

**DECISION NOTICE**

**THE LOCALISM ACT 2011 Section 88**

**Decision on the nomination of an asset of community value.**

**The King Rufus Eling Hill Totton Southampton SO40 9HE**

I, Colin Read, Executive Head of Operations of the District Council of New Forest, pursuant to delegated powers, have considered an application made by The King Rufus Supporters to nominate The King Rufus Eling Hill Totton Southampton SO40 9HE 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 *COLIN READ*

Colin Read  
Executive Head of Operations

Dated: 14 September 2020

## **REPORT TO COLIN READ**

### **Application to nominate The King Rufus Eling Hill Totton Southampton SO40 9HE as an Asset of Community Value**

#### **1. INTRODUCTION**

- 1.1 This report relates to an application made to the Council by The King Rufus Supporters to nominate The King Rufus public house, Eling Hill Totton Southampton SO40 9HE (“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 previous placed on the ACV list in 2015 and has only just been become due to be removed from the ACV list on 20 July 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 15 September 2020 which is 8 weeks from expiry of the 5 year listing. 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 ie 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). This was the case in October 2015, when the Property was sold shortly after it was entered on the ACV list. 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 King Rufus Eling Supporters (“the Supporters”) and was received by the Council on 9 June 2020. The Council is the proper decision-making authority to determine the Application and delegations have been granted to the Executive Head of Operations 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 Supporters are an unincorporated body comprising more than 21 local individuals who are on the Electoral Register for the District. A copy of the body's constitution is attached to the Application. The Supporters are not profit making and any surplus is wholly applied to activities in support of the aims of the association. The Supporters are entitled to make an application to list the Property as an ACV.
- 3.3 The Property is currently owned freehold by Raymond Grenville Goold and Philippa Helen Goold. The Application makes no reference to a separate occupant or tenant of the Property. The Property is presently used as a public house subject to the owner's comments in 4.1.
- 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 Supporters provided details about the use of the Property by the local community in the statement accompanying the Application. The Supporters say the Property is used as a public house and is important to the social well-being of the local community. The Supporters assert that the circumstances surrounding the Application for the previous successful ACV listing have not changed although those circumstances are not fully re-listed in the current Application. They submit that:
- The Property should continue to be a focal point for the community as it has done for over 150 years.
  - Since the closure of the other public house in the village, the King Rufus remains the only public house available. (It does not specify which pub closure this refers to. The 2015 application alluded to 'The Village Bells' pub closing).
- 3.6 The Supporters believe there is a need to preserve the Property as an ACV.

#### **4. THE OWNERS' COMMENTS**

- 4.1 In their email in reply to notice of the Application, dated 5 August 2020 (attached), the owners of the King Rufus, Raymond Goold and Philippa Goold say that "*since the introduction of lockdown*" the pub is closed and boarded with a 'For Sale' sign. There was a potential seller at that time who intended to reopen the pub after completion. He stated that "*Our main objection would be if this matter influenced negatively with our potential purchaser*".
- 4.2 The owners have Paris Smith solicitors acting for them in the sale and they act for both owners in the sale.
- 4.3 The nominating unincorporated body merely has to demonstrate a local connection (which the Regulations define as having members registered to vote in the District or a neighbouring District) – i.e. the members of the unincorporated group do not have to be local to the pub in the sense of being physically proximate to it. In any event, the listed nominees for the most part have addresses either in Eling, Eling Hill, Jacob Gutter Lane or Totton.

