



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

### **Request to enter the Byfleet Fire Station into Woking Borough Council's List of Assets of Community Value**

#### **1. Background**

On 3<sup>rd</sup> February 2021, Woking Borough Council received a nomination under Section 89 of the Localism Act 2011 ("the Act") to list the Byfleet Fire Station, High Road, Byfleet, Surrey, KT14 7FG as an Asset of Community Value. The nomination was made by the Byfleet Heritage Society (BHS). 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 nomination from the community.

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

- 2.1 Decision-making in response to nominations for entry into the List of Assets of Community Value under the Localism Act 2011 is delegated to the Strategic Asset Manager at Woking Borough Council.
- 2.2 The internal review process in relation to listing shall be undertaken by the Council's Head of Democratic and Legal Services, who shall not be involved in the initial decision.
- 2.3 The Strategic Asset Manager 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 Strategic Asset Manager has decided not to enter the property into its list of Assets of Community Value.

This decision has been taken because:

- (1)
  - a. The nomination includes insufficient information to demonstrate that the Byfleet Heritage Society is entitled under 89(2)(b)(i) of the Act to make a community nomination in respect of the Asset
  - b. The nomination from the Byfleet Heritage Society does not include the matters required under Regulation 6 of the Regulations
  - c. The letter of nomination from the Byfleet Heritage Society does not sufficiently set out the reasons for nominating the asset, nor does it explain why the nominator believes the Asset meets the definition in the Act

and

- (2) in the opinion of the Authority,
  - a. The current use of the land and building does not further the social well-being or cultural, recreational or sporting interests of the local community
  - b. The use of the land or building currently, or in the recent past, cannot be proven to further the social well-being or cultural, recreational or sporting interests of the local community

The detailed assessment upon on which this decision is based is set out in 4 below.

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

The Asset will not be placed on the list of Assets of Community Value which the Council is required to maintain under Section 87 of the Act.

The nominating organisation will be advised of the decision not to place the Byfleet Fire Station on the list of Assets of Community Value which the Council is required to maintain under Section 87 of the Act. The authority must give, to the person who made the nomination, the authority's written reasons for its decision that the land could not be included in its list of assets of community value in accordance with Regulation 90(6).

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

- (a) Surrey County Council (Freeholder)
- (b) Byfleet Heritage Society (Nominee) – through The Secretary and Mr Allen

The Byfleet Fire Station will be added to the list of unsuccessful community nominations. The entry in the list for the land will include the reasons given under section 90(6) or 92(3)(b) for not including the land in the authority's list of assets of community value. The local authority must maintain a list of land in its area that has been nominated by an unsuccessful community nomination (see sections 90(5) and 92 (4)(b)(i)).

The information will also be published on the Council's website.

#### 4. Detailed Assessment of the Nomination

Assets of Community Value Nomination – Assessment			
DATE OF SUBMISSION:	3 <sup>rd</sup> February 2021	DATE DECISION TO BE MADE BY:	19 <sup>th</sup> March 2021
NOMINATED ASSET:	Byfleet Fire Station, High Road, Byfleet, Surrey, KT147FG		
NOMINATION SUBMITTED BY:	Byfleet Heritage Society (BHS)		

**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.**

A1. Is the nominating organisation an eligible body to nominate?	
Evidence supplied by nominee:	<p>The Nominee, The Byfleet Heritage Society (BHS), is eligible to make a Community Nomination being a local organisation that records, researches and preserves the historical heritage of the ancient Parish of Byfleet and disseminates and displays this information including in publications and talks of local history</p> <p>It is a local Society of some 25 years standing.</p> <p>It is managed by a Committee which includes a Chairman, Secretary, Treasurer and four Committee Member and has a current membership of 140 persons.</p>
Feedback from other parties and other information gained in relation to this criterion:	None

