



COTSWOLD

District Council

COTSWOLD DISTRICT COUNCIL

REPORT

Purpose of Decision	To determine, in accordance with the Localism Act 2011, the Nomination of an Asset of Community Value for inclusion on the Cotswold District Council List of Assets of Community Value.
Decision Delegated to	Head of Service, in consultation with the relevant Cabinet Member.
Annexes	Annex 'A' - Guidance Notes Annex 'B' 1) Nomination Form 2) OC Register GR397862 3) OC Title Plan GR397862 4) OC Register GR398063 5) OC Title Plan GR398063 6) Horcott Lakes Webpage Extracts
Report Conclusion	To approve listing the Horcott Lakes as an Asset to be included on the Council's List of Assets of Community Value. The listing applies to the full HM Land Registry entry, namely Titles: GR397862, GR398063.

1. BACKGROUND

1.1. Horcott lakes (Lakes 101 and 101a and surrounding footpaths, Scout HQ and green space) hereafter referred to as the Premises has been nominated as an Asset of Community Value. The Nomination is a renomination by Fairford Town Council.

1.2. The extent of the Nomination covers the scout hut, two lakes and the surrounding land. The Premises comprises of two title numbers GR397862 and GR398063. The Premises was previously listed as an Asset of Community Value from 31/01/2020 until 30/01/2025.

1.3. Cotswold District Council is charged with determining this nomination, in line with the provisions laid out in the Localism Act 2011 and subsequent Asset of Community Value Regulations 2012.

2. EVIDENCE

2.1. Under Section 89(2)(a)(i) of the Localism Act 2011, Fairford Town Council qualifies as a body to submit a Nomination. As part of the Nomination process the District Council has received the following from the Nominator:

- Nomination Form
- Location Plan
- Parish Council Minutes

2.2. The Nomination Form states the land was formerly used for gravel extraction. This has now been exhausted. The land is now used for recreational purposes under various leases. The Nomination sets out the basis upon which the Nominator considers the Premises should be added to the Councils Assets of Community Value List. In Summary it states:

- The land is used as a recreation space for walkers, fisherman and Scout/Cub/Beaver groups. It is used for fishing by members of the Horcott Fishing Group.
- Fairford Town Council lease the footpath.
- Scout HQ is located on this Premises and used by First Fairford Scout Group, Beavers, and Cubs.

- The Nomination Form states Scouting is based upon the following programme zones: Beliefs & attitude, Communities, Fit for life, Creative expression, Global, Outdoor & adventure.
- The Nomination also goes on to mention methods of delivering various programmes, such as : Activities outdoors, Games, Design & creativity, Visits & visitors, Service, Technology & new skills, Team building activities, Activities with others, Themes, Prayer, worship & reflection.
- It is mentioned non-scouting activities listed give all of those taking part in their respective activities the opportunity to interact socially during their chosen activity, except for the usage by Fairford Fire & Rescue Service which is emergency service continuation training.
- Fairford Fire & Rescue Service use the Scout lake for water rescue drills as and when required.
- The Nomination states young people have all chosen to be members of the UK's largest mixed youth organisation. The Scout experience changes lives by offering fun and challenging activities, unique experiences, everyday adventure and the chance to help others so that we can have a positive impact within our community.
- The Horcott Fishing Lakes are used on a regular basis for angling lessons for adults and children, it helps them learn more about the sport and wildlife in the outdoors. Fairford youth group also use the Premises during the summer to learn about angling.
- It is stated the lakes are used 24 hours a day, 7 days a week throughout April – November, then roughly half the time for the rest of the season until March.
- The Nomination mentions the water bailiffs' volunteer their services daily to keep everything in order. Volunteers are on site throughout the week, trimming the trees, mowing and strimming and litter picking.

2.3. After considering the information provided by the Nominator and the evidence gathered, I have identified the following uses of the Premises. An analysis of the evidence was carried out and is presented in the following table below:

Use of Premises	Particulars	Evidence
1. Central Location/ Community Hub	- Scout HQ is located within the Premises and used by Fairford Scout Group, Beavers, Cubs, to perform various group activities - The Premises is used by Fairford Fire & Rescue Service for vital emergency service continuation training. - Fairford Youth Group use Horcott Lakes during the Summer to educate the youth about angling sports and wildlife in the outdoors	Annex B1 Nomination Form Section 4.1
2. Meeting area for Recreational/Social Activities and Cultural Interests	- Recreational space for walkers and fishermen - Recreational space for Scout/Cub/Beaver Groups - A Space for interacting socially during activities - A space for social activities for diverse groups for all ages, fostering stronger Community relationships	Annex B1- Nomination Form Section 4.1

