

**ASSETS OF COMMUNITY VALUE – COMMUNITY RIGHT TO BID NOMINATION – DELEGATED AUTHORITY:
FULKING VILLAGE HALL, THE STREET, FULKING, WEST SUSSEX, BN5 9LX**

Report to:	Peter Stuart Head of Corporate Estates and Facilities Business Unit Cllr Judy Llewellyn-Burke , Deputy Leader and Cabinet Member for Facilities and Corporate Estates	Date: 20/11/2020
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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 Business Unit Leader for Corporate Estates and Facilities approves the following proposal:-

Background

1. The Community Right to Bid was introduced by Part 5 of Chapter 2 of the Localism Act 2011 (‘The Act’), 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’).

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:

- (a) 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
- (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.”

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:

- (a) 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
- (b) 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.”

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.

3. 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.
4. 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.

5. On 13/10/20 we received a completed community right to bid nomination form from Fulking Parish Council, for Fulking Village Hall, The Street, Fulking, West Sussex, BN5 9LX as outlined on the attached plan showing the boundary of the property to be nominated (“the nominated property”).

6. 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.

7. If it is subsequently concluded that the nominated property is a qualifying asset within the Direct 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.

8. 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

9. Section B4 of the nomination form asks the nominator to explain why the 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?

Fulking Parish Council state: *‘The village hall was given to the village by a local farmer around 1910. The allocated owner was the PCC as there was no other official body. The village hall is used by the Parish Council for its meetings, various social groups, toddlers, drama and yoga groups also use the hall. Sadly the hall has been closed recently due to Covid-19.*

10. It asks; could it in future further the social wellbeing or social interests of the local community? If so, how?

Fulking Parish Council state: *‘There is capacity in the diary for further groups to use the hall. It has been used as a centre for a more sustainable village including our neighbours from Poynings Parish.’*

11. Section B5 asks the nominator; how could the building or land be acquired and used in future?

Fulking Parish Council state: *‘Town & Parish Councils are eligible to apply for a loans from The Public Works Loan Board (PWLB), very commonly to purchase buildings for community use and Fulking Parish Council*

would apply for such a loan if the repayment structure is properly budgeted where evidence of serviceability can be demonstrated.'

Objections

No Objections to date

Conclusions

1. The application was submitted by Fulking Parish Council, and a community nomination can be made by a Parish Council (in England) in respect of land within the Parish Council's area in accordance with S89(2)(b)(i) the Act and therefore, the nominating body is a qualified body to make such a nomination.
2. In deciding whether there has been community use of the nominated property, a 'common sense' approach has been adopted.
3. There are two conditions noted under Section 88(1) of the 2011 Act which must be satisfied to meet the listing criteria. These are:
 - (a) There is *'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'*
 - (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'*

The statutory regime contains no definition of 'social wellbeing or social interests of the local community', except that Section 88(6) of The Act states 'social interests' include: cultural, recreational and sporting interests. As the listing authority, consideration has been made as to whether the current or actual use falls within this phrase.

4. A village hall is an obvious applicant for nomination as it undoubtedly meets the criteria of benefiting the local community and not just individuals.
5. Considering if it is realistic for non-ancillary community use of the nominated property to continue can be answered by determining whether the building requirement for this usage has changed significantly since its initial use and the asset is now not fit for purpose.
6. A further test of qualifying whether or not the nominated property can be listed as an ACV relies upon two conditions under Section 88(2)(a) of The 2011 Act. These are:
 - (a) *'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*
 - (b) *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'.*
7. The meaning of the 'recent past' is not defined in the Act. Some have accepted a period of 5 years being the recent past, and others 3 or 7. The guidance or the Regulations and the listing authority is free to decide for itself what that means. There are several aspects that be considered when discussing 'the recent past' including the length of time the community have used the asset, the type of asset, the nature of the community use and the degree of connection the community have with the nominated property.

Decision

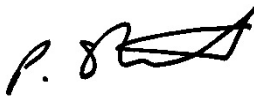
8. Although there is no actual and current use of the building or other land that would fulfil Section 88(1)(a) above as a result of COVID 19, it seems realistic to think that there can continue to be non-

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 to fulfil Section 88(1)(b) of the 2011 Act. The further conditions contained in Section 88(2) of The 2011 Act:
(a) that 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
(b) 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 also seem to be satisfied.

As a result, a decision has been made to list the property known as Fulking Village Hall, The Street, Fulking, West Sussex BN5 9LX as an Asset of Community Value.


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

Business Unit/Team
Leader – Corporate
Estates and Facilities

Signed  _____

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

I concur with the decision made by the Business Unit Leader – Corporate Estates and Facilities.

Signed  _____