

## **Notice under Section 91 of the Localism Act 2011**

**26<sup>th</sup> November 2018**

### **Entry of The Crown Inn, The Street, West Harptree, Bristol BS40 6HA, into Bath & North East Somerset Council's list of Assets of Community Value**

#### **1. Background**

On 1<sup>st</sup> October 2018 Bath & North East Somerset Council ('the Council') received a nomination under Section 89 of the Localism Act 2011 ('the Act') to list **The Crown Inn, The Street, West Harptree, Bristol BS40 6HA** as an Asset of Community Value. The nomination was made by West Harptree Parish Council. A map setting out the boundaries of the asset nominated to be listed ('The Asset') is provided as an Appendix to this notice.

Under Section 87 of the Act the Council must maintain a list of Assets of Community Value.

Section 88 of the Act states that

- (1) For the purposes of this Chapter but subject to regulations under subsection (3), 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.
  
- (2) For the purposes of this Chapter but subject to regulations under subsection (3), a building or other land in a local authority's area that is not land of community value as a result of subsection (1) is land of community value if in the opinion of the local authority—
  - (a) 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 interests of the local community, and

(b) it is realistic to think that there is a time in the next five years when there could be 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.

Under Section 89 of the Act, the Council can only enter assets into the list of Assets of Community Value in response to community nomination.

## **2. Decision-Making Process**

The Council's Cabinet on October 10<sup>th</sup> 2012 resolved to agree that:

- 2.1 Decision-making in response to nominations for entry into the List of Assets of Community Value under the Localism Act 2011 be delegated to the Director of Partnership and Corporate Services (and, in the event of this Divisional Director having a conflict of interest, to a Divisional Director nominated by the Strategic Director - Resources), drawing on the decision-making guidance as set out in Appendix One (of the report).
- 2.2 The Director of Partnership and Corporate Services be delegated decision-making with regard to updating this guidance, in consultation with the Council Leader, in response to experience of implementing the provisions, new regulations and emerging case law.
- 2.3 The internal review process in relation to listing be undertaken by a Divisional Director not involved in the initial decision. (Subsequently, on 5th April 2016, the Divisional Director of Partnership and Corporate Services, made a delegated decision to amend the Council's process for reviewing entries on to the register of Assets of Community Value, so that any Review be undertaken by an officer of appropriate seniority who did not take any part in making the decision to be reviewed, within 8 weeks of request. This brought the process in line with national regulations).
- 2.4 The Divisional Director Property Services be delegated to make arrangements relating to the procedures following listing, including moratorium and compensation provisions, as set out in Appendix Two (of the report).

In accordance with this decision, the Director of Partnership and Corporate Services has now fully considered the nomination in light of the Act and the Assets of Community Value (England) Regulations 2012 ('the Regulations'). Following this consideration, the Director of Partnership and Corporate Services has decided to enter the property into the Council's list of Assets of Community Value.

This decision has been taken because:

- (1)
  - (a) The Asset lies within the administrative boundaries of Bath & North East Somerset Council (Mendip Ward) and West Harptree Parish.
  - (b) The nomination from West Harptree Parish Council includes the matters required under Regulation 6 of the Regulations.
  - (c) The Asset does not fall within a description of land which may not be listed as specified in Schedule 1 of the Regulations.
  - (d) The nomination form sets out the reason for nominating the Asset, explaining why the nominator believes the Asset meets the definition in the Act.

and

(2) in the opinion of the Authority,

- (a) The actual current use of the Asset that is not an ancillary use furthers the social wellbeing and interests of the local community;
- (b) Given that the Asset remains fit for purpose to further the social interest and social wellbeing of the local community, it is realistic to think that the current non-ancillary use of the Asset will continue to further (whether or not in the same way as before) the social wellbeing or social interests of the local community.

The detailed assessment on which this decision is based, following the criteria adopted by the Council Cabinet on 10<sup>th</sup> October 2012, and fully considering information supplied by the nominee and other parties is set out in 4 below.

### **3. What Happens Next**

The Asset will now be placed on the list of Assets of Community Value which the Council is required to maintain under Section 87 of the Act.

In accordance with Section 91 of the Act the Council will send this notice to:

The owner of the property  
West Harptree Parish Council

The information will also be published on the Council's website. The Asset will remain on the Council's List of Assets of Community Value for a period of five years from the date of this notice unless removed with effect from some earlier time in accordance with the provisions of the Regulations.

The Act requires that the Council draw particular attention to the following:

- (a) the consequences for the land and its owner of the land's inclusion in the list, and
- (b) the right to ask for review.

