

DECISION NOTICE
THE LOCALISM ACT 2011 Section 88
Decision on the nomination of an asset of community value.
The White Hart 17 Milford Road Pennington Lymington Hampshire SO41 8DF

I, John Mascall, Executive Director of The District Council of New Forest, pursuant to delegated powers, have considered an application made by the Campaign for Real Ale – Southern Hampshire Branch to nominate The White Hart 17 Milford Road Pennington Lymington SO41 8DF 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, there is a time in the recent past when the actual use of the land and building that was not an ancillary use furthered the social wellbeing or social interests of the local community and it is realistic to think that there is a time in the next 5 years when there could be a non-ancillary use of the land and building that would further (whether or not in the same way as before) 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 Mascall
John Mascall
Executive Director

Dated: 17 August 2015

For Further information Please Contact:

Andrew Smith
andrew.smith@nfdc.gov.uk

Application to nominate The White Hart 17 Milford Road Pennington Lymington SO41 8DF 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 White Hart public house, 17 Milford Road Pennington Lymington (“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 White Hart public house 17 Milford Road Pennington Lymington 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 1st 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 CAMRA – Southern Hampshire Branch (“CAMRA”) and was received by the Council on 6th 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 Campaign For Real Ale Limited is a company limited by guarantee which does not distribute any surplus it makes to its members. Through the CAMRA – Southern Hampshire Branch, it is a community interest group with a local connection in accordance with the regulations. CAMRA – Southern Hampshire Branch is entitled to make an application to list the Property as an asset of community value.
- 3.3 The Property is currently owned freehold by Enterprise Inns plc. The Application makes no reference to a separate occupant or tenant of the Property. The Property is presently used as a public house, in the Application CAMRA state the Property is temporarily closed and awaiting a new tenant.
- 3.4 The Application contends that although the main use of the Property does not currently further the social well-being or cultural, recreational or sporting interests of the local community, that it did do so until recently and that it is reasonable to expect that the Property will return to furthering the social well-being or cultural, recreational or sporting interests of the local community immediately upon reoccupation.

- 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 has been used as a public house until it as recently closed and is important to the social well-being of the local community. In particular CAMRA asserts:
- The Property is a popular multi roomed pub which is used by all ages throughout the week. It is an old property which was built in the 1700's and became a Grade 2 listed building in 1974.
 - Facilities include food, quiz nights, occasional music, a large garden with children's facilities and car park
 - The pub is open to all and is not restricted to or unwelcome to ant particular group or clientele.
 - The pub caters for community groups who socialise after local events. Playgroups also have had use of the Property.
 - The pub hosts wakes, birthday parties and special events as needed.
 - The large car park facilities customer access to the Lymington leisure Centre, Priestlands School and Woodside Gardens.
- 3.6 A review of the web site for Enterprise Inns reveals that The White Hart is actively being marketed as a pub. The web site notes the pub attracts trade from the immediate area, surrounding villages and passing trade from other New Forest towns. Enterprise state they are looking for an experienced food operator to develop the pub and capitalise on the passing trade. The pub is advertised as having a restaurant, children's play area beer garden and trade kitchen. It is clear that the owners seek to re-open the pub as soon as an experienced tenant can be found.

4.0 LEGAL POWER AND DELEGATIONS

- 4.1 The Council must consider the nomination and decide whether to list the Property as an asset of community value.
- 4.2 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).
- 4.3 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.
- 4.4 The land is of community value if, in the opinion of the local authority, there is a time in the recent past when an actual use of the building or other land that was not an ancillary use furthered the social wellbeing or social interests of the local community and it is realistic to think that there is a time in the next 5 years when there could be a non-ancillary use of the building or other land that would further (whether or not in the same way as before) the social wellbeing or social interests of the local community. "Social interests" include cultural interests, recreational interests and sporting interests.
- 4.5 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.

5.0 CONSULTATIONS

- 5.1 A number of consultations have been made as summarized below.
- 5.2 The Owner was informed of the Application and invited to provide comments, but no comments have been made.
- 5.3 Lymington & Pennington Town Council was informed of the Application and was invited to provide comments. However no comments have been received.
- 5.4 The Head of Planning and Transportation commented that he knows these premises were used as a pub until the recent past and knew of no reason why the application should not be accepted.
- 5.5 The Head of Leisure and Employment agreed with the comments of the Head of Planning.
- 5.6 The Head of Legal and Democratic Services had no comments to make on the Application.
- 5.7 Cllr Jill Cleary was informed of the Application as portfolio holder for Housing and Communities and she commented that she had no comments to make on the proposal and would let the local members comment.
- 5.8 Cllr James Binns, Portfolio Holder for Health & Leisure was informed of the application and had no comments to make on the proposal.
- 5.9 Cllr Alan Penson supported the proposal and 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 White Hart 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.
- 5.10 Cllr Anna Rostand supported the proposal.

6.0 CONCLUSION

- 6.1 The reasons given by the nominating body and other evidence set out in section 3 all indicate the Property does fulfil the criteria for listing summarized in paragraph 4.4 above.
- 6.3 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.

7.0 RECOMMENDATION

- 7.1 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, there is a time in the recent past when an actual use of the Property that was not an ancillary use furthered the social wellbeing or social interests of the local community and it is realistic to think that there is a time in the next 5 years when there could be a non-ancillary use of the building or other land that would further (whether or not in the same way as

before) 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:

Andrew Smith

Solicitor

Tel: 023 80285588

E-mail:

andrew.smith@nfdc.gov.uk

Background Papers:

Application by Campaign for Real
Ale – Southern Hampshire
Branch