

ASSETS OF COMMUNITY VALUE – COMMUNITY RIGHT TO BID NOMINATION – DELEGATED AUTHORITY:
The Jolly Tanners, Handcross Road, Staplefield, West Sussex, RH17 6EF

Report to:	Peter Stuart , Head of Corporate Resources Cllr Judy Llewellyn-Burke , Deputy Leader and Cabinet Member for Facilities and Corporate Estates	Date: 03/09/2020
Author:	Sarah Durber , Estates Technical Officer	

Authority under Recommendation 2.3 of the Cabinet Report dated 14th January 2013 (Assets of Community Value – Community Right to Bid) which authorises the Property and Assets Maintenance Manager ***“in consultation with the Cabinet Member for Planning & Regeneration or such other Cabinet Member as may be nominated by the Leader of the Council to determine any application under the Localism Act to list any building and/or land as an asset of community value”***.

Under this authority, the Head of Corporate Resources approves the following proposal: -

Background

1. The Community Right to Bid was introduced by Part 5 of Chapter 2 of the Localism Act 2011, which requires the Council to maintain a list of land in its area that is of community value, which list is known as the Council's List of Assets of Community Value and the Act, and the Assets of Community Value (England) Regulations 2012 establishes the regime for nominating and determining whether land and buildings should be entered onto the Council's List of Assets of Community Value.
2. Section 88 of the Act sets out the qualifying criteria that must be satisfied in order to be listed as an Asset of Community Value ("ACV").
3. Section 88(1) concerns land that is in actual use at the time of the nomination and furthers community use, and provides as follows:
"a building or other land in a local authority's area is land of community value if in the opinion of the authority:
 - (i) an actual current use of the building or other land that is not an ancillary use furthers the social wellbeing or social interests of the local community, and
 - (ii) 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."
4. Section 88(2) concerns land that has in the recent past furthered community use and provides as follows:
"a building or other land in a local authority's area that is not land of community value as a result of subsection (1) is land of community value if in the opinion of the local authority:
 - (i) there is a time in the recent past when an actual use of the building or other land that was not an ancillary use furthered the social wellbeing or interests of the local community, and
 - (ii) it is 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."
5. The statutory regime contains no definition of 'social wellbeing' or 'social interests' of the community. Section 88(6) of the Act expressly provides that 'social interests' include, in particular, cultural, recreational or sporting interests, but the phrase is not confined to those interests. Each local authority is to decide what interests it considers falls within the phrase. Social wellbeing could easily be described as those aspects of life that society collectively agrees are important to a

person's happiness, quality of life and welfare. Being able to socialise with others, whether through a common interest or not, would easily satisfy that description and a venue that facilitates such social communion could easily be seen to meet the social interests of the community.

6. The trigger for starting the listing process is the giving of a community nomination to the listing authority. A local authority has no power itself to list an ACV or to initiate the nomination process. There is no requirement that the owner be contacted by the nominator prior to the nomination and therefore, the first that the owner may become aware of a nomination is notification from the listing authority.
 7. Once a listing authority has received a community nomination, the listing authority has a duty to process the nomination within 8 weeks of receipt and must during that time determine whether the persons who have submitted the nomination qualify as a nominator and whether the nominated property meets the criteria for listing as an ACV. If the nominator meets the qualification criteria and the nominated property meets the criteria for listing, the listing authority must list the nominated property as an ACV.
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8. On 09 July 2020 Mid Sussex District Council ('the Council') received a completed community right to bid nomination form ('the Nomination Form') from Ansty and Staplefield Parish Council ('the Nominating Body') in respect of **The Jolly Tanners, Handcross Road, Staplefield, West Sussex, RH17 6EF**. This area of land comprises the entirety of **freehold title number WSX162326**. The Registered Proprietors of the freehold title are Christopher Brazier and Sigrun Erika Brazier-Kobus, both of Europa Pub 171 Walton Road, East Molesey, Surrey KT8 0DX. The property is shown edged red on the plan included with the nomination form ('the Nominated Land').
 9. The Act, the non-statutory advice provided by the Department for Communities and Local Government, regarding Part 5 Chapter 3 of the Localism Act 2011 and the Assets of Community Value (England) Regulations 2012 No 2421 have been adhered to in determining whether the asset is a qualifying asset and the applicant a qualifying body to make such an application.
 10. If it is subsequently concluded that the Nominated Land is a qualifying asset within the District of Mid Sussex (not being within any excluded categories of property which cannot be nominated) and has been nominated by a qualifying body, Mid Sussex District Council, as the listing authority, must list the Nominated Land as an ACV and inform the following that the land has been so listed (and if removed from the list): -
 - a) The freehold owner of the asset;
 - b) The successful community nominator of the asset;
 - c) Any leaseholders of the asset;
 - d) The Parish or Town Council within which the property is situated.
 11. In addition, if the land is registered, the Council must apply for a restriction at the Land Registry in form QQ.

Representations in support of listing

12. The Nominating Body has provided its representations in support of listing the Nominated Land in the Nomination Form. A plan showing the Nominated Land has been submitted along with the nomination form.
13. Section B4 of the Nomination Form asks the nominator to explain why the nominated property is of community value. It asks: does it currently further the social wellbeing or social interests of the local community, or has it done so in the past? If so, how?
14. Section B4 of the Nomination Form further asks the nominator to explain could the Nominated Land in future further the social wellbeing or social interests of the local community? If so, how?

