

DECISION NOTICE

THE LOCALISM ACT 2011 SECTION 88

Decision on the nomination of an asset of community value

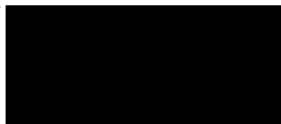
THE CROWN INN, 4 OLD CHRISTCHURCH ROAD, EVERTON, LYMINGTON, HAMPSHIRE SO41 0JJ

I, Alan Bethune, Strategic Director Corporate Resource and Transformation of New Forest District Council, pursuant to delegated powers, have considered an application made by Hordle Parish Council dated 26 February 2024 to nominate The Crown Inn, 4 Old Christchurch Road, Everton, Lymington, Hampshire SO41 0JJ 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 & Transformation,
and Section 151 Officer**

Dated: 17 April 2024

REPORT TO ALAN BETHUNE

APPLICATION TO NOMINATE THE CROWN INN PUBLIC HOUSE AS AN ASSET OF COMMUNITY VALUE

1. INTRODUCTION

- 1.1 This report relates to an application made to the Council by Hordle Parish Council (“the Nominator”) to nominate The Crown Inn, 4 Old Christchurch Road, Everton, Lymington, Hampshire SO41 0JJ (“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 by 22 April 2024 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 26 February 2024. 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 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 Nominator states in the Application at section B7 that the Owner is “Stonegate Pub Group” and is presently used as a public house. However, in its own investigation of the Property, the Council obtained Land Registry records of the title which states that the Property is owned freehold by ‘Leased and Tenanted Pubs 2 Ltd’ (“the Owner”). A Companies House search shows that the Owner was previously named ‘Stonegate Pub Company Bidco Holdings Ltd’. The Application confirmed at section B5 that the Property is used wholly or partly as a residence and states that there is a “*Manager’s accommodation on first floor*” but does not list the Manager as a lawful occupier at section B7 and leaves the box empty. This form of manager’s accommodation within a public house is common and does not appear to affect the Application.
- 3.4 The Application contends at section B3 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 anticipated that it will continue to do so “*Indefinitely*” in the future. As supporting evidence, the Nominator refers to “...*supporting letters from 91 local residents attached*”. One part of this supporting evidence comprises a letter of support to the Nominator from a local person in Everton, dated 20 January 2024 with signatures collected of those also supporting the comments. The letter says he has been using the Property “*for nearly 30 years*” and that his move to the village of Everton was “*primarily in my part for the Inn and the community atmosphere of the village*” and that it is “...*utilised by the locals, but serves as a venue for many other groups and organisation from walkers, cyclists, bikers, the local church, all year round holiday makers and many more*”. The letter goes on to say that “*It would be a great loss if the Inn closed or was sold off without the village having their say or the opportunity of making it once and for all a ‘community asset’*” and that “*I am attaching all the signatures collected to date...so hopefully you are seeing how the village feels about this asset we do not want to lose*”. Of the supporting letter, emails and signatures included, the large majority are from Everton and Lymington addresses with some from Totton, Milford and Ashley but also further afield such as Southampton, Bournemouth, Salisbury and East Sussex.
- 3.5 The Application attaches further emails of support including from an Everton local “*for well over 30 years*” and who cites the Property as “...*a gathering and meeting hub for local villagers...to find out what is going on in the village and also get a real gauge on the well being of local people*” and “...*the place in the village where so many people feel safe and supported...[and]...If one of the mandates of the Parish Council is the well-being of its residents then I would argue the Crown pub is absolutely central to this for so many villagers. I can’t really imagine the village without it*”. Other locals say that they “...*support The Crown public house being made a Community Asset. Without the Crown the heart would be removed from Everton. After all it is the only pub in the village!*” while another says “*The Crown pub is vital to so many in the village of Everton. It brings the community together and is a safe and friendly place to go especially for single and elderly females living alone. The pub is vital to help support the village community*”.
- 3.6 At section B6 ‘Further Information’ the Nominator states that the Property “...*is an important focal point for the people of Everton and beyond – catering not just for its immediate community but for visitors from further afield*” and that “*It is a hub of the village...*” and “...*offers a way to prevent social isolation in a relaxed informal setting, thereby aiding the well-being of the entire community.*”
- 3.7 It is of note that the plan submitted with the Application is slightly at odds with the HM Land Registry plan. The Application plan (attached) depicts a slightly greater amount