#### The consequences for the land and its owner of the land's inclusion in the list

Inclusion of assets on the List of Assets of Community Value is a local land charge under the Local Land Charges Act 1975. The Council is required under Schedule 4 of the Regulations to apply to the Land Registry for a restriction to be added to the registered title of the land that "no transfer or lease is to be registered without a certificate signed by a conveyancer that the transfer or lease did not contravene Section 95(1) of the Localism Act 2011".

Under Section 95 of the Act an owner must notify the Council (at the following address: Divisional Director, Property Services, Lewis House, Manvers Street, Bath BA1 1JG) if they wish to enter into a relevant disposal (as defined in Section 96 of the Act) of that asset. Some types of disposal of listed assets are exempt and these are set out in full in Annex A of the document Community Right to Bid: Non-statutory advice note for local authorities. Annex A also identifies circumstances where, although there is no requirement in the legislation that the owner has to explain to the local authority that the disposal is exempt, it would be helpful for them to do so.

A moratorium period is triggered by notification under Section 95 to allow a Community Interest Group to submit a written request to be treated as a potential bidder for the asset. The owner is advised to refer to Part 5 Chapter 3 of the Act and the Regulations in full and to seek legal

advice if they wish to dispose of the asset. A disposal of listed land which contravenes the Regulations and Act will be ineffective.

The owner of the asset does not have to sell the asset to the Community Interest Group. There is also a 'protected period' (18 months from the time that the owner notified the local authority of their intention to dispose of the asset) and during this time there can be no further moratoriums on sale and the owner is free to dispose of the property as they see fit.

The right to ask for review

Asset owners have the opportunity to request a review of the decision to enter an asset on the List of Assets of Community Value, within 8 weeks of listing. The internal review process in relation to listing will be undertaken by a officer of appropriate seniority who did not take part in the initial decision.

Landowners wishing to request a review of the decision should do so in writing to the above address or to [assets@bathnes.gov.uk](mailto:assets@bathnes.gov.uk) by 21<sup>st</sup> January 2019, setting out the grounds for review and whether they are requesting an oral hearing.

Private owners may claim compensation for loss and expense incurred through the asset being listed including a claim arising from a period of delay in entering into a binding agreement to sell which is wholly caused by the interim or full moratorium period. Regulation 14 of the Regulations contains more detail on this.

Part 5, Chapter 3 of the Act and the Regulations provide further detailed information.

**4. Detailed Assessment of the Nomination of The Crown Inn, The Street, West Harptree, Bristol BS40 6HA, as an Asset of Community Value**

<b>Assets of Community Value Nomination – Assessment</b>			
DATE OF SUBMISSION:	<b>1<sup>st</sup> October 2018</b>	DATE DECISION TO BE MADE BY:	<b>26<sup>th</sup> November 2018</b>
NOMINATED ASSET:	The boundary of the asset is set out in the boundary map attached as an Appendix.		
NOMINATION SUBMITTED BY:	<b>West Harptree Parish Council</b>		

**STEP A: This section considers the eligibility of the nominating body to make a nomination and of the asset to be an Asset of Community Value. It does this through a series of YES/NO answers.**

<b>A1. Is the nominating organisation an eligible body to nominate?</b>	
Evidence supplied by nominee:	<b>West Harptree Parish Council</b>
Feedback from other parties and other information gained in	None

relation to this criterion:	
Score (YES/NO) and any comments:	<b>YES</b> - The Council is satisfied that the nominating body is an eligible body to nominate; under Regulation 5(1)(b) it is a Parish Council

<b>A2. Does the nominating body have a local connection to the asset nominated?</b>	
Evidence supplied by nominee:	<b>From evidence supplied by the nominee</b> , it is clear that the <b>West Harptree Parish Council</b> activities are wholly concerned with the local authority's area. The submitted map shows that the Asset is sited wholly within the boundaries of Bath and North East Somerset and the Mendip Ward.
Feedback from other parties and other information gained in relation to this criterion	None
Score (YES/NO) and any comments:	<b>YES-</b> The Council is satisfied that the nominating organisation has a local connection to the nominated asset.

<b>A3. Does the nomination include the required information about the asset?</b>	
<ul style="list-style-type: none"> <li>• Description of the nominated land including its proposed boundaries</li> <li>• Names of current occupants of the land</li> <li>• Names and current or last-known addresses of all those holding a freehold or leasehold estate in the land</li> </ul>	
Evidence supplied by nominee:	A plan of the nominated land that was provided including the proposed boundary and the name and address of the current leaseholder and freeholder of the nominated asset were also supplied.
Feedback from other parties and other information gained in relation to this criterion:	None
Score (YES/NO) and any comments:	<b>YES-</b> the Council is satisfied that the nomination has included the required information about the asset.

