

SECTION 88 OF THE LOCALISM ACT 2011

NOMINATION FOR THE ENTRY OF LAND KNOWN AS MAIDENHEAD GOLF COURSE ONTO THE ROYAL BOROUGH OF WINDSOR AND MAIDENHEAD COUNCIL'S LIST OF ASSETS OF COMMUNITY VALUE DECISION APPLICATION NUMBER ACV 52507

1. This decision is taken in respect of the nomination of land to be registered as an asset of community value.
2. In the nomination form the land is referred to as the land and building at Maidenhead Golf Course, Shoppenhangers Lane, Maidenhead, SL6 2PZ known as ("the Property").
3. The Local Authority is firstly required to consider whether the community nomination is valid. I note that the nomination is submitted by Maidenhead Golf Course Community Interest Company (Company number 13981938) ("the Nominator") whose activities are listed as being within the area of Windsor and Maidenhead. The nominee has included all the relevant information required regarding the description of the Property on the nomination form, having described the property as *"132 acres of... green space to the south west of Maidenhead town centre bordered by Harvest Hill, Shoppenhangers Road, Walker Road and Rushington Avenue."* Reference was also made to the entry for Maidenhead Golf Course in the property portfolio listing of the local authority. No plan was submitted with the application initially but a rough Google map was produced on request. The rough nature of that might result in the red boundary imposed on the Google map encroaching onto an area of land in private ownership on the eastern boundary and I have substituted a plan based on Land Registry data for this decision notice for the avoidance of doubt.
4. Details have been given of current occupiers and the freeholder and reasons for listing. I am therefore satisfied that the requirements of regulations 4, 5 and 6 of the Assets of Community Value (England) Regulations 2012 ("the Regulations") have been met.
5. Moving to the appropriate statutory conditions to be satisfied before land may be listed as an asset of community value, these are contained in section 88(1) of the Localism Act 2011 ("the Act") with three categories of land excluded from the operation of the listing regime in accordance with Schedule 1 to the Regulations namely residences, caravan sites and land held by a statutory undertaking for its operation. I am satisfied that the latter two categories do not apply and the Property is not residential land and therefore does not fall within any of the excluded categories.
5. The freehold title of the Property is registered at H M Land Registry and the freehold owner is The Royal Borough of Windsor and Maidenhead. Its Land Registry title number is BK453678. A leasehold interest is registered in the name of Maidenhead Golf Club Limited at H M Land Registry under Title number BK315991.
6. The Local Authority has approached the freeholder and leaseholder for comment in accordance with Regulation 8 of the Regulations. Both were notified by email regarding the nomination and provided with a time period to comment on the same. Each has acknowledged receipt of our communication. The freeholder has commented but the leaseholder has not.
7. The Property is not in an area with a parish council so there was no need to notify a Parish Council of the nomination.

8. This decision is made, therefore, on the basis of the information provided by the Nominator as set out in the nomination form annexed with this decision, taking into account further submissions by the Nominator and also the submissions of solicitors acting for the freeholder.

9. Section 88(1) of the Act provides that for a building or land in a local authority's area to be registerable as of community value the authority must be of the opinion that:

- (a) an actual current use of the building or other land that is not ancillary use furthers the social wellbeing or social interests of the local community; and
- (b) It is realistic to think that there can continue to be non-ancillary use of the building or other land which will further (whether or not in the same way) the social wellbeing or social interests of the local community.

10. Section 88(6) of the Act provides that "social interests include (in particular) each of the following-
(a) cultural interests, recreational interests, sporting interests".

11. In considering whether there is actual current use of the land which is non-ancillary and which furthers the social wellbeing or social interests of the local community (section 88(1)(a) of the Act), the test is applied on a case-by-case basis to the facts of each nomination. This is further extended by s88(2) of the Act to land which has furthered the social wellbeing or social interests of the local community in the "recent past" and which it is realistic to consider will do so again in the next 5 years.

11. The nomination form references use of the Property as a golf course and as an area of green open and wooded space. The golf course is still in use and has been for approximately 126 years. For the purposes of the Act, the current use or "recent past" is the relevant consideration and this test is therefore clearly met.

