

## Officer Decision Record – 12 May2025

### Lymington Town Hall site, Town Hall, Avenue Road, Lymington SO41 9ZG

Classification	Public - Lists of assets must be published by virtue of paragraph section 94 of the Localism Act 2011
Decision taken	<p><b>It is recommended that you as Chief Executive of the Council decide this Application pursuant to delegated powers as follows:</b></p> <p><b>In the opinion of the local authority, the actual current use of the building or other land does not further the social wellbeing or social interests of the local community, and it is not realistic to think that there can 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.</b></p> <p><b>It does not therefore meet the criteria set out in the Localism Act 2011 to be eligible for listing.</b></p>
Reasons for the decision	As set out in the report.
Consultations undertaken	Details of internal/external consultations undertaken are in the report, including with the relevant Portfolio Holder and Ward Councillors.
Finance and Resourcing implications	<b>N/A - Other than those explained at paragraph 26</b>
Legal implications	As set out in the report.
Risk assessment	<b>N/A</b>
Impact assessment	<b>N/A</b>
Any conflict of interest by officer taking the decision	<b>N/A</b>

Decision taken by	Kate Ryan Chief Executive
Background information	
Ward(s)	Cllr Jacqui England and Cllr Barry Dunning - Lymington Ward
Portfolio Holder(s)	Councillor Dan Poole – Safety & Wellbeing (including ACVs)
Officer Contact	Richard Davies Solicitor, Legal Services Tel: 02380 285298 Email: richard.davies@nfdc.gov.uk

# **DECISION NOTICE**

## **THE LOCALISM ACT 2011 SECTION 88**

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

#### **Lymington Town Hall site, Town Hall, Avenue Road, Lymington SO41 9ZG**

I, Kate Ryan Chief Executive of the District Council of New Forest, pursuant to delegated powers, have considered an application made by Lymington & Pennington Town Council, nominating Lymington Town Hall site, Town Hall, Avenue Road, Lymington SO41 9ZG as an asset of community value. Having considered the application I have decided that the application should not be accepted for the following reasons:

In the opinion of the local authority the actual current use of the building or other land does not further the social wellbeing or social interests of the local community, and it is not realistic to think that there can 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 does not meet the criteria set out in the Localism Act 2011 to be eligible for listing.

Signed:

A black rectangular box redacting the signature of Kate Ryan.

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Kate Ryan  
**Chief Executive**

Dated: 12 May 2025

# **Application to nominate Lymington Town Hall site, Town Hall, Avenue Road, Lymington SO41 9ZG**

## **Introduction**

1. This report relates to an application made to the Council by Lymington and Pennington Town Council ("the Nominator") to nominate Lymington Town Hall site, Avenue Road, Lymington SO41 9ZG ("the Property") as an asset of community value ("the Application"). The report reviews the Application, the criteria against which a decision must be made, the result of consultations and makes recommendations.

A copy of the Application is annexed to this report.

## **Background**

2. 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 13 May 2025 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.
3. If the Property is listed as an ACV, the owner 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.
4. 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 e.g. an existing pub continuing to operate 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.

## **The application**

5. The Application dated 18 March 2025, was received by the Council on the same date. The Council is the proper decision-making authority to determine the Application and delegations have been granted to the Chief Executive to make a decision on the matter. The Application is valid under the criteria laid down by the Act and the Property is not one of the exceptions laid down in the Act.