<b>A4. Is the nominated asset outside of one of the categories that cannot be assets of community value (as set out in Schedule 1 of the Assets of Community Value (England) Regulations 2012)?:</b>	
<ul style="list-style-type: none"> <li>• A residence together with land connected with that residence</li> <li>• Land in respect of which a site licence is required under Part 1 of the Caravan Sites and</li> </ul>	

Control of Development Act 1960	
<ul style="list-style-type: none"> <li>Operational land as defined in section 263 of the Town and Country Planning Act 1990.</li> </ul>	
Evidence supplied by nominee:	Nomination and supporting evidence sufficiently demonstrates that the asset is outside of the categories of assets within Schedule 1 of the Regulations, as the nominated asset is a Library.
Feedback from other parties and other information gained in relation to this criterion:	None
Score (YES/NO) and any comments	<b>YES</b> - the Council is satisfied that the nomination is outside of one of the categories that cannot be Assets of Community Value

**If YES to all of Part A, move on to Step B. If NO to one or more parts, please inform the nominator that the nomination is ineligible. Place nomination on list of unsuccessful nominations.**

**STEP B: This section considers the current or recent usage of the asset. It does this through a YES/NO answer and an identification as to whether the use is current or in the “recent past”**

<p><b>B1. Is the current or recent usage which is the subject of the nomination an actual and non-ancillary usage?</b></p> <ul style="list-style-type: none"> <li>NOTE 1: A working definition of “non-ancillary” is that the usage is not providing necessary support (e.g. cleaning) to the primary activities carried out in the asset, but is itself a primary, additional or complementary use.</li> </ul>	
Evidence supplied by nominee:	<p><u>The Nomination form includes the following:</u></p> <p>The Crown Inn, a traditional English public house has been in operation since the early 1800’s. It has been recently revitalised into serving the community and visitors to the area (Mendip ANOB) with lunch and dinner (Tuesday to Saturday) and a Sunday roast.</p> <p>It has a beer garden and has recently offered a wider ‘take-away’ service with Fish &amp; Chips, Homemade Pizzas which are also available for local delivery.</p>
Feedback from other parties and other information gained in relation to this criterion:	None
Score (YES/NO) and any comments:	<p><b>YES</b></p> <p>The <b>current</b> usage which is the subject of the nomination is an actual and non-ancillary usage.</p>

If the current or recent usage that is the subject of the nomination is actual and non-ancillary, go to Step C. If not, place on the list of unsuccessful nominations.

**STEP C:** This section considers whether the use furthers (for current uses) or furthered (for uses in the recent past) the social interests or social wellbeing of the local community. It does this through a series of questions scored on the basis of evidence.

<p><b>C1. Who benefits from the use?</b></p> <ul style="list-style-type: none"> <li>• Does it meet the social interests of the community as a whole and not simply the users/customers of the specific service?</li> <li>• Who will lose if the usage ceases?</li> </ul>	<p>Evidence provided by nominee</p>	<p><b><u>The Nomination form includes the following:</u></b></p> <p>The Crown Inn is situated at the heart of West Harptree village next to the village triangle and in-between the village shop and church. The public house is well known throughout the valley and within the wider community of the local darts and table skittle leagues.</p> <p>The public house had been struggling over recent years with many local residents feeling exasperated with the situation that the local pub hasn't been a welcoming place to visit or reflect the needs of the village community. Once a place with an 'awarding winning' garden and for many years shut to the public, left to ruin and overrun by chickens and general rubbish.</p> <p>On the 1st November 2016, Mr Richard Watts acquired the tenancy from Admiral Taverns and took over as Landlord. His primary focus has been to make this a pub for the people of West Harptree. The pub has commenced on a programme of decoration and transformation to reinstate it as a place at the heart of the West Harptree community.</p>
	<p>Evidence gained from other relevant sources (owner, Ward member, Parish Council, B&amp;NES Council)</p>	<p>None</p>
	<p>Enter score out of 25 and rationale</p>	<p>15</p>

	Evidence provided by nominee	To our knowledge no aspect of the land or buildings usage is actively discouraged by B&NES Council's Policy & Budget Framework.
<b>C2.</b> Is any aspect of the usage actively discouraged by the Council's Policy and Budget Framework?	Evidence gained from other relevant sources (owner, Ward member, Parish Council, B&NES Council)	None
	Enter score out of 25 and rationale	25 - No active discouragement by the Council's Policy and Budget Framework has been identified. The Chew Valley Neighbourhood Development Plan supports the need for facilities such as this in the area.
<b>C3.</b> Why is the usage seen as having social value in the context of the community on whose behalf the nomination is being made?	Evidence provided by nominee	<p>Not only is the pub of value to those in the West Harptree community. Customers come from all over the valley to enjoy being a part of a pub at the heart of a village and community. The Crown hosts local clubs and associations: currently there is a Butcombe Darts League (Div.1) and two table skittle teams, one in division one and other in division two.</p> <p>The local Labour Club meets in the pub as well as the Chew Valley Cycle Club, East Harptree shop committee and PTA for East Harptree School.</p> <p>The future of the Crown is to work more with community groups, offer a wider range of services for local people and families to make it a village pub that people proud of and want to be part of. A pub at the centre of the village, the heart of the community, an asset of true Community Value.</p> <p>Recognition as an 'Asset of Community Value' would help to further strengthen the importance of The Crown Inn as a community pillar within the village.</p>

