

EXECUTIVE DECISION NOTICE

SERVICE AREA:	GOVERNANCE & PENSIONS
SUBJECT MATTER:	APPLICATION FOR LAND AT GREAVES STREET AND CROSS STREET, MOSSLEY (REF: CA17)
DECISION:	Part of the land known as land at Greaves Street and Cross Street, Mossley and referred to herein as the 'Disposal Land' and more particularly, shown shaded green on the plan at page A2 of the paginated bundle of documents at Annex A BE REMOVED from the Council's list of Assets of Community Value.
DECISION TAKER(S):	Sandra Stewart
DESIGNATION OF DECISION TAKER (S):	Director of Governance and Pensions (Borough Solicitor)
DATE OF DECISION:	16 November 2021
REASON FOR DECISION:	<p>The Council has received an application for part of the land at Greaves Street and Cross Street, Mossley to be removed from its register of Assets of Community Value. Under the Assets of Community Value (England) Regulations 2012, Regulation 2(b) a local authority must as soon as practicable after receiving information that enables it to do so amend the list of Assets of Community Value. A local authority must exclude any land that has since it was included in the list been the subject of a relevant disposal (other than an exempt disposal).</p> <p>On the information provided the Council is of the opinion that there has been a relevant disposal (which is not an exempt disposal) of the land referred to herein as the 'Disposal Land' shown shaded green on the plan at page A2 of the paginated bundle of documents at Annex A. For this reason, the Council should remove the Disposal Land from its list of Assets of Community Value.</p>
ALTERNATIVE OPTIONS REJECTED (if any):	To refuse to remove the land from the Council's list of Assets of Community Value. To do so would be contrary to the Localism Act 2011 and Assets of Community Value (England) Regulations 2012.
CONSULTEES:	None
FINANCIAL IMPLICATIONS: (Authorised by Borough Treasurer)	There are no immediate financial implications as a result of this report. Where land is listed as an ACV there is provision within the Act for the payment of compensation by the Council to an owner who has suffered loss as a result of listing land as an ACV.
LEGAL IMPLICATIONS: (Authorised by Borough Solicitor)	Under the Localism Act 2011 and the regulations made under it, the Council must make amendments to entries on its list of assets of community value where information comes to its notice to enable it to do so, including removing land where

	there has been a relevant disposal which is not an exempt disposal. The Act and Regulations prevents a landowner from making a relevant disposal (which is not an exempt disposal) without first giving a Community Interest Group the opportunity to bid for the land.
CONFLICT OF INTEREST:	None
DISPENSATION GRANTED BY STANDARDS COMMITTEE ATTACHED:	None applicable
ACCESS TO INFORMATION:	<p>The background papers relating to this report are at Annex A and can be inspected by contacting the Report Writer, Esther Young, Solicitor by:</p> <p> Telephone: 0161 342 3043</p> <p> E-mail: esther.young@tameside.gov.uk</p>

Sandra Stewart

Signed Dated: 16 November 2021
Sandra Stewart – Director of Governance & Pensions

EXECUTIVE DECISION REPORT

SERVICE AREA:	GOVERNANCE & PENSIONS
SUBJECT MATTER:	APPLICATION FOR LAND AT GREAVES STREET AND CROSS STREET, MOSSLEY (REF: CA17)
DATE OF DECISION:	16 November 2021
DECISION TAKER(S):	Sandra Stewart
DESIGNATION OF DECISION TAKER (S):	Director of Governance and Pensions (Borough Solicitor)
REPORTING OFFICER:	Esther Young, Solicitor
REPORT SUMMARY:	The report acknowledges receipt of an application on behalf of the owner of land at Greaves Street and Cross Street, Mossley for part of the land to be removed from the Council's list of Assets of Community Value under the provision of Regulation 2(b) of Assets of Community Value (England) Regulations 2012.
RECOMMENDATION:	Part of the land known as land at Greaves Street and Cross Street, Mossley and referred to herein as the 'Disposal Land' and more particularly, shown shaded green on the plan at page A2 of the paginated bundle of documents at Annex A be removed from the Council's list of Assets of Community Value.
JUSTIFICATION FOR THE DECISION:	<p>The Council has received an application for part of the land at Greaves Street and Cross Street, Mossley to be removed from its register of Assets of Community Value. Under the Assets of Community Value (England) Regulations 2012, Regulation 2(b) a local authority must as soon as practicable after receiving information that enables it to do so amend the list of Assets of Community Value. A local authority must exclude any land that has since it was included in the list been the subject of a relevant disposal (other than an exempt disposal).</p> <p>On the information provided the Council is of the opinion that there has been a relevant disposal (which is not an exempt disposal) of the land referred to herein as the 'Disposal Land' shown shaded green on the plan at page A2 of the paginated bundle of documents at Annex A. For this reason, the Council should remove the Disposal Land from its list of Assets of Community Value.</p>
ALTERNATIVE OPTIONS REJECTED (if any):	To refuse to remove the land from the Council's list of Assets of Community Value. To do so would be contrary to the Localism Act 2011 and Assets of Community Value (England) Regulations 2012.
CONSULTEES:	None