6. The Nominator is a Town Council and a copy of its 'Standing Orders' is attached to the Application. The Nominator falls within the term 'parish council' for the purposes of the Act section 89(2)(b)(i). The Nominator is therefore entitled to make an application to list the Property as an ACV.
7. At section B1, of the Application identifies the land being nominated as "*Lymington Town Hall site*". In section B2 of the Application, the plan of the Property comprises a comparatively large area, covering not only the Town Hall Council offices, but also the car park, surrounding grounds and 'Fire Station', including a thin strip of land below the Station which, it is believed is the road access to it.
8. The section 3 description of the current use of the asset is given as "*Office Building for NFDC, NPA, Police, Lymington & Pennington Town Council, Citizens Advice, and various other smaller businesses.*"
9. The Nominator asserts that this use '*furtheres the social wellbeing or cultural, recreational or sporting interests of the local community and is likely to continue*' and goes on to explain that the basis of the Application is due to "*Rumours of sell off and closure by NFDC and HCC. Police, CAB and Town Council all wish to continue to serve the local community from this central site. Devolution is a further threat to this central site which is vital to the local community. NFDC gave notice to the Town Council to quit the site in April 2027, however then NFDC changed its mind verbally but has not offered a lease in place of the one expiring thus no permanency has been offered to tenants to protect the community of this well used site.*"
10. The Application states that the use of the asset by the local community is "*Authorised by leases which are due to expire in 2027*" and that the main use of the asset is anticipated to continue "*Indefinitely/unknown*".
11. The Nominator provides further information in support at section B6 to say "*The current occupiers of the site provide an invaluable service to the local community - indeed reaching further afield than the parish boundaries. Local people would find it very difficult to access the providers of these services if they were forced to relocate to more remote premises. This would adversely affect the wellbeing of local residents and seriously impact the democratic function of the first tier of local government, and disadvantage some members of the local community who have no car access*".
12. In the section for listing details of owner and occupier, the Application identifies New Forest District Council ('NFDC') as the Owner of the asset; and Hampshire County Council ('HCC') as the '*Holder of the freehold estate (if not the owner)*'. It further states that "*HCC own some of the estate - not known which parts*".

13. The Nominator lists the occupiers as *"Police, CAB, NPA, Lymington & Pennington Town Council, Various other small businesses"* either under lease or *"temporary/short term leases – details unknown"*.
14. By email of 9 April 2025, the Council requested (i) further information on the Fire Station as it falls within the land marked for nomination but no detail had been provided of the owner/occupier of that building; and (ii) the *"Support letters to accompany application..."* which was referred to in the Application but not included. By email of 10 April 2025, the Nominator responded to say that it held *"...no information relating to the Fire Station or their land which is owned by HCC, similarly the empty HCC site the opposite site abutting the Town Hall itself... HCC holds all the information relating to the Fire Station. Thus if HCC were to consider selling the whole site they own in the future it is certainly feasible to consider that they would consider also selling the fire station site...HCC has neither confirmed nor denied this. Also given the fact that devolution and local government re-organisation is at the very top of all councils' agendas at the moment, I doubt any definitive answer would be forthcoming from HCC on the fire station site itself. Similarly no information is forthcoming from NFDC regarding any of its sites/assets until it has decided what it wishes to do from a devolution perspective..."*.
15. In that email, the Nominator also attached the message of support from the Citizens' Advice Bureau New Forest ('CAB') in a letter to the Nominator (attached), dated 4 March 2025 - the Nominator said that *"Police and Go New Forest also said they are supportive and would write but have not, as of today"*. The letter states that the CAB wished
  - *"...to highlight the significant role that Lymington Town Hall plays in our community and to argue for its designation as a community asset. Lymington Town Hall is more than just a building; it is a vital hub for various community activities and services. As the headquarters of Citizens Advice New Forest, it provides a central location where residents can access free, confidential, and impartial advice on a wide range of issues, including legal, financial, and housing matters. Our presence in the Town Hall allows us to serve the community effectively, offering support to those in need and helping to resolve problems that impact their daily lives. Designating Lymington Town Hall as a community asset would ensure its continued availability for these essential services and activities. It would also recognize the building's historical and cultural significance, preserving it for future generations. Community assets are crucial for promoting community ownership and empowerment, allowing residents to have control over spaces that are important to them. We strongly believe that Lymington Town Hall meets the criteria for a community asset and urge to consider this designation..."*.

