

Bromsgrove District Council

Record of a Council/Committee/Cabinet Decision delegated to be made by an Officer

This includes a record of an Executive Decision made by an officer under Regulation 13, Part 4 of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 and other Decisions under the Openness of Local Government Bodies Regulations 2014

Item decided: Asset of Community Value Registration Request by Tardebigge New Wharf Community Association and Tardebigge New Wharf CIC15	
Decision: That application be rejected for the reasons set out below	
Officer who has taken the decision	Ruth Bamford - Assistant Director of Planning, Regeneration, Leisure and Culture Services
Date of the decision	14 th August 2025
Reason for the decision	<p>Legal checks have established that the application will not be able to proceed as the land in question is classed as land that is not eligible to be listed as an asset of community value by virtue of it being operational land.</p> <ol style="list-style-type: none">1. The Localism Act 2011 sets out the various tests for an Asset of Community Value. Section 88(3)(a) states that regulations may provide that a building or other land is not land of community value if the building or other land is specified in the regulations or is of a description specified in the regulations.2. The Assets of Community Value (England) Regulations 2012 define categories of land that may not be listed. Specifically, paragraph 4 of Schedule 1 states that land which is not of community value (and therefore may not be listed) includes operational land as

	<p>defined in section 263 of the Town and Country Planning Act 1990.</p> <ol style="list-style-type: none">3. The definition of operational land under the Town and Country Planning Act includes land operated by “statutory undertakers” for the purposes of carrying out their undertaking; and land in which an interest is held for that purpose.4. The land which is subject to the application is owned by the Canal and River Trust. The Trust is a statutory undertaker in relation to waterways under Section 262 of The Town and Country Planning Act 1990. The Trust is responsible for 2,000 miles of canals, waterways and associated infrastructure in England and Wales, as a result of having had the powers transferred to it from the British Waterways Board by Section 2 of the British Waterways Board (Transfer of Functions) Order 2012.5. The Canal and Rivers Trust website summarises the position as follows:- <i>“any land acquired by the Trust (or its predecessor, British Waterways) prior to 6 December 1968 and held for operational purposes is 'operational land' as per subsection (1) of Section 264 of The Town and Country Planning Act 1990 (as amended). Furthermore, under subsection (3) of Section 264, any land acquired after 6 December 1968 will be considered as 'operational land' if it benefits (or has at some time benefited from) a specific grant of planning permission for the purpose of carrying on the Trust's undertaking. Operational land held by the Trust includes but is not limited to the waterspace, operational yards and facilities, waterway infrastructure and</i>
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	<p><i>associated land, boatyards, docks, harbours, quays, wharves, canals and towpaths”.</i></p> <p><u>Conclusion</u></p> <p>The application must be rejected because the land is owned and operated by a statutory undertaker and as such is outside of the regime of listing under the Localism Act 2011.</p> <p>The Tardebigge New Wharf application will be added to the unsuccessful application list and will be recorded as: -</p> <p>“Did not meet the test of being land which could be listed under section 88(3)(a) of the Localism Act 2011, Schedule 1 paragraph 4 of the Assets of Community Value (England) Regulations 2012 and sections 262 to 264 of the Town and Country Planning Act 1990 by reason of the land being classed as operational land.”</p>
<p>Date and source of Delegated Decision (if appropriate)</p>	<p>N/a</p>
<p>Council/Portfolio/other member consulted – if applicable</p>	<p>N/a</p>
<p>Any interest declared by the Consultee - a note of dispensation granted by the Head of Paid Service is attached</p>	<p>N/a</p>
<p>Any interest declared by the Officer – a note of dispensation granted by the Head of Paid Service is attached</p>	<p>N/a</p>