

DECISION NOTICE

THE LOCALISM ACT 2011 Section 88

Decision on the nomination of an asset of community value.

Hale Primary School, Hatchet Green, Hale, Hampshire SP6 2NE

I, Alan Bethune, Strategic Director Corporate Resource and Transformation of New Forest District Council, pursuant to delegated powers, have considered an application made by Hale Parish Council dated 1 November 2022 to nominate Hale Primary School, Hatchet Green, Hale, Hampshire SP6 2NE 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 Resource and Transformation

Dated: ...17 January 2023

REPORT TO ALAN BETHUNE

Application to nominate Hale Primary School as an asset of community value

1. INTRODUCTION

- 1.1 This report relates to an application made to the Council by Hale Parish Council (“the Nominator”) to nominate Hale Primary School, Hatchet Green, Hale, Hampshire SP6 2NE (“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.

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 17 January 2023 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 e.g. a pub which is 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 22 November 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. The Application initially lacked a plan to indicate boundaries of the Property, but the Nominator was subsequently able to confirm that the boundaries depicted on the Land Registry plan, a copy of which is attached, were the correct boundaries for the purposes of the Application.
- 3.2 The Nominator is the local 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 a primary school and is owned freehold by Hampshire County Council (“the Owner”). The Application makes reference to the lawful occupiers, Hale Primary School, which is part of the Forest Edge Learning Federation.
- 3.4 The Application contends that the current and main use of the Property furthers the social well-being of the village and considers that “...*it is important to have a school within a village to increase the cohesion of the village, bring families together and creating a social community which may not exist if children had to attend education outside the village.*” The Nominator asserts that, in respect of future use, “*The building will continue to be used as a school and there are currently no plans that this will cease, therefore it will continue indefinitely*”.
- 3.5 The Nominator explains that the school is located next to the Village Hall on Hatchet Green, the latter of which it refers to as ‘*the hub of the village*’. It says that ‘*There are no other facilities in the village, no shop, pub etc so this is the focal point*’.
- 3.6 It also refers to the school buildings themselves which are described as “...*aesthetically very important and play a large role in the character of the village green and surrounding area...*”. Consequently, the Nominator states that any “...*loss or change in appearance of the building would be detrimental to the area...*” and that the Nominator hopes the “...*buildings and land...remain as part of the community to ensure that this focal point of the village continue*”.

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 occupier (Hale Primary School) has been notified and invited to comment but has not responded itself. We received acknowledgement of the letter to the school, dated 16 December 2022, from the Business Administration Manager of Forest Edge Learning Federation on 10 January 2023, saying that the letter had only been received on 8 January due to the Christmas break. An extension of time in which to respond was requested by the Federation as the governing body were not due to meet until 18 January. A response was sent to explain that, as the 17 January 2023 deadline was a legislative stipulation (in accordance with the Assets of Community Value (England) Regulations 2012, reg 7), rather than one which had been set by the Council, the Council was unable to grant that extension. At the time of this report, there have been no objections or comments in support from Forest Edge Learning Federation.
- 6.4 As the Nominator is the local Parish Council, there has been no need to inform the Parish Council.
- 6.5 The Executive Head of Planning, Regeneration and Economy has not responded, while the Executive Head of Partnership and Operations has confirmed she has no comments on the nomination.
- 6.6 The Strategic Director of Housing, Communities & Governance has made no comment.
- 6.7 Portfolio Holder for Planning, Regeneration & Infrastructure, Councillor Diane Andrews made no comment. Portfolio Holder for Partnering and Wellbeing, Councillor Geoffrey Blunden, confirmed he had no comment.
- 6.8 Ward Councillor Edward Heron has not commented.
- 6.9 The Service Manager for Estates & Valuations confirmed he had no view on the Application.

7. CONCLUSION

- 7.1 There are therefore no objections to the nomination.
- 7.2 A Government website states that Hale Primary School is a community school which has 87 pupils (98 capacity) for 4-11 year olds. It does not say when the school first opened but confirms that it received an Ofsted rating of "Good" in its last inspection in May 2018. In that report, it states that parents gave their view that the school is '*a lovely little school*' with '*staff who inspire with their enthusiasm and commitment*'. It went on to say that '*The vast majority said that they would recommend the school to another parent*' (the report provided information about the inspection to say that 70 parents responded to Ofsted's confidential online survey; the inspector spoke to several parents before school and considered 39 free-text responses submitted via Parent View). The school also received "Good" Ofsted ratings in February 2007 and February 2010.

- 7.3 On the Hale Primary School website, it states that it is part of The Forest Edge Learning Federation with two other local schools, Breamore and Hyde (that have adjoining catchment areas and are described as “...an integral part of their local community”).
- 7.3 It seems reasonable to conclude that use of the Property by the community will 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 3.4 – 3.6 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 Hale Parish
Council dated 1 November 2022
(received 22 November 2022)