#### **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 the Executive Head 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 as summarized below.
- 6.2 The owners were informed of the Application and invited to provide comments, which have been summarised in section 4 above.
- 6.3 Totton & Eling Town Council were informed of the Application and were invited to provide comments. They have confirmed that they have no objections to the nomination.
- 6.4 The Chief Planning Officer and Executive Head of Resources respectively, were informed of the Application but have not provided any comments.
- 6.5 Portfolio holder for Community Affairs, Cllr Diane Andrews was informed of the Application and she commented that *"I have no comments on this other than to say that if it was on the list for the previous five years has anything changed to come to a different decision?"*. Portfolio holder for Leisure, Cllr Mark Steele, was concerned that *"we are giving support to a quango of "right" - rather than a group of "active supporters" but was not more specific.*
- 6.6 Ward Cllr David Harrison said *"I am strongly supportive of this remaining as an asset of community value"*. Cllr Caroline Rackham said that she is *"fully supportive of the renewal of the Community Value status of the King Rufus. The King Rufus is a very different character of pub to The Anchor nearby and so has provided a very particular community need for a small community meeting space, rather than the busier and often noisier Anchor. This means that the King Rufus acts as an excellent venue for small scale community events such as quiz nights and group meals. It is also a great space for encouraging conversation so has often pulled the community together and it would be very detrimental for the area were it to change use. I would be happy to add my name to the list of signatories on the petition if needed as an Eling resident"*.

6.7 Service Manager for Estates & Valuations, Andrew Smith, was notified of the Application and had no further comments to make.

## **7. CONCLUSION**

- 7.1 It therefore seems there are no direct objections to the nomination - the owners simply don't want it to adversely affect the sale as a going concern. I have received confirmation from Paris Smith solicitors that they act for both owners in the sale and they have not indicated any further views of the owners, favourable or otherwise, than that mentioned already.
- 7.2 Against that, the Property has been used as a public house for many years and the comment from Cllr Rackham shows that it offers a different ambience to the nearby Anchor pub. Therefore, pending the sale it is not unrealistic to think that in the next 5 years 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 it has a number of testimonials on the website "Trip Advisor" but these are obviously out of date presumably mainly due to the Covid and the current closure.
- 7.3 It seems reasonable to conclude that, whilst the Covid restrictions may have led to closure in the short term – as many pubs have been in the same period – 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 It seems reasonable to assume the present owner is seeking to sell the Property as a going concern, i.e. with a long term future as a pub or pub/restaurant.
- 7.5 Whilst the evidence given in the nominator's application is not as comprehensive as that provided in the previous application in 2015, the current application given by the nominating body set out in section 3.5 indicates the Property does fulfil the criteria for listing summarized in paragraph 5.4 above.
- 7.6 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 an Executive 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:

Richard Davies  
Solicitor  
Tel: 023 8028 5298  
E-mail: richard.davies@nfdc.gov.uk

Background Papers:

Application by The King Rufus  
Eling Supporters  
Email from owners Mr and Mrs  
Goold dated 5<sup>th</sup> August 2020



## Community Right to Bid

### Assets of Community Value Nomination form

#### Part A - About the group making the nomination

##### A1. Organisation's name and address

Name of organisation  
The King Rufus Eling Supporters

Address including post code  
4 Homeway Cottages, Eling Hill, Totton, Southampton SO40 9JQ

##### A2. Contact details

Name  
Mr Ian Buckett

Position in organisation  
Member

Address including postcode  
[REDACTED]

Daytime telephone number  
[REDACTED]

Email address  
[REDACTED]

Fax number  
n/a

### A3. Type of organisation

Description	Please tick all that apply	Registration number (if applicable)
Town or Parish council		
Body designated as a neighbourhood forum under the Town and Country Planning Act		
Unincorporated bodies with at least 21 individual members and which does not distribute any surplus it makes to its members	Yes	
Charity		
Company limited by guarantee which does not distribute any surplus it makes to its members		
Industrial and provident society which does not distribute any surplus it makes to its members		
Community interest company		
Other – please detail		

### A4. Local Connection

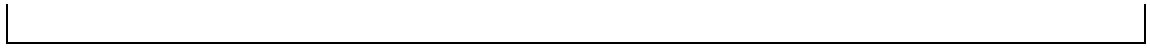
For groups other than town and parish councils, please confirm and provide evidence (see A7) that the group is wholly or partly concerned with the area covered by New forest District Council or a neighbouring local authority area

The constitution of the group confirms that it is primarily concerned with the King Rufus public house in Eling

### A5. Distribution of surplus funds

For groups other than town and parish councils, please confirm and provide evidence (see A7) that any surplus made by the group is wholly or partly applied for the benefit of the area covered by New Forest District Council or a neighbouring local authority area

The constitution of the group confirms that all assets will be used to support the ongoing function of the King Rufus as a public house. Any surplus assets on the dissolution of the group will be donated to local charities.





