



East
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Council

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DECISION NOTICE – COMMUNITY RIGHT TO BID

Reference: 2018/03

31 July 2018

Proposed Asset of Community Value – The Old Nag’s Head, Church Street, Hargrave

Nominated By: Hargrave Parish Council on 06/06/18

Deadline for listing decision: 01/08/2018

Current Owner – Mr Whitelaw, The Old Nag’s Head, Church Street, Hargrave NN9 6BW

Action Taken Prior to Decision

- Notification to current owner of nomination
- Consultation with Chair of Policy and Resources Committee (Cllr R Lewis) and Ward Member (Cllr H Howell) as required under Council’s Community Right to Bid Policy
- Discussion with Planning Case Officer regarding the application received by the owner for change of use from public house to residential dwelling and subsequent appeal
- Research for references on the definition of ‘recent past’ for the purposes of making a decision on the nomination, including Assets of Community Value Guide by Christopher Cant QC.



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Background

It should be noted that this nomination is the second for this property. The Old Nag's Head was initially listed as an Asset of Community Value (ACV) on 02/09/2013. The legislation decrees that an asset should be listed for 5 years. For the property to remain on the registered list of ACVs, the property/land must be re-nominated at the end of the five years. This is the re-nomination. The second nomination is considered in the same way as a completely new nomination.

The Old Nag's Head is a Grade II listed building that dates, in parts, back to the mid 17th century according to Historic England. There is evidence of the buildings use as a public house from at least 1824, although it could well be longer. It was last open as a public open house in 2001.

There have been three planning applications since then, seeking to change the approved planning use of the property from public house to residential. In the most recent of these (16/01659/FUL), planning permission was refused on the grounds of loss of a community facility and this was upheld on appeal. However, in 2016, Listed Building Consent for the associated works to enable use as a dwelling was given.

Under the current ownership works took place in 2005 to extend the building with a larger timber framed extension with a view to re-establishing use as a public house. A further extension to house a kitchen and toilets was built but subsequently demolished due to a land ownership dispute. However in the interim period the existing bar fittings and toilets were removed so the premises would require significant further works to enable use as a public house or other community facility. The costs of this work may impact on future viability of such uses.

During the past five years there has been evidence of efforts by the community to purchase the building. The Nags Head Community Pub Group (NHCPG) was set up in 2013 to try and purchase the building. They have pledged of £180,000 towards the purchase of the building. It is anticipated that further funding would be available from the Hargrave Windfarm Trust. The Parish Council has had the site valued twice as a public house and the Community Group have made three offers for the property, under the previous ACV moratorium periods, based on this valuation and the work necessary to return it to use as a community facility. They are planning new facilities to augment the public house function such as a village shop for essentials, a daytime café and a meeting place for village groups. Their offers have not been accepted by the owner. No sales have been concluded under the two periods of open market sale.

Considerations

- *Does the proposed asset meet the definition of an asset of community value specified in Section 88 (1) paragraphs (a) and (b) of the Localism Act 2011 i.e. the main (i.e. non-ancillary) use furthers the social wellbeing or social interests of*



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the local community, or has recently done so, and is likely to do so in the future (during the next five years)?

Use in recent past

There is no statutory guidance or definition of the period considered to be 'recent use'. However case law from appeal decisions indicates that what constitutes the recent past will depend on all circumstances in a particular case, with Judge Lane stating (in *Crostone v Amber Valley DC*) that 'the expression was a relative concept'. In that case, which was also about an historic public house, the length of time the property *had been* a public house was relevant.

In his guide to Assets of Community Value, Christopher Cant, notes that the implication is that 'the longer the period of use furthering a community benefit, the longer the period which constitutes the recent past. In this case there has been no use of the property since its last active use as public house in 2001 – now some 17 years. This constitutes 10% of previous known use as a public house of some 177 years. In my view this has now exceeded the definition of use in the recent past.

Realistic future use

Had the recent planning application to change the use succeeded, then it would have been unrealistic to assume that the property was likely to have a future use that furthered the community aspirations, as sale for residential use would have been the most likely outcome. However, the application did not succeed and it is therefore unclear what the future use will be.

There are limited options for reuse within the existing planning use class since the permitted development rights were restricted in 2017. Any future use within the use class (as a drinking establishment with or without food offer) will require significant investment to complete the changes to the layout started in 2005 not to mention the likely roof repairs in 3 to 5 years (as noted in the recent Appeal Decision). The limited on-site parking (due to the sale of the part of the car park since it was open last as a public house) might be less of an issue to a community purpose, as it could be anticipated that the majority of use would be from local people. This may mean that probably the only realistic non residential use within the current planning use would be by the Community Group.

The Community Group have funding pledges for the purchase and refurbishment of the building and there is evidence of current community support for this approach. However, they have been unable over the past 5 years to overcome the mismatch between the owner's price aspiration and their offers. In terms of future use, it is therefore debateable if this can therefore be considered realistic but on balance it would appear to be the only likely outcome under the current planning use unless a further change of planning permission is obtained.



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- *Does the proposed asset meet any of the criteria for exemption specified in Section 88 (3) and associated regulations?*

There is no evidence that the pub meets any of the exemption criteria

- *The views of the Chair of Policy and Resources Committee and Ward Member:* The Chair of Policy and Resources noted that there have been no apparent movements regarding this property over the last 5 years, which means that the owner has a significant asset which seems to be in a state of limbo. He further considered that he would not see the public house ever reopening as an operating public house, as so many have already closed and this property is pretty well off the beaten track anyway. Whilst he somewhat admired the optimism of the applicants in that they may be able to purchase the property at a lower price as a closed public house rather than the higher cost of a residential property, this may well not be a realistic situation. He had been waiting to see if the requested change of use of the property was approved before making his final comments. Following the appeal outcome, in his view the property satisfies the requirements to be classed as an Asset of Community Value, and as the change of use has been refused, he would support this application for listing.
- The Ward Member, Cllr Howell, noted she was fully supportive of this nomination and subsequently the bid from the local community group to purchase the pub and run it as a local community asset. She also noted that she is aware that this has been going on for some time and that the Parish and Community group are fully committed to retaining this listed building as a working pub. She hoped that this is looked upon favourably.

Decision

Having considered all the factors above, it is my view that the nominated asset does not falls within the category of an asset of community value as defined by the Localism Act and associated regulations because it does not satisfy the definition of community use in the recent past and that it should not be listed as such by this council.

A handwritten signature in black ink, appearing to read 'S Matthews'.

Sharn Matthews
Executive Director
30/07/18