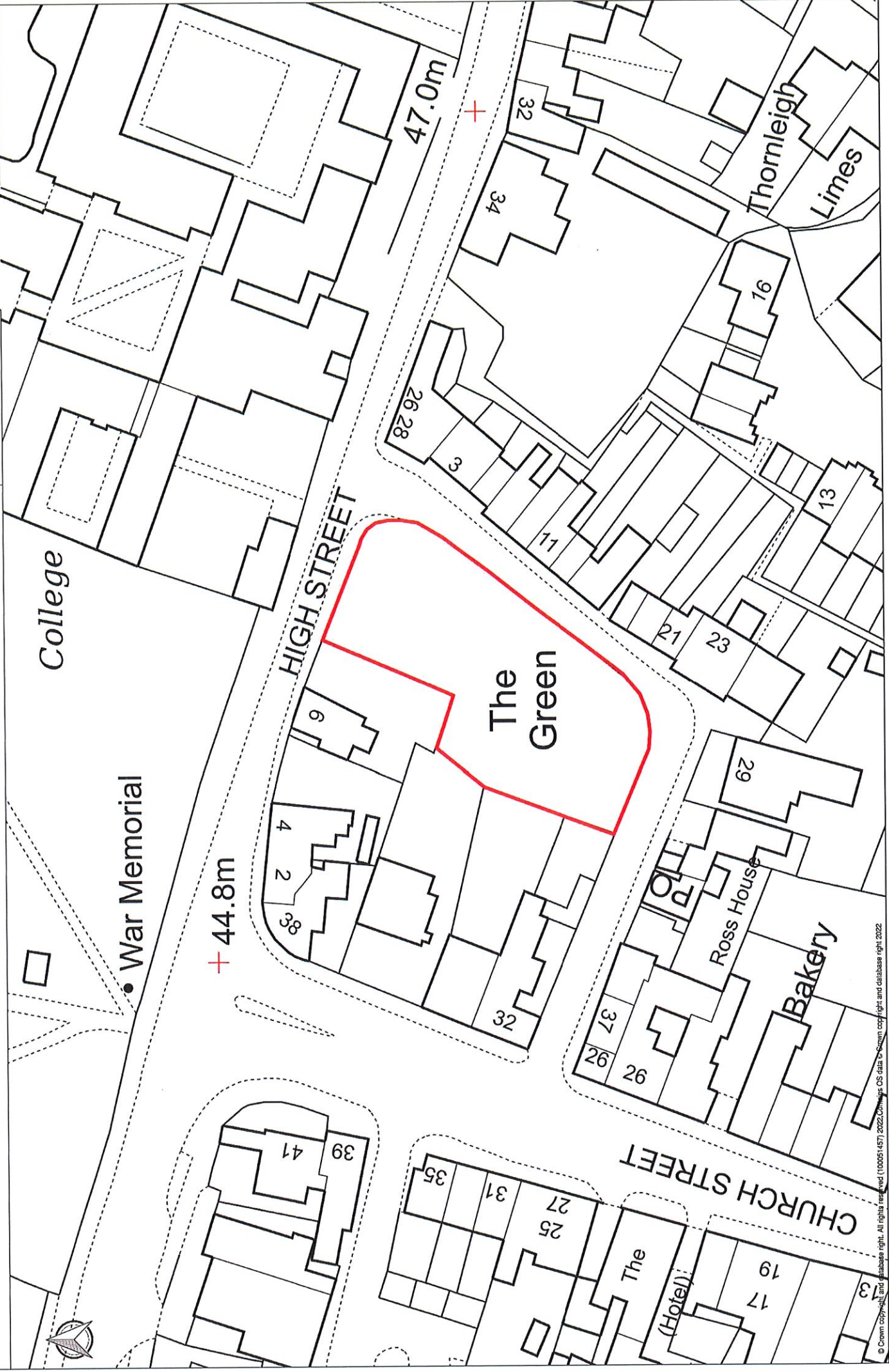
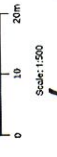
AUTHORITY

In accordance with the functions delegated to me, I hereby accept the nomination for this building/land to be included in the Council's 'List of Assets of Community Value,' for the reasons set out above.

T. Macmillan

.....
Solicitor to the Council and Monitoring Officer

Date: *09 / 08 / 2022*



44.8m

47.0m

College

War Memorial

HIGH STREET

The Green

CHURCH STREET

Thornleigh

Limes

Ross House

Bakery

The (Hotel):