## 6. Membership of unincorporated bodies

For unincorporated bodies please confirm that at least 21 members are included on New Forest District Council's register of electors and provide their names and addresses below

In view of the current covid-19 restrictions we are unable to undertake an exercise to manually collect signatures particularly as the King Rufus is closed however we are attaching the original list of signatures all of which to our knowledge are applicable with the exception of Chris White of 1, Old Rectory Court and Pat OGara of Culver Close, Millbrook who have regrettably passed away.

We do have a number of additional people who have signified their agreement to the application but we cannot obtain their signatures in view of the circumstances above.

## A7. Your organisation

Please provide a copy of the following as relevant to your organisation	Please tick documents provided
Memorandum of Association	
Articles of Association	
Companies House return	
Trust Deed	
Constitution / Terms of reference	Yes
Standing Orders	
Interest Statement for Community Interest Company	

## Part B - About the asset being nomination for inclusion in the list of assets of community value

### B1. Name and address of asset being nominated

Name  
The King Rufus

Address including post code

Eling Hill, Totton, Southampton SO40 9HE

## B2. Maps and drawings

Please provide information which helps to clarify the exact location and extent of the asset being nominated. This could include:

- Where the land is registered, the Land Registry Title Information document and map with boundaries clearly marked in red (less than one month old). Provision of Land Registry information is not essential but it may help us to reach a decision on the nomination more quickly.
- a written description with ordinance survey location, and explaining where the boundaries lie, the approximate size and location of any building/s on the land and details of any roads bordering the site
- a drawing or sketch map with boundaries clearly marked in red – websites which might help you in plotting boundaries include: <http://maps.google.co.uk/>

Land Registry HP383105 title and plan attached

## B3. Current use of asset

What is the current main use of the asset?

Public House

Do you consider that the current and main use of the asset furthers the social wellbeing or cultural, recreational or sporting interests of the local community and is likely to continue?

Yes

Yes

No

If yes, please explain how it does so and produce supporting evidence, e.g. what groups and people use the nominated asset and what events take place there, including any letters of support from groups or person using the asset (and why it is considered that that will continue). If not, go to B4

For more than 150 years the King Rufus has been regularly used by local residents both for the consumption of alcoholic and non-alcoholic beverages and as a social meeting place and continues so to do. Since the closure of the other public house in the village the King Rufus remains the only public house available and should in our opinion continue to be an asset of community value.

Over what period is this main use of the asset anticipated to continue?

Hopefully indefinitely into the future

Does the local community have legal and authorised use of the land or property?

Yes when open as a public house

**B4. Questions for assets not currently used for community benefit**

If the main use of the asset does not currently further the social wellbeing or cultural, recreational or sporting interests of the local community, did it do so at some stage in the recent past?

Yes

No

No

Please provide details of how the asset was used in the past and dates of this usage including any supporting evidence

n/a

How do you anticipate that the asset would return to furthering the social wellbeing or cultural, recreational or sporting interests of the local community?

When do you consider that the asset could realistically return to furthering the social wellbeing or cultural, recreational or sporting interests of the local community (please include timescales)?

n/a

**B5. Optional information to help us consider the nomination** (it is not essential to answer these questions but they reflect part of the criteria we which will be used to consider the nomination. Any information you can supply will help to speed up this process.

Is the asset used wholly or partly as a residence? Please provide details.

Yes there is accommodation within the property for use by the landlord

Is the asset covered by the Caravan Sites and Control of Development Act 1960? Please provide details.

