

REPORT TO JOHN MASCALL

Application to nominate The Jolly Sailor Ashlett Road Ashlett Creek Fawley Hampshire SO45 1DT as an asset of community value

1.0 INTRODUCTION

- 1.1 This report relates to an application made to the Council by the Campaign for Real Ale – Southern Hampshire Branch to nominate The Jolly Sailor public house, Ashlett Road Ashlett Creek Fawley Hampshire SO45 1DT (“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.

2.0 BACKGROUND

- 2.1 The Application to nominate The Jolly Sailor public house, Ashlett Road Ashlett Creek Fawley Hampshire SO45 1DT as an asset of community value 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 19 October 2015. If the Council accepts that the nomination meets the criteria set down in the Act, the Property must be added to the Council’s published list of assets of community value, registered as a local land charge and registered against the freehold title to the Property.
- 2.2 If the Property is listed as an asset of community value, 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. Note however that if the Owner wishes to sell the pub business as going concern, the moratorium on sale provisions of the right to bid are not engaged.

3.0 THE APPLICATION

- 3.1 The Application was made by The Campaign for Real Ale – Southern Hampshire Branch (“CAMRA”) and was received by the Council on 24 August 2015. The Council is the proper decision making authority to determine the Application and delegations have been granted to the Executive Director 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 national body of CAMRA (The Campaign for Real Ale Limited) is a company limited by guarantee which does not distribute any surplus it makes to its members, as demonstrated by its articles of association. The applicant states that CAMRA (i.e. the Southern Hampshire branch) has 1727 members (including 61 within the postcode of the Property) and this branch includes the New Forest District. The branch carries on a number of activities in the local area, including holding an annual beer festival, holds meetings, nominates a local “pub of the year”, writes a local newsletter and so on. The Southern Hampshire Branch gives CAMRA a local connection as required by the Regulations and this relationship has been confirmed recently by the court (First Tier Tribunal). CAMRA are entitled to make an application to list the Property as an asset of community value.

- 3.3 The Property is currently owned freehold by Ashlett Pub Limited. The Property is presently used as a public house.
- 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 CAMRA provided details about the use of the Property by the local community in the statement accompanying the Application. CAMRA say the Property is used as a public house and is important to the social well-being of the local community. In particular CAMRA assert:
- There is beer garden attached to the pub which is used and enjoyed by local people.
 - The Property holds regular quiz nights which bring the community together.
 - The Property has a good food menu enjoyed by the local community.
 - Free wifi is available for customers.
 - There is free parking which is accessed by the local community
 - The Property is a member of CAMRA's LocAle scheme, which is committed to serving locally produced real ales and local produce.
 - The Property offers a darts board, quiz machine and pool tables.
 - Local sports teams meet in the Property
 - The Property has been included in a tourist or local pub guide.
 - Meeting spaces are available for local community groups and charities to use, including the local "Shoot" who meet there on a regular basis.
 - The Property stands at the end of Ashlett Creek and is ideal to observe nautical activity on Southampton Water or to begin a coastal walk to Calshot Marshes Nature Reserve. The property is also popular in summer with visiting yachts.
 - The Property has special value to local heritage and culture which should be protected as it is a former farm hands cottage on the Drummond Estate late 1700, early 1800.

3.6 Cross check internet reviews of The Jolly Sailor showed, for example:

- The web site TripAdvisor makes reference to a variety of visitors visiting the Property, in particular for food, using the beer garden and referencing dog walkers, including yachtsmen and walking groups.
- Other walking groups have left internet posts and the pub is mentioned on a walking guide posted by the NFNPA.
- The NFDC references the Property on its web site page for historic environment conservation areas (Ashlett Creek).
- Various posts indicate the Property being used by visiting yachtsmen.

4.0 THE OWNERS COMMENTS

4.1 The Owner of The Jolly Sailor has been asked to comment on the Application. The Owner's solicitors contacted the Council on 8th September enquiring how they might appeal against the nomination if they decided to do so. In reply the review process was briefly explained and Owner was referred to the Council's web page. However there has been no subsequent correspondence or comment.

5.0 LEGAL POWER AND DELEGATIONS

5.1 The Council must consider the nomination and decide whether to list the Property as an asset of community value.

- 5.2 The Council has put in place delegated powers for an Executive Director to make the decision in consultation with the Head of Legal and Democratic Services, 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 land 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 asset of community value, 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 loss and expense in relation to the Property which would be likely not to be incurred if the Property had 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.

6.0 CONSULTATIONS

- 6.1 A number of consultations have been made as summarized below.
- 6.2 The Owner was informed of the Application as described in section 4 above.
- 6.3 The current tenant of the Property was asked to comment on the application but no comments have been received.
- 6.4 Fawley Parish Council was informed of the Application and was invited to provide comments. They replied that the meeting of Fawley Parish Council held on 23 September 2015 resolved to support the application to nominate The Jolly Sailor as an asset of Community Value under the provisions of the Localism Act 2011.
- 6.5 The Head of Planning and Transportation stated there appeared to be no reason why the Property should not be put on the register.
- 6.6 The Head of Leisure and Employment commented that there would appear to be no reason not to add the nomination to the list.
- 6.7 The Head of Legal & Democratic Services had no comments on the proposal.
- 6.8 Cllr Jill Cleary was informed of the Application as portfolio holder for Housing and Communities and she said that she no comments re this application as it was not her ward and would leave it to the local Councillor to make any comments.
- 6.9 Cllr James Binns, Portfolio Holder for Health & Leisure stated that he would leave it for local members.
- 6.10 Cllr Alexis McEvoy commented: Over the years, The Jolly Sailor has been run by a number of licensees, some better than others. However, the site and history of the pub is worth preserving. It is positioned in a tranquil setting and a great asset to boat

users and the community alike. It is a good base for walkers, dog walkers and for the enjoyment by everyone of the local flora and fauna. I would support this application.

6.11 Cllr Bob Wappet made no comments on the nomination.

7.0 CONCLUSION

7.1 The reasons given by the nominating body set out in section 3 indicate the Property does fulfil the criteria for listing summarized in paragraph 5.4 above.

7.2 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 in this report.

8.0 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:

Background Papers:

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Application by CAMRA