

DECISION NOTICE
THE LOCALISM ACT 2011 Section 88
Decision on the nomination of an asset of community value.
The Borough Arms 39 Avenue Road Lymington SO41 9GP

I, John Mascal, Executive Director of The District Council of New Forest, pursuant to delegated powers, have considered an application made by the Customers of the Borough Arms to nominate The Borough Arms 39 Avenue Road Lymington SO41 9GP 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 J F Mascal
John Mascal
Executive Director

Dated: 17 August 2015

For Further information Please Contact:

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Application to nominate The Borough Arms 39 Avenue Road Lymington Hampshire SO41 9GP as an asset of community value

1.0 INTRODUCTION

- 1.1 This report relates to an application made to the Council by The Customers of The Borough Arms to nominate The Borough Arms public house, 39 Avenue Road Lymington Hampshire SO41 9GP (“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 Borough Arms public house, 39 Avenue Road Lymington Hampshire SO41 9GP 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 4 September 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.

3.0 THE APPLICATION

- 3.1 The Application was made by The Customers of the Borough Arms (“the Supporters”) and was received by the Council on 10 July 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 Supporters are an unincorporated body comprising more than 21 local individuals who are on the Electoral Register for the District as required by the regulations. The Supporters do not appear to be a formally constituted group. Details of the members of the Supporters at the time of the application are attached to the application. The Supporters 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 Admiral Taverns Limited and is occupied by a tenant, Glenn Miller and Glynnis Miller. The Property is presently used as a public house.
- 3.3 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.

3.3 The Supporters provided details about the use of the Property by the local community in the statement accompanying the Application. The Supporters say the Property is used as a public house and is important to the social well-being of the local community. In particular the Supporters assert:

- The Property is a rare wet-led public house which is used by all ages throughout the week.
- The pub supports team participating in local leagues. It has a number of other facilities such as a dartboard, pool table, juke box and television which is used for sporting events.
- The pub is open to all and is not restricted or unwelcoming to any particular group
- Community groups socialise in the pub after their local events.
- The pub hosts local wakes, birthday parties and local social events.
- The pub has quality accreditations including a listing in the CAMRA's Good Beer Guide and is Cask Marque accredited.
- The large car park allows customers access to Lymington, including the local St. Barbe Museum, Community Centre and Town Hall.
- The pub is family run with a commitment to social responsibility.
- The pub has a long history, apparently being built in 1855 and was run by the Joliffe family for many years.

3.4 A quick internet review showed that the Borough Arms had supported a local carnival, supported a local charity football event, special New Year's Day celebrations etc. tending to support the Supporters assertions of the pub being involved in its local community.

4.0 THE OWNERS COMMENTS

4.1 The Owner of The Borough Arms has been asked to comment on the nomination but no comments have been received.

4.2 The tenant of The Borough Arms, Mr Glenn Miller did contact the Council but made no substantive comment on the merits of the application and did not express an opinion either in support or against the proposal.

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 and invited to provide comments as mentioned in section 4 above.

6.3 Lymington & Pennington Town Council was informed of the Application and was invited to provide comments. However no comments have been received.

6.4 The Head of Planning and Transportation commented that he knew of no reason why it shouldn't be listed.

6.5 The Head of Leisure and Employment commented that there would appear to be no reason not to add the nomination to the list.

6.6 The Head of Legal & Democratic Services had no comments on the proposal.

6.7 Cllr Jill Cleary was informed of the Application as portfolio holder for Housing and Communities and she commented that as this was not her area she would let the local members comment/decide.

6.8 Cllr James Binns, Portfolio Holder for Health & Leisure commented that he had no comments to make and would leave the matter up to the ward Councillors.

6.9 Cllr Alan Penson commented: I believe that a well-run pub is an asset to the community and an essential ingredient in British culture. There are only a few that remain open in Lymington and Pennington and as such it is important that every effort is made to retain them. The Borough Arms is an excellent example and should it be offered for sale, community groups should be given the opportunity to bid for it in accordance with the provisions of the Localism Act.

6.10 Cllr Anna Rostand agreed with the comments of Cllr Penson and supported the nomination.

7.0 CONCLUSION

7.1 The reasons given by the nominating body set out in section 3.3 all 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 above

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 The Customers of
The Borough Arms