No

Is the asset defined as operational land under section 263 of the Town and Country Planning Act 1990, owned by statutory undertakers such as utility companies? Please provide details.

No

**B6. Further information**

Please provide any further information to support why you feel that New Forest District Council should conclude that the asset is of 'community value'

This application is submitted as a renewal of the current Community Order in place which expires on the 20<sup>th</sup> July 2020. The circumstances resulting in the successful application for the original order have not changed and the new application is submitted accordingly.

**B7. Owner and occupier details (Please provide all information available to you)**

	Name	Address	Please delete as appropriate
Owner/s	Mr & Mrs Goold	The King Rufus, Eling, Totton, Southampton SO40 9HE	Current
Lawful occupiers	Mr & Mrs Goold	The King Rufus, Eling, Totton, Southampton SO40 9HE	Current
Holder/s of freehold estate (if not the owner)			Current/ Last known/ Not known/ Not applicable

Holder/s of any leasehold estate			Current/ Last known/ Not known/ Not applicable
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By signing your name here (if submitting by post) or typing it (if submitting electronically) you are confirming that the contents of this form are correct, to the best of your knowledge.

Name Ian Buckett
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Title Mr
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Signature 
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Date 8 <sup>th</sup> June 2020
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<p>Please send your completed form to:</p> <p>Community Right to Bid, Legal Services Manager New Forest District Council Appletree Court Beaulieu Road Lyndhurst SO43 7PA</p> <p>Email: <a href="mailto:andrew.kinghorn@nfdc.gov.uk">andrew.kinghorn@nfdc.gov.uk</a></p>
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The Council may disclose your name and address to other parties in order to ensure procedural fairness, taking into account the purpose of

**establishing, exercising or defending legal rights or in response to a Freedom of Information request.**

**Assets of Community Value - Unincorporated Body Nomination Form**

*Nominations to list pubs as assets of community value can be accepted from any group of at least 21 local people who appear on the electoral roll within the local authority, or a neighbouring local authority.*

On behalf of the following members of the local community, please list this pub as an asset of community value:

NAME OF PUB: THE KING RUFUS

ADDRESS OF PUB: \_\_\_\_\_

No.	Name (please print clearly)	Your full address (including postcode)* <small>*each nominator should have a different address</small>	Are you registered to vote within the local authority, or a neighbouring local authority?	Signature
1				
2				
3				
4				
5				
6				
7				
8				
9				

No.	Name (please print clearly)	Your full address (including postcode)	Are you registered to vote within the local authority, or a neighbouring local authority?	Signature
10				
11				
12				
13				
14				
15				
16				
17				
18				
19				
20				
21				

