

DECISION NOTICE

THE LOCALISM ACT 2011 Section 88

Decision on the nomination of an asset of community value.

The White Hart, 17 Milford Road, Pennington, Lymington, Hampshire SO41 8DF

I, Alan Bethune, Strategic Director Corporate Resources and Transformation of New Forest District Council, pursuant to delegated powers, have considered an application made by Lymington and Pennington Town Council dated 17 October 2022 to nominate The White Hart, 17 Milford Road, Pennington, Lymington, Hampshire SO41 8DF as an asset of community value. Having considered the application I have decided that the application should be accepted for the following reasons:

In the opinion of the local authority, the actual current use of the Property or other land that is not an ancillary use furthers the social wellbeing or social interests of the local community, and 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.

It therefore meets the criteria set out in the Localism Act 2011 to be eligible for listing.

Signed:



Alan Bethune
Strategic Director Corporate Resources and Transformation

Dated: 13 December 2022

REPORT TO ALAN BETHUNE

Application to nominate The White Hart Public House as an asset of community value

1. INTRODUCTION

- 1.1 This report relates to an application made to the Council by Lymington and Pennington Town Council (“the Nominator”) to nominate The White Hart, 17 Milford Road, Pennington, Lymington, Hampshire SO41 8DF (“the Property”) as an asset of community value (“the Application”). The report reviews the Application, the criteria against which a decision has to be made, the result of consultations and makes recommendations.

A copy of the Application is annexed to this report. The Property was previously placed on the ACV list in 2015 and became due to be removed from the ACV list on 20 August 2020 on expiry of the 5 year listing period.

2. BACKGROUND

- 2.1 The Application to nominate the Property as an asset of community value (‘ACV’) is made pursuant to the Community Right to Bid, arising out of the Localism Act 2011 (“the Act”). Under the Act, the Council must make a decision on the Application before 13 December 2022 which is 8 weeks from receipt of the nomination. If the Council accepts that the Application meets the criteria set down in the Act, the Property must be added to the Council’s published list of ACV, registered as a local land charge and registered against the freehold title to the Property.
- 2.2 If the Property is listed as an ACV, the owners must notify the Council if they wish to dispose of the Property. The Council would notify community interest groups of the proposal. If such a group expresses an interest in the Property, a moratorium period of 6 months on the sale is imposed to allow the community interest group to prepare a bid and raise finance.
- 2.3 However, if there is a sale of the land on which a business is carried on, together with a sale of that business as a going concern i.e. still operating as a pub, then that disposal is exempt and is not affected by the moratorium requirements (section 95(5)(f) of the Act). In those circumstances, the owner would not have to advise the Council of the sale.

3. THE APPLICATION

- 3.1 The Application was made by the Nominator and was received by the Council on 18 October 2022. The Council is the proper decision-making authority to determine the Application and delegations have been granted to Strategic Directors to make a decision on the matter. The Application is valid under the criteria laid down by the Act and the Property is not within one of the exceptions laid down in the Act.
- 3.2 The Nominator is the local town/parish council. A copy of the body’s Model Standing Orders as adopted by the Nominator is attached to the Application. The Nominator is included in the definition of those bodies which may make a ‘community nomination’ (as defined in section 89(2)(b)(i) of the Act). The Nominator is entitled to make an application to list the Property as an ACV.

- 3.3 The Property is presently used as a public house and is owned freehold by EI Group PLC (“the Owner”). The Application makes reference to lawful occupiers who run the pub and are tenants of the Property, living in upstairs residential accommodation.
- 3.4 The Application contends that the current and main use of the Property furthers the social well-being or cultural, recreational or sporting interests of the local community and that it is likely to continue to do so in the future.
- 3.5 The Nominator provides details about the use of the Property by the local community in the statement accompanying the Application. It says the Property is used as a public house and is important to the social well-being of the local community. It submits that, amongst other things:
- There is weekly live musical entertainment with guest appearances from local bands and performers (Sunday), a weekly quiz (Monday), a weekly family board game night (Wednesday) and weekly poker night (Thursday).
 - The Property has been awarded several ‘dog friendly’ awards (DogBuddy and RoverDog Friendly).
 - The Property hosts an annual August Real Ale Festival (CAMRA was the previous nominator for ACV listing)
 - The Property has been nominated for the CAMRA 2023 Good Beer Guide.
 - Work from local artists is displayed in the restaurant walls and occasional craft fairs are held in support of local charities.
 - Families and/or single people are catered for, whether drinkers or diners.
- 3.6 The Nominator believes there is a need to preserve the Property as an ACV and that the main use of the Property will continue for the foreseeable future.

