

Tilehurst Allotments Society

Your contact is: Charan Dhillon - Assistant Director Property and Asset Management

Dear Sir/Madam,

**ASSET OF COMMUNITY VALUE NOMINATION - Tilehurst Allotments and adjacent land, Armour Hill, Reading**

**DETERMINATION UNDER SECTION 90 OF THE LOCALISM ACT 2011**

I acknowledge receipt of your form dated 14 December 2021 nominating Tilehurst Allotments and adjacent land, Armour Hill, Reading, for inclusion on the Council's List of Assets of Community Value under the Community Right to Bid provisions of Chapter 3 of the Localism Act 2011.

I am responding to you as the officer to whom the Council has delegated authority to consider and determine community nominations under Section 90 of the Localism Act 2011.

In considering and determining your community nomination, the Council is required under Section 89 to consider whether the nomination has been made by a body listed under Section 89(2)(b), a local parish council or a voluntary or community body with a local connection.

The Council is also required under Section 90(3) to consider whether the land nominated (a) is in the authority's area; and (b) is of community value.

I am satisfied that Tilehurst Allotments Society was entitled to make a community nomination because it is an unincorporated body whose members include at least 21 individuals, and which does not distribute any surplus it makes to its members. The site you have nominated, Tilehurst Allotments and adjacent land is in the local authority's area.

Section 88 of the Localism Act 2011 defines land of community value. This is land and buildings where, in the opinion of the local authority, its actual current use furthers the social wellbeing or social interests of the local community, and it is realistic to think that the same or another such use will continue; or where there was such a use in the recent past which it was realistic to think could exist within the next five years.

## Reason for Decision

Only part of the land (the Allotments) included in the nomination could possibly qualify as land which furthers the social wellbeing or social interests of the local community.

The nomination in its entirety does not meet the criteria that is used to determine if a nomination can be listed as the actual current use of the land that is not an ancillary use does not further the social wellbeing or social interests of the local community therefore the decision is to refuse the nomination to list Tilehurst Allotments and adjacent land as an ACV.

Whilst the actual current use of the allotments does appear to further the social wellbeing or social interests of the local community, access to the allotment is included within personal agreements and not public access.

The builders yard is used commercially and therefore not used by the local community.

There is insufficient information provided in the nomination to satisfy the Council that the local community has any actual current use of the withies, woodland and surrounding area therefore the nomination does not meet the criteria for listing.

However, a nomination for the allotment land only may be considered as an asset of community value but, as it is land in use by members of the community under personal agreements it is noted that the general public do not have the right to use the allotments for leisure purposes. It is noted the use of the allotments are by way of Allotment Tenancy Agreements.

Legal Services advise in considering a nomination to list property as an asset of community value, it is important that the Council (as listing authority) reaches a decision on the basis of the following criteria laid out in the Localism Act 2011 and Assets of Community Value Regulation 2012:

a) Is the applicant capable of making an application? The applicant is a community group and therefore qualifies under the Act.

b) Can the listing authority list the whole site or part only? There is nothing in the Act nor the Regulations which actively prevents the listing. Any decision to list part or whole will be fact specific. There is nothing in the Act to suggest Parliament intends to forbid listing authorities to take what might appear in some cases to be the “fair and sensible course”.

c) What land or site can be listed - i.e. can allotment land be listed? This is another area where the Act and Regulations are silent. Case law indicates that a variety of sites have been listed by listing authorities across the country. It is safe to assume that there is nothing that prevents the Council from listing the allotments as an asset of community value if it considers the use as it relates to the community. The use of the land has been considered in this report and it has been decided that the land is not within community use. As such it does not meet the criteria under the Act.

d) Is the application valid? The final question of whether the application is valid has already been addressed in this report.

On the basis of the above advice from Legal Services, I cannot recommend approving the current nomination which seeks to list the Tilehurst allotments and adjacent land as an ACV.

Under Section 93(1) of the Localism Act 2011 the Council is required to maintain a separate list of unsuccessful community nominations, and the reasons for not including the land in the authorities

list of assets of community value. This entry will appear on the Council's website, with this letter attached to the entry for Tilehurst Allotments and adjacent land.

Yours faithfully,

A handwritten signature in black ink, appearing to be 'CD' with a stylized flourish.

Charan Dhillon  
Assistant Director of Property & Asset Management