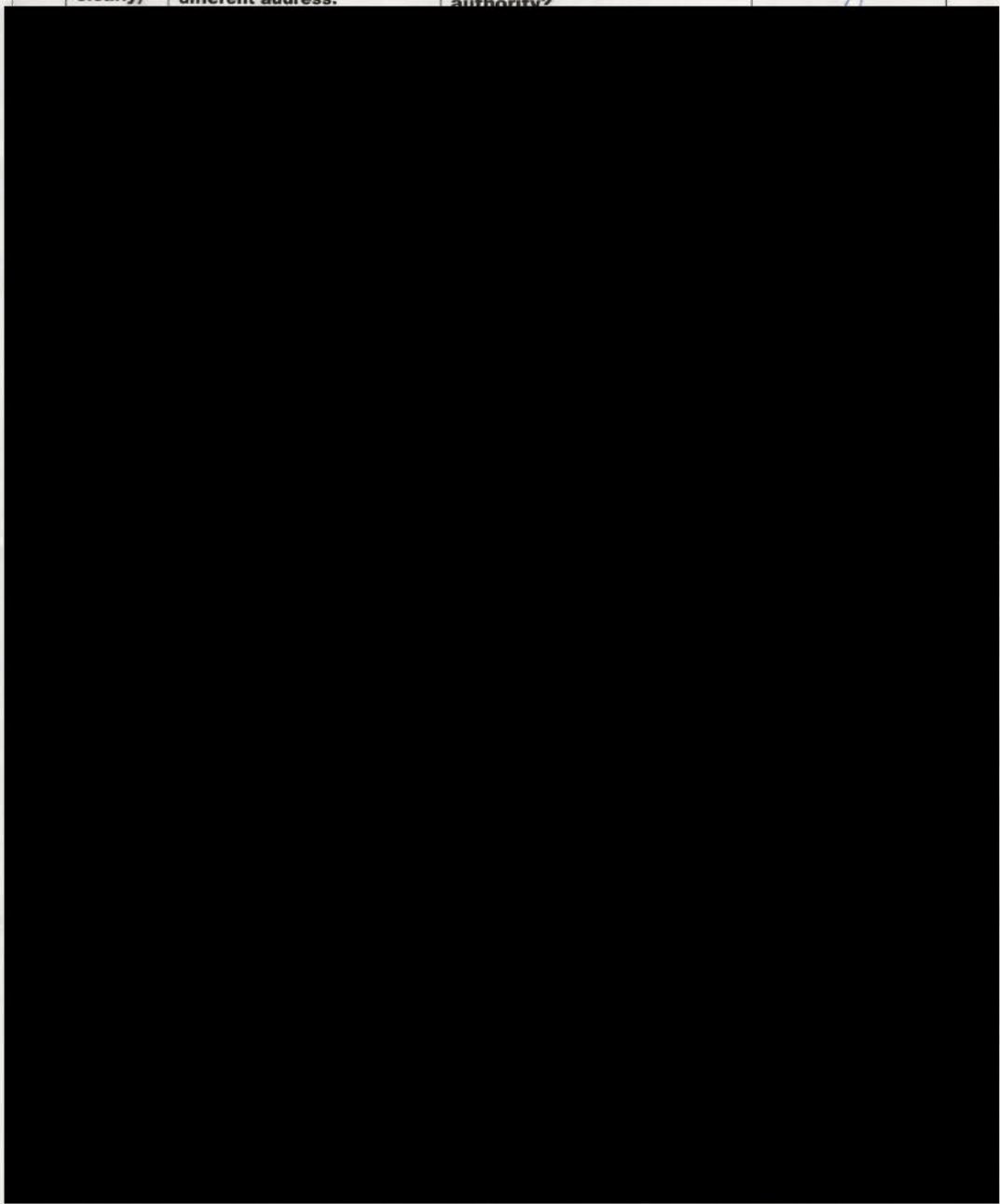
*Please add details of any further nominators overleaf.*







<b>No.</b>	<b>Name</b> (please print clearly)	<b>Your full address</b> (including postcode)* each nominator should have a different address.	<b>Are you registered to vote within the local authority, or a neighbouring local authority?</b>	<b>Signature</b>
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No.	Name (please print clearly)	Your full address (including postcode)*each nominator should have a different address.	Are you registered to vote within the local authority, or a neighbouring local authority?	Signature
22				
23				
24				
25				
26				
27				
28				