16. This is the only message/letter of support for the nomination.

### **The owner's comments**

17. The Application indicates there is more than one owner of the Property nominated. New Forest District Council is recorded as Proprietor of part of the Property, with title absolute - HM Land Registry HP721179 plan attached. The plan shows that this ownership covers a large part of the Town Hall building, the Lymington Neighbourhood Police Office and land to the front and rear of the Town Hall, including the car park.
18. As the New Forest District Council is both owner and also the body which must decide upon the Application, that part of the District Council which represents the owner of the Property shall be referred to as 'NFDC' and the decision-making element shall be referred to as 'the Council'.
19. The Council by internal email, notified NFDC of the nomination. In response, the Strategic Director Corporate Resources & Transformation Section 151 Officer replied to say:

- *"First and foremost, I would query the generalisation of a collection of separately listed hereditaments under a single umbrella as acceptable as a single ACV nomination. Section 95 of the 2011 localism act places a clear moratorium on the owner of land once placed on the register of Assets of Community Value. It is not in the gift of the District Council to seek to dispose of the hereditaments as included within the red line plan as submitted within the nomination as it is not the freehold owner of the land included within it. There is dual ownership throughout the site, and several hereditaments that are listed under different non-domestic rating categories through the Valuation Office for the purpose of Business Rates. This includes a fire station, a separately registered Hampshire County Council Office, the substantive Town Hall Site, and a separately registered and titled Car Park. The provisions therefore under section 95 of the act cannot be applied.*

*The Town Hall itself does not further the Social Wellbeing or Social Interests of the local community. The local community would see next to no impact if the Town Council were to operate from an alternative location (within the ward) at some point in the future.*

*Further, in terms of the specific points raised about the furthering of community value, the third party tenants most recently in occupation at the Town Hall were all very clear at the point of signing head leases at the length of lease agreed. At the present time, the Council has confirmed verbally to the Town*

*Council that we would now be seeking to provide an extension to their lease, to continue occupation beyond the current timeframe afforded by the Local Government Re-organisation timeline. As such, the timing of the application is also questionable, and unnecessary at this time. There is still just under 2 years left to run on the current lease, and so we have time to enter these discussions well in advance of the current lease expiry date. The Council is also of the view that potential alternative use, to be informed by both the District Council's Local Plan (including local consultation and engagement), and no doubt inclusion in the emerging Town Council's Local Neighbourhood Plan would provide much further community benefit than the existing use as a partially occupied suite of offices (including a large vacant area) and police station.*

*The District Council has also committed to maintaining a local presence in the Lymington & Pennington area, and is open to the idea that the location of this presence may be best served in an alternative location to the current Town Hall. We have affirmed in communication with the Town Council that we would be seeking to work with them through a One-Public Estate lens, to see what benefit can be derived from joint working going forward, in a location of the right scale and size. We are also intending to work collectively with the Police Authority, as we did previously when we sought to accommodate them in the Town Hall, post the sale of their previous Police station.*

*The Council is also aware that the National Parks Authority are actively seeking opportunities for centralised funding to be made available to support a move into the National Park boundary, and confirmation has been received in recent times that the space and so financial value occupied by the NPA at the Town Hall is excessive for their current needs.*

*Please be advised that I intend to work with the Town Council on a sensible lease extension, and that the Council's Estate Manager has been asked to put a proposal together, to be communicated to all tenants in due course."*

20. The Council wrote to HCC by email of 9 April 2025 to notify it of the nomination and inviting comment, but did not receive a response.
21. Whilst it is understood that HCC owns part of the Property, HM Land Registry details of any ownership could not be located and, without any further information provided by HCC itself, or by the Nominator, the Council must make its decision on the evidence it has to hand.

## **Legal power and delegations**

22. The Council must consider the nomination and decide whether to list the Property as an ACV.
23. The Council has put in place delegated powers for a Chief Executive, Strategic Director or Chief Planning Officer to make the decision in consultation with relevant heads of service and portfolio holder(s).
24. 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.
25. The Property is of community value if, in the opinion of the local authority the actual current use of the building or other land 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.
26. 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.