FINANCIAL IMPLICATIONS: (Authorised by Section 151 Officer)	<p>There are no immediate financial implications as a result of this report. Where land is listed as an ACV there is provision within the Act for the payment of compensation by the Council to an owner who has suffered loss as a result of listing land as an ACV.</p>
LEGAL IMPLICATIONS: (Authorised by Borough Solicitor)	<p>Under the Localism Act 2011 and the regulations made under it, the Council must make amendments to entries on its list of assets of community value where information comes to its notice to enable it to do so, including removing land where there has been a relevant disposal which is not an exempt disposal. The Act and Regulations prevents a landowner from making a relevant disposal (which is not an exempt disposal) without first giving a Community Interest Group the opportunity to bid for the land.</p>
RISK MANAGEMENT:	<p>If the Council decides not to remove the land from its ACV list, the land owner has no statutory right to review the Council's decision but may seek to have the decision reviewed by the courts through Judicial Review proceedings.</p>
LINKS TO COMMUNITY PLAN:	<p>Growing and encouraging local community groups to take responsibility for delivering some services in their local area helps to reduce dependency on public services and build community spirit and self-worth for those involved.</p>
ACCESS TO INFORMATION:	<p>The background papers relating to this report are at Annex A and can be inspected by contacting the Report Writer, Esther Young, Solicitor by:</p> <p> Telephone: 0161 342 3043</p> <p> E-mail: esther.young@tameside.gov.uk</p>

1. BACKGROUND

- 1.1 The Localism Act 2011 (“the Act”) and the Assets of Community Value (England) Regulations 2012 (“the Regulations”) provide a legal framework for listing Assets of Community Value.
- 1.2 The Act requires the Council to maintain a list of land in Tameside that is land of community value, known as a list of Assets of Community Value (ACV).
- 1.3 The effect of a property’s inclusion on the list is to require the owner of the property to notify the Council when intending to dispose of a listed asset, so triggering a moratorium period. The moratorium operates so as to prevent certain proposed disposals of the land being made to anyone other than a Community Interest Group (ie. a parish council, a charity or a relevant incorporated body) until several specified conditions are met. These conditions are:
 - (a) the owner has notified the council that he wishes to enter into a relevant disposal;
 - (b) a period of 6 weeks has then passed without the local authority receiving a written request from a Community Interest Group to be treated as a potential bidder for the land (the interim moratorium period) or, if such a request has been made, a total period of 6 months has passed (the full moratorium period); and
 - (c) an 18 month ‘protected period’ starting with the date of the owner’s notification to the local authority, has not ended.
- 1.4 The owner is not compelled at any point to sell the asset to a Community Interest Group; rather he cannot sell it to anyone else within the moratorium period. The owner can sell the property at any price that he can obtain or not at all as the case maybe. There is no obligation whatsoever for the owner to negotiate or deal with the Community Interest Group.
- 1.5 There are various requirements imposed by the Act and the Regulations as to what the ACV list should contain. Once land is listed as an ACV, the entry in principle stays on the list for 5 years from the date of the entry, but the intention is that a local authority will keep the list up to date if circumstances change. Land can be removed from the list sooner than five years if permitted or required by the Regulations (Section 87(3) of the Act).
- 1.6 Regulation 2 requires a local authority as soon as practicable after receiving information that enables it to do so to make the following amendments to an entry on the list. Amend or, as the case may be, remove the entry so as to exclude any of the land that has since it was included in the list been the subject of a ‘relevant disposal’ other than one referred to in section 95(5) of the Act.
- 1.7 A ‘relevant disposal’ is one of the following:
 - (a) A disposal of the freehold estate in land with vacant possession;
 - (b) A grant or assignment of a ‘qualifying leasehold estate’ in land with vacant possession. A ‘qualifying leasehold estate means an estate by virtue of a lease of the land for a term which, when granted, had at least 25 years left to run.
- 1.8 If a relevant disposal is made in pursuance of a binding agreement to make it, the disposal is entered into when the agreement becomes binding.
- 1.9 Exempt disposals referred to in section 95(5) of the Act are disposals excluded entirely from the notification and moratorium requirements. For example; a disposal by gift, by personal representatives of a deceased person, a disposal to a family member, the disposal of a business as a going concern or certain disposals by trustees and partners in a partnership.
- 1.10 The effect of Regulation 2 is that where the community has had the opportunity to use the moratorium rules in relation to a particular disposal, a local authority then removes land

from the list once it receives a request to do so.

