

DECISION NOTICE

THE LOCALISM ACT 2011 SECTION 88

Decision on the nomination of an asset of community value

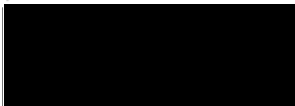
THE ROSE & THISTLE, ROCKBOURNE, HAMPSHIRE SP6 3NL

I, Alan Bethune, Strategic Director Corporate Resource and Transformation of New Forest District Council, pursuant to delegated powers, have considered an application made by Rockbourne Parish Council dated 26 April 2024 to nominate The Rose & Thistle pub, Rockbourne, Hampshire SP6 3NL 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: 13/06/2024

REPORT TO ALAN BETHUNE

APPLICATION TO NOMINATE THE ROSE & THISTLE PUBLIC HOUSE AS AN ASSET OF COMMUNITY VALUE

1. INTRODUCTION

- 1.1 This report relates to an application made to the Council by Rockbourne Parish Council (“the Nominator”) to nominate The Rose & Thistle pub, Rockbourne, Hampshire SP6 3NL (“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 21 June 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 April 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 Chris Chester-Sterne and is presently used as a public house. The Owner's address is given as that of the Property, therefore, presumably the Owner is the landlord. 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 "CCS Hospitality Ltd" which presumably is the same person, as one of the Directors is named as Christopher Thomas Chester-Sterne (the term, "the Owner" will therefore, for the purposes of this report, refer to CCS Hospitality Ltd, but where appropriate, will also refer to Christopher Thomas Chester-Sterne). The Application confirmed at section B5 that the Property is used wholly or partly as a residence and states that the "...*current landlord resides at the property*". 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 as a Public House furthers the social well-being or cultural, recreational or sporting interests of the local community, stating that "*The Public House is frequented by both locals and tourists and used for a number of informal meetings as well as celebrations. Local hiking and walking groups use it as a meeting point and end of activity point*" and that it is anticipated that it will continue to do so "*For as long as it remains available*". At B6 which requests any further information to support the nomination, the Nominator states that "*The Public House is a central and vital part of the local Community*".
- 3.5 The Nominator then provided supporting evidence in its emails of 16th and 17th May 2024. In the former email, the Nominator refers to an online petition "Save The Rose & Thistle Pub" that had been started by "Rockbourne Save The RAT" (which is the acronym for the Property) and which showed that signatures were up to 701 (605 people had signed that day). In the latter email, it attached a document of information in support of the Application, including a history of the Property showing that it was built around 1580 and the first record of it becoming a pub was from 1851. It also noted that in 2022, the Property was bestowed with the South of England Prestige Award of "*Historic Pub of the Year*".
- 3.6 The document goes on to explain that "*Rockbourne is a small village with c 250 residents and has no shop, restaurant or other retail amenities other than the RAT which plays a vital part in bringing the community together. The pub enables local people to meet and socialise in a welcoming environment. Locals, tourists and visitors find visiting the RAT a rewarding and enjoyable experience. Social interaction at the RAT is in the interests of the community as a whole as it encourages community cohesion and a collective sense of well being.*" It asserts that the Property is a focal point for the community and lists events that it hosts including "*birthday parties for young and old; cricket club lunches and dinners; weddings; funeral/wake parties; shoot lunches; live music; live coverage of major sporting events; Parish Council Working Group meetings; wine tastings; business lunches*" and that, amongst other things, "*The pub hosts quiz nights, fish & chip evenings and occasional live music all of which help to bring the community together*".
- 3.7 It also referred to (i) a local meeting on 9 April, convened due to the threat of closure and conversion to residential use; (ii) a separate "Buy the Pub" group being formed by residents; (iii) the petition which was up to 839 signatures in 3 days.
- 3.8 It is of note that the plan submitted with the Application is slightly at odds with the HM Land Registry plan. However, when this discrepancy was addressed in an exchange of emails with the Nominator on 22 May 2024, the Nominator confirmed that the

boundaries depicted in the plan submitted with the Application were incorrect due to 'lack of IT skills' and that the Land Registry plan should be the one upon which the Application plan is based. The issue clearly has no real effect on the Application relating to the running of the Property as a public house nor in the way it is depicted in the Application form and supporting evidence. Furthermore, there is no confusion over the property to which the Application refers.

- 3.9 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".
- 3.10 In the text 'Assets of Community Value guide' (Christopher Cant – 6th Ed; 8.6.18; p148) it refers to the case of *Hamna Wakaf v Lambeth LBC* (CR/2015/0026), and refers to the judgment of Judge Lane when 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*".
- 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 those in the Application.

4. THE OWNER'S COMMENTS

- 4.1 The Owner has been notified of the Application. At the time of this report the Owner 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 22 May 2024. It has not responded.
- 6.3 The 'Occupier' was notified by letter of 22 May 2024 and invited to comment but have not responded. As mentioned above, it seems clear that the Owner and Occupier are the same persons.
- 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.
- 6.7 The Service Manager for Estates & Valuations was notified of the Application but did not respond.
- 6.8 The relevant Portfolio Holders were notified. Portfolio Holder for Partnering and Wellbeing Cllr Geoffrey Blunden said that he had no comment, whilst Portfolio Holder for Planning, Regeneration & Infrastructure Cllr Dan Poole did not respond.
- 6.9 Ward Councillor Janet Richards said *"I am very pleased that the Parish Council has made this application as I think that the pub is essential for the social wellbeing of the residents of Rockbourne. The village is relatively isolated and has few facilities – in particular, it lacks those places where people can meet and socialise informally, and this is what the pub provides.*

Most pubs have struggled over the last few years with the disruption caused by the pandemic, but I feel that the Rose & Thistle is well placed to recover from what is hopefully a short-term problem. The pub has a lot going for it – even though Rockbourne itself is quite small, the attractive building and garden, and the delightful location mean that it appeals to locals from further afield and also to tourists and holidaymakers. It just needs the right management to revive it. I have met the local residents who are behind this ACV application, and I have no doubt that they have the motivation and resources to make a success of this pub if they are given the chance".

I strongly support the Rose and Thistle being listed as an Asset of Community Value."
- 6.10 On 10 June 2024, Trip Advisor showed 795 reviews although the pub is currently temporarily closed, as explained below at 6.11.

6.11 In an internet search of the Property, also on 10 June 2024, The Rose & Thistle website had a message stating *“As of Friday 7th June 2024 we have sold the business to a local couple. We are pleased to share that it will continue to operate as a pub under their ownership. It will be temporarily closed. Please check back here for further updates and sign up to the new mailing list”*.

7. CONCLUSION

7.1 There are therefore no objections to the nomination.

7.2 The Property is clearly being used as a public house. 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. This is especially so, given the very recent sale as an ongoing business to new owners who will continue the running of the pub.

7.3 There appears to be no doubt that there is local enthusiasm to continue to use the Property as a functioning pub and that 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 3.4-3.7 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 Rockbourne Parish Council dated 26 April 2024 together with supporting documents.

Emails from Rockbourne Parish Council dated 16 and 17 May 2024.

Land Registry plan.