	3. A Space for Promoting Good Health, Wellbeing and Creativity	• A space for fun and challenging activities • Offers creative expression/design • Provides the community a sense of outdoor adventure/activities • A place for visitors & visitor services • Provides team building activities • A space for learning new skills and technology • A space for activities with other themes such as prayer, worship & reflection	Annex B6- Horcott Lakes Webpage Extracts	
	4. Positive Social Cohesion for the Local Community and Beyond	• Scouts offers young people to reach their full potential. • Helps develop skills including teamwork, time management, leadership, Initiative, planning, communication, self-motivation, cultural awareness and commitment • Supports young people to get into employment • Horcott Fishing Lakes is used regularly by adults and children	Annex B1 – Nomination Form Section 4.1	

5. A Space for Sporting Interests	• Boating Activities • Water Sports • Angling/ Fishing • Fishing Lessons	Annex B6- Horcott Lakes Webpage Extracts
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2.4. As part of the process the Freehold Owner and Leasehold Owners were notified of the Nomination. They were given an opportunity to make representations to inform this decision, however no response was received.

3. VIEWS

Can the Premises be Listed?

3.1. Before applying the tests, it is necessary to consider whether the Premises is a type of property that can be listed as an Asset of Community Value.

3.2. Under Regulation 3 of the Regulations "a building or other land within a description specified in Schedule 1 is not land of community value (and therefore may not be listed). Within Paragraph 1 of Schedule 1 it states the following:

(1) Subject to sub-paragraph (5) and paragraph 2, **a residence together with land connected with that residence.**

(2) In this Paragraph, subject to sub-paragraphs (3) and (4), land is connected with a residence if –

(a) the land, and the residence, are owned by a single owner; and

(b) every part of the land can be reached from the residence without having to cross land which is not owned by that single owner.

(3) Sub-paragraph (2)(b) is satisfied where a part of the land cannot be reached from the residence by reason only of intervening land in other ownership on which there is a road, railway, river or canal, provided that the additional requirement in sub-paragraph (4) is met.

(4) The additional requirement referred to in sub-paragraph (3) is that it is reasonable to think that sub-paragraph (2)(b) would be satisfied if the intervening land were to be removed leaving no gap.

(5) Land which falls within sub-paragraph (1) may be listed if—

(a) the residence is a building that is only partly used as a residence; and

(b) but for that residential use of the building, the land would be eligible for listing.

Paragraph 2

For the purposes of paragraph 1 and this paragraph—

(a) “residence” means a building used or partly used as a residence;

(b) a building is a residence if—

(i) it is normally used or partly used as a residence, but for any reason so much of it as is normally used as a residence is temporarily unoccupied;

(ii) it is let or partly let for use as a holiday dwelling;

(iii) it, or part of it, is a hotel or is otherwise principally used for letting or licensing accommodation to paying occupants; or

(iv) it is a house in multiple occupation as defined in section 77 of the Housing Act 2004; and

(c) a building or other land is not a residence if—

- (i) it is land on which currently there are no residences but for which planning permission or development consent has been granted for the construction of residences;
- (ii) it is a building undergoing construction where there is planning permission or development consent for the completed building to be used as a residence, but construction is not yet complete; or
- (iii) it was previously used as a residence but is in future to be used for a different purpose and planning permission or development consent for a change of use to that purpose has been granted.

3.3. It was previously noted the Premises was a former gravel extraction site, now comprising of a number of small bodies of water and scrub land, there is also a building, used as a scout hut. Neither the land nor the building fall into any category which is exempt from Nomination.

3.4. After considering and analysing all the information provided by the Nominator, I have identified the following main principal uses of the Premises.

- Angling activities, this covers the use of the land and surrounding areas by anglers. This suggests fishing as a primary organised activity taking place on the site.
- Scouting and community use, this compromises the use of the scout hut and surrounding area by scouts and others. This highlights the facility's role as a base for organised youth activities like scouts and other community groups.
- The site attracts casual public use by local residence as well as others from afar. This signifies informal, less structured public access for general recreational purposes by both the community and visitors.

3.5. It is clear to see the Premises has a valuable social and educational element which highly benefits the local area as well as providing a place for the local community and visitors to get together and create social cohesion. The Premises also promotes protecting the natural environment promoting biodiversity and learning for present and future generations old and young which no doubt further the social wellbeing or social interests of the local community.