## **Consultations**

27. A number of consultations have been made by informing them of the Application and are summarised below.
28. As noted above at paragraph 19, NFDC as owner of part of the Property, was notified of the nomination.
29. The correspondence to HCC as owner of part of the Property is set out in paragraphs 20 and 21 above.
30. As mentioned at paragraphs 8 and 13 above, there are numerous occupiers of the Property by way of leasehold agreements. Each of the following occupiers was notified of the nomination:
  - Airwave Solutions Ltd
  - EE Ltd
  - Fire Service
  - Hammersley Homes

- Heppenstalls solicitors
- IO Ten Ltd
- JB Associates
- Messrs Edwards & Root
- CAB New Forest
- New Forest National Park Authority
- Palladium International Ltd
- Police Commissioner for Hampshire
- Fire Station – whilst it is a separate building within the boundaries of the Property and the Council does not know on what legal basis it occupies the Property, it was also sent notification of the nomination.

With the exception of the CAB, whose letter of support to the Nominator pre-dated the Council's letter of notification, none of the occupiers responded.

31. The Nominator is the local town council and so there was no need to notify it.
32. The Assistant Director for Governance (Monitoring Officer) was informed of the Application but did not respond.
33. The Strategic Director of Place Operations & Sustainability and the Strategic Director Housing & Communities respectively, were informed of the Application. The latter did not respond and the Strategic Director of Place, Operation and Sustainability said *"I'm not sure how an office building could be considered to meet the tests, now or in the future..."*.
34. The Service Manager for Estates & Valuations was notified of the Application but did not respond.
35. Portfolio Holder for Safety & Wellbeing (including ACVs) Cllr Dan Poole was notified but did not respond.
36. The Ward Members, Cllr Jacqui England and Cllr Barry Dunning were notified of the nomination. Cllr Dunning responded to say, *"At the Lymington & Pennington Town Council meeting where this proposal was discussed and voted upon, I voted against it. I have no desire to see this as an ACV..."* Cllr England did not respond.

## **Conclusion**

37. When assessing the nomination, one must initially consider the land which is the focus of the Application. This is depicted by the red lined plan at section B2 in the Application form. The Application does not offer any dimensions but as mentioned earlier, it covers a

relatively large area. The main building on the Property is marked as 'Town Hall Council Offices' ('the Offices'). The area of land around the Offices is larger than the building itself. That is still true when taking into account the building marked as 'Fire Station'.

38. To then appreciate the boundaries between the two sections of the Property owned by different owners, it assists in considering the HM Land Registry plan for HP721179 (attached), which is that freehold land owned by NFDC outlined in red. It can be seen that this registered land goes beyond the boundaries of the Application plan but it can also be seen that the left hand/easterly boundary intersects the Offices. The remainder of the Property depicted in the Application plan is understood to be HCC owned, although of course as it is not registered, we cannot rely on an HMLR plan.
39. Next, the Application must be assessed in accordance with section 88(1) of the Act which states:
  - (1) a building or other land in a local authority's area is land of community value if in the opinion of the authority—
    - (a) 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
    - (b) 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.
40. In the reference text 'Assets of Community Value - Law and Practice'; Simon Adamyk (2017), it states at 4.14 – "*The Act provides limited guidance on what constitutes the 'social wellbeing or social interest of the local community'. The Act clarifies [here, it quotes section 88(6) of the Act] that the term 'social interests' includes 'in particular' (ie non-exhaustively) 'cultural interests', 'recreational interests' and 'sporting interests'. However, those terms are not further defined. The term 'social wellbeing' is also not defined. These terms are deliberately vague. It will usually be a question of fact as to what constitutes the 'local community' and 'social wellbeing' in any particular case. It is a 'highly contextual question, depending upon all the circumstances of a particular case'*".
41. In considering section 88(1)(a) above, the Application form at section 3 invites the Nominator to explain how "*...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?*" and it asks for supporting evidence. The Nominator's response is set out at paragraph 9 above – essentially

stating that the *"Police, CAB and Town Council all wish to continue to serve the local community from this central site..."*. Later at section B6 it states that *"The current occupiers of the site provide an invaluable service to the local community...Local people would find it very difficult to access the providers of these services if they were forced to relocate to more remote premises"*.