	Evidence gained from other relevant sources (owner, Ward member, Parish Council, B&NES Council)	None
	Enter score out of 25 and rationale	20
<p><b>C4.</b> How strongly does the local community feel about the usage as furthering their social interests?</p>	Evidence provided by nominee	<p>Since taking over as landlord, Mr Watts has started a transformation programme. Whilst in its early stages, he has received nothing but praise, positive feedback and best wishes from the local residents. Many residents are now excited to have a local pub they can visit and bring friends and family to. He is now looking at investing in the rear garden and new play equipment for children to make this a family orientated space.</p> <p>With a new frontage to the pub commencing work soon, this would introduce an outside adult meeting space at the heart of the village allowing a bistro style culture to develop with an offering for good coffee, fine wines and a menu that supports local producers and farmers. Not only this, but to ensure that all people in the community are a part of the pub, there is a food delivery service in place and he is currently working on plans for OAP afternoons, and a way for transportation to be arranged for those who are less mobile.</p>
	Evidence gained from other relevant sources (owner, Ward member, Parish Council, B&NES Council)	Ward Councillor for Mendip, Councillor Tim Warren fully supports this application.
	Enter score out of 25 and rationale	<b>10</b>
<b>Total score:</b>	<b>70%</b>	

If STEP C meets a minimum scoring of 55%, go to Step D

**STEP D: This section considers whether 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.**

For assets such as this where the actual non-ancillary usage is a **current** one (see Step B above), 88(1) (b) of the Act requires the Council to consider whether in the opinion of the local authority **it is realistic to think that there can continue to be non-ancillary use of the building or other land that will further (whether or not in the same way) the social wellbeing or social interests of the local community.**

This will be considered through the following tests:

- If the asset is considered to remain fit for purpose (under D1 below), then this is considered to be sufficient grounds for thinking that it is realistic to think that continuing use of the asset will further the social wellbeing or social interests of the local community identified in Step C above.
- If the building is not considered to remain fit for purpose under D1, then an additional Test (under D2 below) will be applied to determine whether the asset could be made fit for purpose practically and within reasonable resource requirements and within timescales. The timescales to be applied for this to take place for assets with “recent usage” will be “within the next five years”.

<b>D1. Has the building/land-take/space/legal requirement for this usage changed significantly since its initial use so that the asset is not fit for purpose?</b>	
Evidence supplied by nominee:	'No' is given as the answer to this question in the nomination form, no additional evidence has been supplied
Feedback from other parties and other information gained in relation to this criterion:	None
Score (YES/NO) and rationale	No

**If No to D1, place on register of Assets of Community Value, and do not go to D2. If Yes to D1, go to D2.**

<b>D2. Could the asset be made fit for purpose practically and within reasonable resource requirements and within timescales?</b>	
Evidence supplied by nominee:	Not applicable
Feedback from other parties and other information gained in relation to this criteria:	Not applicable
Score (YES/NO) and Rationale:	Not applicable

If yes to D2, place on register of Assets of Community Value. If no to D2, place on list of unsuccessful nominations.

RECOMMENDATION:	THAT THIS ASSET BE PLACED ON THE ASSETS OF COMMUNITY VALUE
REASON FOR DECISION	<p>(1)</p> <p>a) The Asset lies within the administrative boundaries of Bath &amp; North East Somerset and within the Mendip Ward.</p> <p>b) <b>West Harptree Parish Council</b> is entitled under 89(2)(b)(iii) of the Act to make a community nomination in respect of the Asset.</p> <p>c) The nomination form includes the matters required under Regulation 6 of the Regulations.</p> <p>(d) The Asset does not fall within a description of land which may not be listed as specified in Schedule 1 of the Regulations.</p> <p>and</p> <p>(2) in the opinion of the authority,</p> <p>(a) The actual current use of the Asset that is not an ancillary use furthers the social wellbeing and interests of the local community.</p> <p>(b) Given that the Asset remains fit for purpose to further the social interests and social wellbeing of the local community, it is realistic to think that the current non-ancillary use of the Asset will continue to further (whether or not in the same way as before) the social wellbeing or social interests of the local community.</p>
Decision Taken by	 <p>David Trethewey Divisional Director Partnership and Corporate Services Bath &amp; North East Somerset Council</p>
Date	26 <sup>th</sup> November 2018