The Nominating Body's response is set out in the Nomination Form and as follows:

'As a pub, it brings significant social benefits to the community. It is a meeting place and focal point in the village.'

15. Section B5 then asks the Nominating Body: how could the building or land be acquired and used in future?

The Nominating Body responds:

'Fund raising, loans, grants. The pub could continue as a social centre and meeting point..'

16. However, the Nominating Body provided no further additional evidence to demonstrate community use of the Nominated Land, including, but not limited to: -

- Evidence of the current use;
- Evidence of plans for future use;
- Details of future funding arrangements for the acquisition and future use of the Nominated building or land.

Objections

17. Correspondence was sent to the registered freehold proprietors Christopher Brazier and Sigrun Erika Brazier-Kobus ("the Owners") on 10 July 2020 via post and on 11 August 2020 via email inviting them to make representations in response to the nomination of the Nominated Land by the Nominating Body. The Council has not received any representation from the Owners as of the date of this report.
18. Correspondence was sent to the Occupier on 10 July 2020 inviting them to make representations in response to the nomination of the Nominated Land by the Nominating Body. The Council has not received any representation from the Occupier as of the date of this report.

Conclusions

19. The application was submitted by Ansty and Staplefield Parish Council, which is a Parish Council in accordance with section 89(2)(b)(i) of the Localism Act 2011. The nomination can therefore be considered a "community nomination" in accordance with section 89(1), and as defined in section 89(2), of that Act.
20. The **first** issue for the Council to consider is whether, in its opinion, the nominated building or land has *'an actual current use of the building or other land that is not an ancillary use furthers the social wellbeing or social interests of the local community'* as per S88(1)(a) of the Localism Act 2011.

The Nominated Property functions primarily as a pub. The Nominated Property is, and remains, an operational pub. It is open to the general public, including to members of the local community, during opening hours.

The term "social interests" is defined in section 88(6) of the Act as including: (a) cultural interests; (b) recreational interests; and (c) sporting interests. It is feasible therefore that the use of the Nominated Property as pub furthers the local community's recreational and cultural interests.

The Nominating Body has not provided evidence in support of its nomination to show that the Nominated Land has 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.

However, this does not preclude a local authority from determining, upon its own consideration and investigation of the Nominated Property, that there is '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'.

On consideration of the website for the Nominated Property, it is evident that the venue is host to quiz nights, open mic nights and live music. There are also darts nights and bridge nights hosted at the Nominated Property. This would appear to be further evidence of the Nominated Property serving the social interests of the local community.

It is therefore reasonable in this instance to conclude that the Nominated Property provides a hub for the local community that furthers the social wellbeing by providing a venue for members of the local community to commune socially and therefore, is of community value

21. The **second** issue is to decide whether *'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'*.

The Property is currently registered under registered freehold title number WSX162326. The registered proprietor of title number WSX162326 are the Owners. There are no other registered interests which affect the Nominated Property.

As of the date of this report, the Council has not received any representations from the Owners in response to the nomination of the Nominated Property as an Asset of Community Value.

However, the Nominating Body submits that *'The [Nominated Property] could continue as a social centre and meeting point.'*

Again, the Nominating Body has not provided sufficient evidence in support of its nomination to demonstrate that: (i) the Nominated Property has 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; or (ii) 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.

However, it is evident upon the facts that the current use, that is not ancillary to the primary use, of the pub furthers the social wellbeing or social interests of the local community, as set out in paragraph 19 of this report.

22. The **third** consideration - that the Council must decide whether, if the above criteria have **not** been met; *'there is a time in the recent past when an actual use of the building or other land that was not an ancillary use furthered the social wellbeing or interests of the local community'* **and** it must be *'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'*.

23. It is not necessary in this instance to have recourse to the third consideration, on the basis that the Nominated Property meets the criteria set out in s.88(1)(a) of the Localism Act 2011 and, as advised in the first consideration (paragraph 19) and the second consideration (paragraph 20) of this report, the Nominated Property has a current use which furthers the social wellbeing or social interests of the local community.

24. The Nominated Land does not contain residential property and therefore does not fall within the exemptions contained in paragraph 1 of Schedule 1 to the Assets of Community Value (England) Regulations 2012 ("the 2012 Regs").

Regulation 3 of the 2012 Regs provides that a building or land specified in Schedule 1 is not land of community value (and therefore may not be listed).

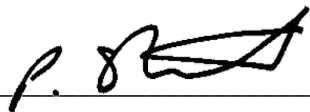
Decision

1. As a result of the above, the decision is given to list the property known as The Jolly Tanners, Handcross Road, Staplefield, West Sussex, RH17 6EF on the list of Assets of Community Value held by Mid Sussex District Council.

COPY OF THIS AUTHORITY TO BE PLACED ON THE PROPERTY FILE AND A COPY PROVIDED TO LEGAL WITH INSTRUCTIONS

Peter Stuart, Head of
Corporate Resources

Signed



Dated 03/09/2020

**Cllr Judy Llewellyn-
Burke**, Deputy Leader
and Cabinet Member for
Facilities and Corporate
Estates

I concur with the decision made by the Head of Corporate Resources:

Signed



Dated 03/09/2020

H.M. LAND REGISTRY		TITLE NUMBER	
		WSX 162326	
ORDNANCE SURVEY PLAN REFERENCE	TQ 2728	SECTION A	Scale 1/1250 Enlarged from 1/2500
COUNTY WEST SUSSEX	DISTRICT MID SUSSEX	© Crown copyright 1974	

CUCKFIELD RURAL PARISH





Scale: 1:4677