2. APPLICATION FOR THE REMOVAL OF PART OF THE LAND AT GREAVES STREET AND CROSS STREET FROM THE ACV LIST

- 2.1 The Council added land at Greaves Street and Cross Street (the 'Land') to the register of Approved ACV Applications on 6 January 2018 following a nomination by Mossley Town Council. The Council then received notification on 6 September 2019 that the owners of the Land intended to enter into a relevant disposal of the part of the Land, which is shown coloured green on the plan at **A2** of the bundle of documents annexed (the 'Disposal Land'). A copy of the notification and acknowledgement is at **A1–A5**.
- 2.2 The notification triggered an initial moratorium period of 6 weeks lasting until 18 October 2019. The Council wrote to Mossley Town Council and Mossley Ward Councillors to let them know that the owners intended to dispose of the Disposal Land. The Council also published a notice in the Tameside Reporter newspaper in accordance with the requirements of section 97 of the Act. See **A6-A13**. The AVC register published on the Council's website at [Assets of Community Value \(tameside.gov.uk\)](https://assets.tameside.gov.uk) was updated to include a plan of the Disposal Land and details of the moratorium periods, which would apply.
- 2.3 On 15 October 2019, during the initial moratorium, Mossley Town Council wrote to confirm they wished to be treated as a potential bidder for the Disposal Land. This was sufficient to trigger a full moratorium lasting until 6 March 2020, during which the owners could only enter into a relevant disposal of the Disposal Land with a community interest group. The 18 month 'protected period' would last until 6 March 2021. The correspondence relating to this with the Town Council and the Owner's representative is at **A14-A18**.
- 2.4 A disposal to a Community Interest Group did not take place during the full moratorium. In April 2020, the Solicitor acting for the owner of the Land contacted the Council requesting clarity on the requirements and procedure for an application for the Disposal Property to be removed from the ACV list following completion of a relevant disposal. Legal Services received further enquiries from Solicitor's acting for prospective purchasers in September/October 2020 and in March 2021.
- 2.5 On 29 October 2021 the Council received a letter from Dwyers Solicitors, acting on behalf of Colin Campball requesting that the part of the property, which transferred to their client (the Disposal Land) be removed as an ACV. The letter confirmed that there had been a relevant disposal on 5 March 2021 following compliance with section 91(1) of the Act. A copy of the Transfer from the Land owner to Mr Campball was enclosed, the land transferred is shown coloured green on the Transfer Plan at **A24**. A copy of the correspondence and transfer is at **A20-A38**.
- 2.6 The Council can therefore be satisfied that there has been a relevant disposal of the Disposal Land other than one referred to in section 95(5) of the Act following the end of the full moratorium period and during the protected period.
- 2.7 The Council received a notification on 5 November 2021 that the owner intends to dispose of the remaining part of the Land, which is included on the ACV list (shown edged black but not coloured on the Transfer Plan). This area of land will remain on the Council's ACV register but is subject to the moratorium period(s) and protected period that will now apply following receipt of the notice in accordance with the Act and Regulations. The details are available on the ACV register at [Assets of Community Value \(tameside.gov.uk\)](https://assets.tameside.gov.uk)

3. PROCEDURE FOLLOWING REMOVAL OF AN ACV FROM THE REGISTER

- 3.1 If land is removed from a local authority's ACV list, the Council must give notice to the owner and any occupier of the land, and the person who made the nomination but is not required to consult prior to making a decision. The notice must state the reasons for the removal.
- 3.2 The nominator has no formal right to appeal a decision to remove land from the Council's ACV register. However as a decision of a public body any decision could be challenged by judicial review if the correct procedures have not been followed, or the decision made is either irrational or disproportionate. There is also nothing in the ACV provisions, which would prevent a fresh nomination of land being made either immediately or in the future and this would need to be considered on the evidence and merits.

4. RECOMMENDATIONS

- 4.1 As detailed at the front of the report.