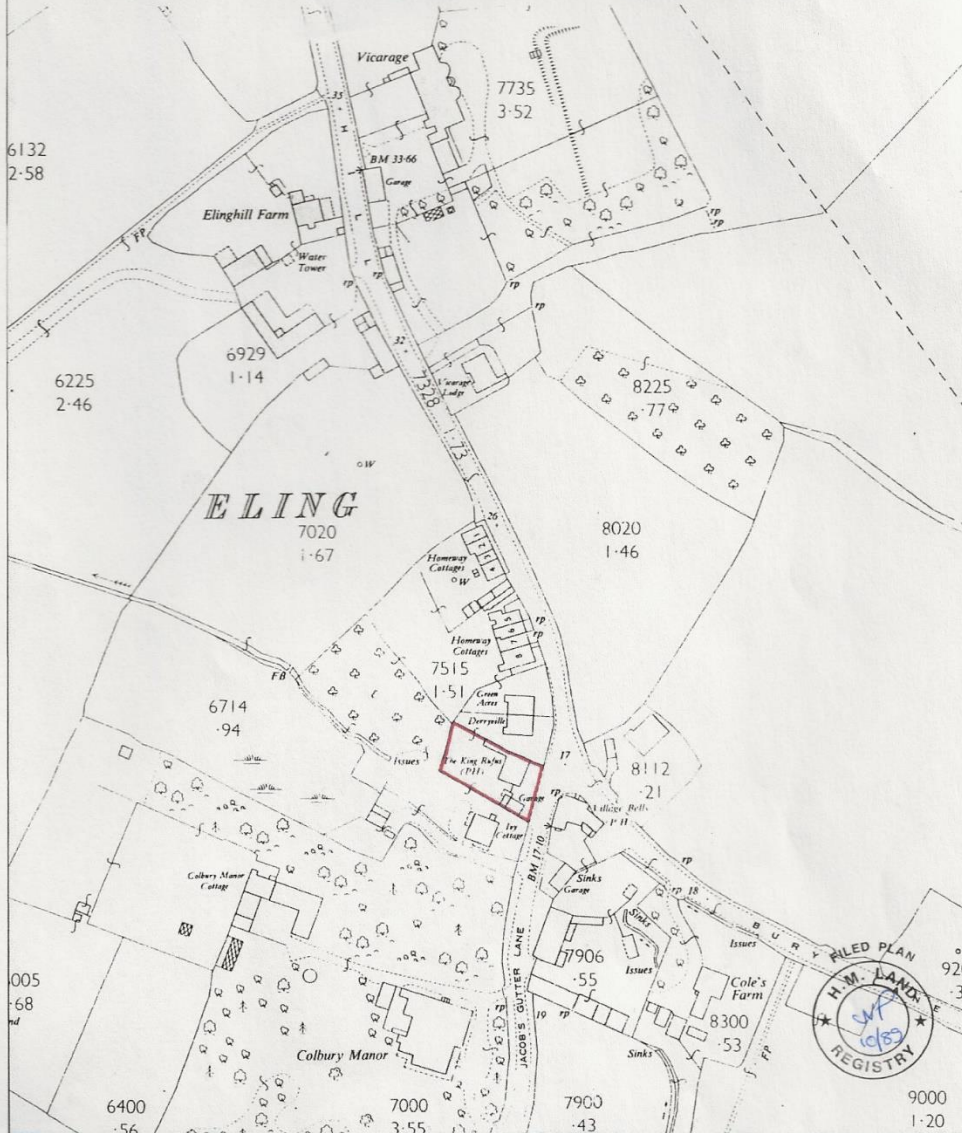
<b>No.</b>	<b>Name</b> (please print clearly)	<b>Your full address</b> (including postcode)*each nominator should have a different address.	<b>Are you registered to vote</b> <b>within the local authority, or</b> <b>a neighbouring local</b> <b>authority?</b>	<b>Signature</b>
				



# Land Registry Document



H.M. LAND REGISTRY		TITLE NUMBER <b>HP383105</b>	
ORDNANCE SURVEY PLAN REFERENCE	S U 3612	Scale 1/1250	
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# Constitution

## **Constitution of The King Rufus Eling Supporters**

### **1. Name**

The name of the group shall be The King Rufus Eling Supporters (the Supporters).

### **2. Aims**

The aims of The King Rufus Eling Supporters are:

- a) To preserve the use of The King Rufus Eling as a public house,
- b) To represent the views of The King Rufus' users to local, regional and national bodies,
- c) To be a voice for The King Rufus' users in any other matters agreed by the Supporters.

### **3. Membership**

Membership is open to anyone aged 18 or over who:

- Uses The King Rufus; or
- Supports the preservation of The King Rufus as a public house; and
- Supports the aims of The King Rufus Eling Supporters.