3.6. I would therefore suggest, Horcott Lakes is a type which can be listed as long as it satisfies the criteria set out in Section 88.

The Tests

3.7. There are two tests the District Council must consider to be able to List a property as an Asset of Community Value.

3.8. The First Test set out in Section 88(1) is:

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

b) Is it 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.

3.9. The Second Test set out in Section 88 (2) of the Act is:

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

b) is it 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.”

3.10.If the answer to both questions in either test is ‘yes’ the Premises should be added to the Council’s List. If the answer to either question is ‘No’ within either test, then the Premises should not be listed and should be added to the unsuccessful list.

3.11.It should be noted that there is no statutory definition of “recent past”. Tribunal decisions have indicated that the expression is a relative concept and what constitutes ‘recent past’ will depend on all the circumstances in every particular case. Using a public house as an example, if a public house has been used as a public house for 200 years then the “recent past” might be a longer period than if for a public house that has been used as such for 20 years.

3.12.Guidance provided by the Ministry of Housing, Communities and Local Government states that it will “leave it to the local authority to decide, since “recent” can be viewed differently in different circumstances”.

3.13.It is a matter for the District Council whether they consider the Premises has met the test set out in the legislation.

3.14. The Premises is open and presently serving and offering services and activities to the residents and wider public. Given this, the District Council will be basing their recommendation from the analysis of both parts of the first test set out in section 88.

Present Qualifying Use’ Test – S.88(1)(a)

Addressing the first part of the test it is clear the Premises is currently operating to the public and has been providing services that further the social wellbeing and social interests of the local community. Evidence shows the Premises provides

opportunities for engagement and healthy recreation, encouraging collaboration, and shared responsibility, promoting stronger community relationships. This contributes positively to the overall wellbeing of Local residents.

3.15. The Premises presently offers unique experiences through activities like scouting and fishing, also community engagement through various activities and volunteering which supports personal development, teamwork and skills building. This highlights the increasing of social interactions across diverse groups and community bonding.

3.16. As well as the huge community benefits the Premises highlights environmental awareness offering opportunities to learn about local wildlife, conservation and use of green space. This helps develop skills and knowledge and opportunities for lifelong learning through youth programs, adult engagement and community led initiatives.

3.17. The current use of the site is considered the principle use and not deemed ancillary to any other uses. These Principal uses demonstrate they serve key interests as defined by the Localism Act, specifically cultural interests, recreational interests, sporting interests. The Premises clearly demonstrates the primary function of the site activities is to meet the cultural, recreational, sporting needs of the local community, given all the evidence I believe the test in S.88(1)(a) has been met.

‘Anticipated Continuing Qualifying Use’ Test – S.88(1)(b)

3.18. In relation to the second part of the test, the Nominator has identified that the Premises continues to hold an important and valued role within the local community.

3.19. Feedback from local residents indicates strong ongoing interest in ensuring that the Premises remains publicly accessible and continues to deliver the range of community benefits currently associated with it. Evidence demonstrates that the

Premises has been used for many years as a setting for community cohesion and well-being, helping to foster a sense of belonging and to strengthen community bonds.

3.20. Tribunal decisions have consistently emphasised that the relevant consideration under the test is whether “**it is realistic to think**” that non - ancillary community use will continue, rather than requiring certainty that such use will continue. This principle was highlighted in *Patel v London borough of Hackney 2013*, which, although focused on a public house, provides a clear expression of the general legislative intention.

3.21. The legislation also clarifies that the future uses which are considered realistic by the Council do not need to mirror those currently taking place. What matters is that the future use would further the social well-being or social interests of the local community.

3.22. Given the stated community support for the Premises and the pattern of longstanding community use it is reasonable to conclude that non ancillary use of the site will continue in a manner that advances the social interests and social well-being of the community. The available evidence shows that the Premises is well maintained actively used and continues to provide meaningful benefits to both local residents and visitors.

3.23. The current activities taking place involving a combination of social engagement, educational opportunities and the responsibility of the environment clearly suggest it is realistic to think that there is a non-ancillary use of the Premises which will continue and will further the social wellbeing and social interests of the local community.

3.24. Given the above I do not need to consider the test set out in section 88(2).

Conclusion

3.25. Based on the above tests, I conclude the Premises should be listed as an Asset of Community Value.

Sahana Akthar
Assets of Community Value Officer