

## REPORT TO JOHN MASCALL

### Application to nominate The Falcon Hotel The Square Fawley Hampshire SO45 1DD 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 Falcon Hotel public house The Square Fawley Hampshire SO45 1DD (“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 Falcon Hotel public house, The Square Fawley Hampshire SO45 1DD 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 23 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 28 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”, and writes a local newsletter. 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 Punch Partnerships (PTL) Limited and is shown edged red on the Land Registry Plan annexed to the application under title number HP468648 (N.B. excluding the land edged green on that plan). 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:
- Live music events are often hosted at the pub.
  - The pub hosts advertising for local events.
  - There is a beer garden attached to the pub which is used and enjoyed by local people.
  - There are televisions screening sporting events enjoyed by patrons.
  - 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 good access for disabled people at the pub.
  - The Property offers a darts board, quiz machine and pool tables.
  - The Property is the only pub within Fawley village.
  - Meeting spaces are available for local community groups and charities to use.
  - Local sports teams meet in the Property, including the Fawley football team who meet on a regular basis.
  - The Property has been included in a tourist or local pub guide.
  - The pub provides important local services to the community including access to free local newspapers.
  - The pub is a viable and successful business that is not under threat; therefore the main use of the asset as a public house is expected to continue.
  - The pub has special value to local heritage and culture which should be protected.
  - Regular community events include steak nights, curry nights and live folk music.

#### **4.0 THE OWNERS COMMENTS**

- 4.1 The Owner of The Falcon Hotel has been asked to comment on the Application. No comments have been received.

#### **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 A letter was sent to the Property for the attention of a licensee/tenant requesting 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 Amenities Committee meeting of Fawley Parish Council held on 14 October 2015 resolved to SUPPORT the application to nominate The Falcon Hotel, The Square, Fawley, Southampton SO45 1DD 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: I support this application. The Falcon Inn is definitely a social hub for the village of Fawley and as such is an asset to the community.
- 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