There will be no membership fee.

Membership will begin as soon as membership details are received and accepted by the secretary.

By joining, all members agree to abide by the Constitution and any rules of the Supporters including any changes that are made later.

Members may resign at any time by writing/email to the secretary.

Membership may be cancelled if, after due warning, a member behaves in an offensive manner or otherwise brings the Supporters into disrepute, or ceases to support the aims of the Supporters.

### **4. Equal Opportunities**

The King Rufus Eling Supporters will not discriminate on the grounds of gender, race, colour, ethnic or national origin, sexuality, disability, religious or political belief, marital status or age.

### **5. Officers**

The business of the Supporters will be carried out by the Officers and any members performing a role or task as agreed by an Officer or at any meeting.

The Supporters will, at each Annual General Meeting, or at the next General Meeting if an Officer stands down during the year, or at a Special General Meeting called for this purpose, elect the following officers:

- Chairperson, who will chair the meetings,
- Secretary, who will be responsible for the taking of minutes, arranging meetings, distribution of papers and keeping records of members,
- Treasurer, who will be responsible for maintaining accounts.

## 6. Meetings

An Annual General Meeting (AGM) will be held within 15 months of the previous AGM, for the purpose of electing Officers, agreeing any changes to the constitution and discussing and agreeing any other business.

General Meetings (GM) will be held as required, called for by any Officer or member on request to the Chairperson or Secretary, for the purpose of discussing and agreeing any business other than electing Officers or changes to the constitution.

Special General Meetings (SGM) may be called at the request of at least 33% of the membership or 20 members whichever is the lesser number, by writing to the Chairperson or Secretary giving the reason for their request, for the purpose of voting for a change of any Officer, or a change to the constitution.

All members will be given notice (by email only) of two weeks for an AGM or SGM and one week for a GM. Such notice will include all proposals to be voted on therefore all proposals must be received by the Secretary two days prior to the notice period.

All proposals requiring a vote will require a simple majority of members, either present or by proxy with an Officer. Members unable to be present can ask any Officer to vote as their proxy, with either specific instructions or to follow the Officer's vote.

If the number of votes cast on each side are equal, the Chairperson has an additional casting vote.

The quorum for all meetings will be the greater number of 10% of the membership or 6 members.

## 7. Finances

The King Rufus Eling Supporters is non-profit distributing, i.e. any surplus is not distributed to members.

All money raised on behalf of the Supporters is only used to further the aims of the group as specified in item 2 of this constitution.

## 8. Dissolution

If a meeting, by a simple majority, decides it is necessary to close down the group, a Special General Meeting will be called, at which the sole business will be to dissolve the group.

If it is agreed to dissolve the group all remaining assets, once outstanding debts have been paid, will be donated to local charitable organisations as agreed at that meeting.

**This constitution was agreed at the inaugural General Meeting of The King Rufus Eling Supporters on:-**

Date: 28/5/15

Name and position in group ANDREW TRAVELL CHAIRMAN .

Signed

Name and position in group STEPHEN ROBERTS SECRETARY

Signed

**From:** [Raymond Goold](#)  
**To:** [Richard Davies](#)  
**Cc:** [REDACTED] [parissmith.co.uk](#); [REDACTED] [parissmith.co.uk](#)  
**Subject:** King Rufus LAC/PR9/2  
**Date:** 05 August 2020 16:58:41

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Dear Richard Davies,

Thank you for your communication with the ref. above. Our affairs are currently being handled by solicitors Paris Smith who are copied by this e mail.

The pub is closed and boarded with a For Sale sign and has been since the introduction of lockdown with no revenue.

My wife and I have now retired being well past retirement age. There is a potential buyer who intends the pub to reopen after completion.

Our main objection would be if this matter influenced negatively with our potential purchaser. Please contact our solicitor with regard to this matter.

Yours sincerely,

Ray Goold

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Sent from my iPad