of land included within the boundaries of the plan as this includes land that abuts the highway at the front of the Property. The Land Registry plan (attached) shows that the Property land stops slightly further away from the highway ie is a slightly smaller size but does not apparently have any effect on the Application relating to the running of the Property as a public house nor in the way depicted in the Application form and supporting evidence. Furthermore, there is no confusion over the property to which the Application refers.

- 3.8 Regulation 6 of The Assets of Community Value (England) Regulations 2012 ('the Regulations') states that a community nomination "must" include:
"(a) a description of the nominated land including its proposed boundaries".
- 3.9 In the text 'Assets of Community Value guide' (Christopher Cant – 6th Ed; 8.6.18; p98/99) it refers to the case of Hamna Wakaf v Lambeth LBC (CR/2015/0026), and refers to the judgment of Judge Lane who felt that "...*strict adherence to the requirements regarding the contents of a community nomination contained in regulation 6 of the 2012 Regulations is not required. He considered that a listing authority has a discretion to waive a requirement in regulation 6 if it reasonably concludes that no substantial prejudice would be caused...*". It goes on to say later in the same text that the Hamna Wakaf decision therefore confirms that regulation 6 does not impose a mandatory obligation which must be complied with at the date of the making of the nomination (Cant ibid p148).
- 3.10 At the same passage at p148, it states "...*in cases in which it is clear what asset is being nominated the absence of a statement of the boundaries will not invalidate the nomination*" and cites Hawthorn v Bracknell Forest BC (CR/2015/0020) where it was considered obvious that it referred to the public house and curtilage (para 11) and "*There was no part which was to be excluded so the use of the name combined with the postcode was adequate*" (Cant; p148).
- 3.11 Therefore, the defect in the Application plan is not prejudicial to the nomination and, if the Property is listed as an ACV, it will be based on the boundaries as depicted in the Land Registry plan rather than that in the Application.

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 by letter of 25 March 2024. It has not responded.
- 6.3 The 'Occupiers' were notified by letter of 25 March 2024 and invited to comment but have not responded.
- 6.4 As the Nominator is the local Parish Council, there has been no need to inform the Parish Council.
- 6.5 The Service Manager for Legal and Democratic Services was informed of the Application but did not respond.
- 6.6 The Strategic Director of Place Operations & Sustainability and Assistant Director for Housing respectively, were informed of the Application, but neither responded.
- 6.6 The Service Manager for Estates & Valuations, was notified of the Application but did not respond.
- 6.7 The relevant Portfolio Holders were notified. Portfolio Holder for Planning, Regeneration & Infrastructure Cllr Dan Poole said that "*I am happy to support this nomination*". Portfolio Holder for Partnering and Wellbeing, Cllr Geoffrey Blunden did not respond.
- 6.8 Ward Councillors David Hawkins, Alvin Reid and Christine Ward were informed but did not respond.
- 6.9 In an internet search of the Property, Trip Advisor has 499 comments listed between October 2010-February 2024, commenting on the food and service, generally it seems by non-locals.

7. CONCLUSION

- 7.1 There are therefore no objections to the nomination.

- 7.2 The Property has clearly been used as a public house for some years. Although there is no evidence provided in the Application, a search of the 'Everton Village' webpage includes photos of the Property that it says are from 'late 1800s/Early 1900s' where it can be seen that it was still called The Crown Inn and apparently was a public house. Based on the evidence to hand, it is therefore not unrealistic to think that in the foreseeable future it could continue to be run as a public house in such a way as to further the social well-being and social interests of the local community.
- 7.3 It seems reasonable to conclude that use by the community can continue in the near future. Indeed, there is no evidence submitted 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 sections 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:

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Background Papers:

Application by Hordle Parish Council dated 26 February 2024 together with supporting documents

Land Registry plan