12. Maidenhead Golf Club provides locals and local school children with opportunities to learn and play golf providing social interaction and sporting activities. It is a private club but one whose membership, according to its website, is open to all.

13. Due to reference being made in the nomination for use being made by many in the community of the clubhouse and that being an asset of community value also I requested further details of this from the Nominator. The response that I received from the Nominator was that many groups use and have used the clubhouse over recent years. The Nominator could not obtain a full list as it was not entitled to receive that from the leaseholder, but it understands from its own supporters that users include local Weight Watchers groups; Rotary clubs; local Masonic groups; The Japanese Nippon club; locally trading companies and that funeral wakes are also held there.

15. As the use of the Property for sporting and social activities is still current at the date of the Nomination and the date of this decision I consider that despite the lease to Maidenhead Golf Club and the private nature of that club (the leaseholder) that the Property has been used currently and in the recent past for the social wellbeing and interests of the local community and such use was not ancillary so that the first limb of s88 (2)(1)(a) of the Act is met.

16. The nomination form also references the benefit of the green open and woodland space at the Property and its benefits to the local community both in terms of the opportunities it offers to use footpaths across the golf course to connect to other open spaces such as Braywick Park and Braywick Leisure Centre. It also refers to the benefit the golf course plays as a space for wildlife and how it acts as a "green lung" for Maidenhead and its possible benefit in helping to combat the effects of climate change.

16. The second part of the test to be satisfied in s88(2)(1)(b) of the Act is that the authority must be of the opinion that it is realistic to think that there can be a use which is not ancillary and need not be the same use as before but will further the social wellbeing or social interests of the local community could take place at the Property in the next 5 years.

17. I am mindful that this part of the test requires a determination of the realistic possible uses of the land going forward and that that possibility need not be the probable outcome and that it is enough that it is one of a number of possibilities. The application cites possible uses of the Property . I can see from the information provided about a petition signed by 4448 against the development of the Property that there is local enthusiasm for the retention of the Property for local sporting and social activities. I consider this provides enough support to constitute the second limb of s88(2)(1)(b) being met.

18. Arguments have been raised with me that the Asset of Community Value regulations were not designed to cover an asset such as a golf course with such extensive acreage nor assets run as private clubs. I have dealt with whether the private nature of the Maidenhead Golf Course is a bar to asset of community value status being granted. I do not consider that it is. Furthermore, I am aware of the decision on appeal in the case of *SWINTON PARK GOLF AND COUNTRY CLUB 2017 LIMITED v SALFORD CITY COUNCIL* heard by the First Tier Tribunal on 16 January 2023. This was an appeal against a decision by Salford City Council to list Swinton Park Golf and Country Club as an asset of community value. That Club had recently been closed and a restrictive covenant on part of the land required it to only be used as a golf club and golf course. A number of objections had been raised as part of the appeal against the listing as an asset of community value to include, but not be limited, the following:

- private nature of the club meant that the public did not truly have use of the asset/ the land had never been open to the public;
- the re-establishment of a golf club at the land was not realistic (falling numbers of members and other arguments);
- the land has considerable value and it was not realistic to think that a community group could raise sufficient monies to acquire the land.

19. The First Tier Tribunal dismissed the appeal. The Swinton Park Golf and Country Club listing as an asset of community value was therefore upheld. A copy of the decision is attached. The appellant in that case was arguably in a better position than any objector to this application would be currently in that Swinton Park Golf and Country Club had already closed by the time of the nomination. In this case, the Property is still in use as a golf course.

20. Having regard to the evidence provided in support of the nomination therefore, I find that the current and recent past use of the Property is not an ancillary use and that it furthered the social wellbeing or social interests of the local community. I also conclude that it is realistic to think 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 in the next 5 years and thus according to the requirements of the Act the land should be added to the Local Authority's register of assets of community value. I am emboldened in this decision by the tests applied by the First Tier Tribunal in the Swinton Park case and the outcome of that appeal.

Dated: 19 November 2024

Jacqueline Cooper

Solicitor

Legal Services ,Royal Borough of Windsor and Maidenhead