42. There is no evidence that the Police support this Application, nor is there any evidence to explain why its use of the Property should be given ACV status.
43. The Nominator states at section B6 that if the Nominator/Town Council had to relocate *"This would adversely affect the wellbeing of local residents and seriously impact the democratic function of the first tier of local government, and disadvantage some members of the local community who have no car access"*.
44. Whilst it is obviously important that the community has access to local government in order to exercise democracy, this does not appear to fall within the guidance for 'social wellbeing' or 'social/cultural/recreational/sporting interests' referred to above at paragraph 40. The Town Council's use of the Property therefore does not meet the test to *'further the social wellbeing or social interest of the local community'*.
45. The CAB letter of 4 March 2025, referred to above at paragraph 15 states that Lymington Town Hall is *"...a vital hub for various community activities and services...[and]... provides a central location where residents can access free, confidential, and impartial advice on a wide range of issues..."*. It also says that the Town Hall has *"...historical and cultural significance"*, although there is no evidence provided either with the CAB letter or the Application to support either of these assertions.
46. Once again, although there is no doubt that the CAB provides an important advice service to the community, using offices in a building for this purpose – and without any supporting evidence from the community itself - does not appear to correspond to the terminology of section 88(6) of the Act (paragraph 40 above).
47. The other occupiers which are listed at paragraph 30 above, appear to all be commercial interests and there is no suggestion that any of these represent a presence which would support the Application for ACV status. Also, the Nominator does not refer to them at section 3 of the Application form when arguing that the Property houses organisations wishing to serve the local community.
48. Therefore, the evidence provided does not suggest that the current use of the Property by the respective occupiers meets the test of s88(1)(a).

49. However, in order to complete the second part of the test posed by s88(1) we must turn to sub-clause (b) which requires an assessment of how that use is adjudged ie is it a primary use or ancillary use? Whilst this term has not been defined in any of the relevant statutory provisions, Adamyk's reference text (ibid) states that "... *in the absence of a definition [of ancillary use], it seems reasonable to conclude that the term is being used in its usual sense, that is to say, as referring to a use which is supplementary or subordinate to some other (primary) use.*" (4.47)
50. When the plan of 'Lymington Town Hall site' is compared to the HM Land Registry plan which displays that part of the Property leased to CAB (attached – HP839603), it can be seen that the CAB's office area represents only a small percentage of the overall area of the Property. On that basis, it does not seem likely that the CAB's use of the office could be deemed to be a primary or main use of the whole of the Property and which could warrant the whole of the Property being given ACV status.
51. Furthermore, it is important to note that, in the CAB's letter of support, it asserts that designation as an ACV will "...*ensure its continued availability for these essential services and activities*". This should be clarified, as the ACV status actually means that moratorium provisions would be engaged if the owner were to state its intention to dispose of land and would, potentially, allow a community bid to be raised in the purchase of the land (as per s95 of the Act and as explained at paragraph 3 above). There is no suggestion in the Application or accompanying correspondence that a community bid would be contemplated in the event of an intended disposal of the Property.

## **In Summary**

52. Consequently, when the Application is considered with the evidence and information referred to above, this indicates that the Property does not fulfil the criteria for listing summarised at paragraph 25 above. Therefore, for the reasons explained, the Application does not appear to meet the legal criteria set out in the Localism Act 2011 for the Council to accept the nomination.

## **Recommendation**

53. It is recommended that you as Chief Executive of the Council decide this Application pursuant to delegated powers as follows:

In the opinion of the local authority, the actual current use of the building or other land does not further the social wellbeing or social interests of the local community, and it is not realistic to think that there can 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 does not meet the criteria set out in the Localism Act 2011 to be eligible for listing.

**Background Papers:**

Application by Lymington & Pennington Town Council dated 18 March 2025 and email dated 10 April 2025 (with attached CAB letter 4 March 2025)

Lymington & Pennington Town Council Standing Orders

HM Land Registry plans for  
(i) HP721179 NFDC's freehold land; and  
(ii) HP839603 – section of the Property leased by CAB