4. THE OWNERS COMMENTS

- 4.1 The Owner has been notified of the Application. At the time of this report, it has not responded in any way.

5. LEGAL POWER AND DELEGATIONS

- 5.1 The Council must consider the nomination and decide whether to list the Property as an ACV.
- 5.2 The Council has put in place delegated powers for a Strategic Director or Chief Planning Officer to make the decision in consultation with relevant heads of service and portfolio holder(s).
- 5.3 The legal criteria to make the decision are laid down in the Act and supporting regulations. The Council must decide whether the Property is of community value.
- 5.4 The Property is of community value if, in the opinion of the local authority 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 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. “Social interests” include cultural interests, recreational interests and sporting interests.
- 5.5 In the event of the Council deciding to list the Property as an ACV, the Owner can appeal against that decision, firstly to the Chief Executive and ultimately to the court (the First Tier Tribunal). The Owner is able to claim compensation for those losses

and expenses which were unlikely to have been incurred in relation to the Property had it not been listed. This can include delays in entering into a binding agreement to sell the land which is caused by relevant disposals being prohibited by the regulations.

6. CONSULTATIONS

- 6.1 A number of consultations have been made by informing them of the Application and are summarised below.
- 6.2 The Owner was invited to provide comments. It has not responded.
- 6.3 The lawful occupiers were notified and invited to comment but have not responded.
- 6.4 As the Nominator is the local Parish/Town Council, there has been no need to inform the Parish Council/Town Council.
- 6.5 The Executive Head of Planning, Regeneration and Economy and Executive Head of Partnership and Operations respectively, have not provided any comments.
- 6.6 The Strategic Director of Housing, Communities & Governance had no comments to make.
- 6.7 Portfolio Holder for Planning, Regeneration & Infrastructure, Cllr Diane Andrews commented that *"I understand the need to protect a local public house and have no issues with the application to continue to include this building in the register for Asset of Community Value"*. Portfolio Holder for Partnering and Wellbeing, Cllr Geoffrey Blunden, said *"I would support the application to include this building in the register for Assets of Community Value"*.
- 6.8 Ward Councillors Jacqui England, Barry Dunning, Jack Davies and Andrew Gossage were informed. Cllr England stated that *"I wish to register my endorsement and support for The White Hart 17 Milford Road Pennington being nominated and registered as Asset of Community Value totally support the documentation submitted by Lyminster and Pennington Town Council. The White Hart is community faculty serving diverse age range and demographic hence registration is paramount"*.

At the time of submission of this report, the other councillors have not responded.

- 6.9 The Service Manager for Estates & Valuations stated that *"From an Estates perspective I have no view on the proposal"*.

7. CONCLUSION

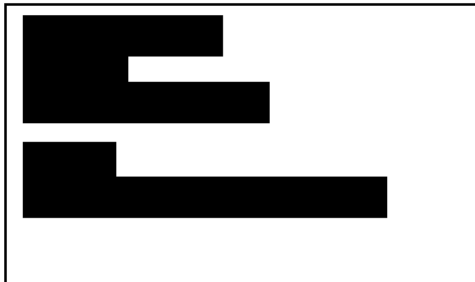
- 7.1 There are therefore no objections to the nomination.
- 7.2 Against that, the Property has been used as a public house for some years. It has previously been listed as an asset of community value as a public house from 20 August 2015-2020, although it was temporary closed at the time of that nomination while it awaited a new tenant. Therefore, it is not unrealistic to think that in the foreseeable future it could be run as a public house in such a way as to further the social well-being and social interests of the local community. The business has a website and there are also a number of up to date testimonials on the website "Trip Advisor".

- 7.3 It seems reasonable to conclude that use by the community can continue in the near future. Indeed, there is no evidence submitted by any locals to contradict the current evidence to hand that it is an asset of community value in the sense of being supported by the local community.
- 7.4 As stated at section 3.5 above, the Application indicates that the Property fulfils the criteria for listing as summarised in paragraph 5.4 above.
- 7.5 On balance, the Application appears to meet the legal criteria set out in the Localism Act 2011 for the Council to accept the nomination for the reasons explained above.

8. RECOMMENDATION

- 8.1 It is recommended that you as a Strategic Director of the Council decide this Application pursuant to delegated powers as follows:
- (1) In the opinion of the local authority, the 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 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. It does therefore meet the criteria set out in the Localism Act 2011 to be eligible for listing.

For Further Information Contact:



Background Papers:

Application by Lymington and Pennington Town Council dated 17 October 2022