<p>The SAM's consideration of the evidence provided</p>	<p>The nominating organisation is not a Parish Council or Community Council. To be able to make a nomination therefore the nominating body must qualify as a "voluntary or community body with a local connection" pursuant to Regulation 89(2)(b) (iii).</p> <p>Under section 5 (1) and (2) of the Assets of Community Value (England) Regulations 2012 those bodies able to nominate include:-</p> <p>(a) a body designated as a neighbourhood forum pursuant to section 61F of the Town and Country Planning Act 1990(4);  (b) a parish council;  (c)an unincorporated body—  (i) whose members include at least 21 individuals, and  (ii) which does not distribute any surplus it makes to its members;  (d) a charity;  (e) company limited by guarantee which does not distribute any surplus it makes to its members;  (f) an industrial and provident society which does not distribute any surplus it makes to its members; or  (g) a community interest company..</p> <p>(2) A public or local authority may not be a voluntary or community body, but this does not apply to a parish council.</p> <p>The BHS do not make clear under which type of body they are making the application.</p> <p>Under Section 89 there are two possibilities, namely that the BHS is an unincorporated body with a membership of at least 21 local people who appear on the electoral roll within the local authority or a neighbouring authority which does not distribute any surplus to its members.</p> <p>Secondly BHS could be a community group with a local connection as a) a charity, b) a community interest company, or c) a limited by guarantee which does not distribute any surplus it makes to its members;</p> <p>Reference is made to the organisation having 140 members but details of this membership, and the basis of membership are not supplied. The organisation may be an "unincorporated community body" or "a community interest group" however no further details are provided. No information is provided which demonstrates that the nominating organisation does or does not distribute any surplus it makes to its members.</p> <p>It is for the nominator to provide evidence of its eligibility, (Regulation 6 (d) and Hamna Wakaf v Lambeth BC CR/2015/0026), for this reason the requirement of Section 89(2)and (4) of the 2011 Act has not been satisfied.</p>
<p>Criteria met?</p>	<p><b>NO</b></p>

<b>A2. Does the nominating body have a local connection to the asset nominated?</b>	
Evidence supplied by nominee:	<p>The Nominee, The Byfleet Heritage Society (BHS), is eligible to make a Community Nomination being a local organisation that records, researches and preserves the historical heritage of the ancient Parish of Byfleet and disseminates and displays this information including in publications and talks of local history</p> <p>It is a local Society of some 25 years standing.</p> <p>It is managed by a Committee which includes a Chairman, Secretary, Treasurer and four Committee Byfleet Heritage Society (BHS)</p>
Feedback from other parties and other information gained in relation to this criterion	None.
The SAM's consideration of the evidence provided	<p>For the purposes of the Assets of Community Value Regulations 2012 Section 4 and Section 89 of the Localism Act 2011 the body has to be a qualifying one (see Section A1 above) and its activities have to be connection with the local authority's area (which it appears to do).</p> <p>However Section 4 of the Assets of Community Value Regulations 2012 also requires the Nominee to show that any surplus it makes is wholly or partly applied to the benefit of the local authority's area and that it has at least 21 local members</p> <p>The registered address of the Nominee (c/o Jim Allen) is confirmed as being in the Borough, however no further information is provided on the addresses of the 140 Members.</p> <p>The BHS appears to exist to study the local area but the other members need to be on the electoral register and locally connected to the area to be an unincorporated group, local company or cooperative.</p> <p>The Nominee does not provide sufficient information to satisfy this criterion.</p> <p>On the basis of the information supplied, the Strategic Asset Manager cannot be content that the nominating body has a sufficient local connection to the nominated asset sufficient to satisfy the requirements of Section 89 of the 2011 Act and Sections 4 and 5 of the Assets of Community Value Regulations 2012 which have not been satisfied.</p>
Criteria met?	<b>NO</b>

**A3. Does the nomination include the required information about the asset?**

- Description of the nominated land including its proposed boundaries
- Names of current occupants of the land
- Names and current or last-known addresses of all those holding a freehold or leasehold estate in the land

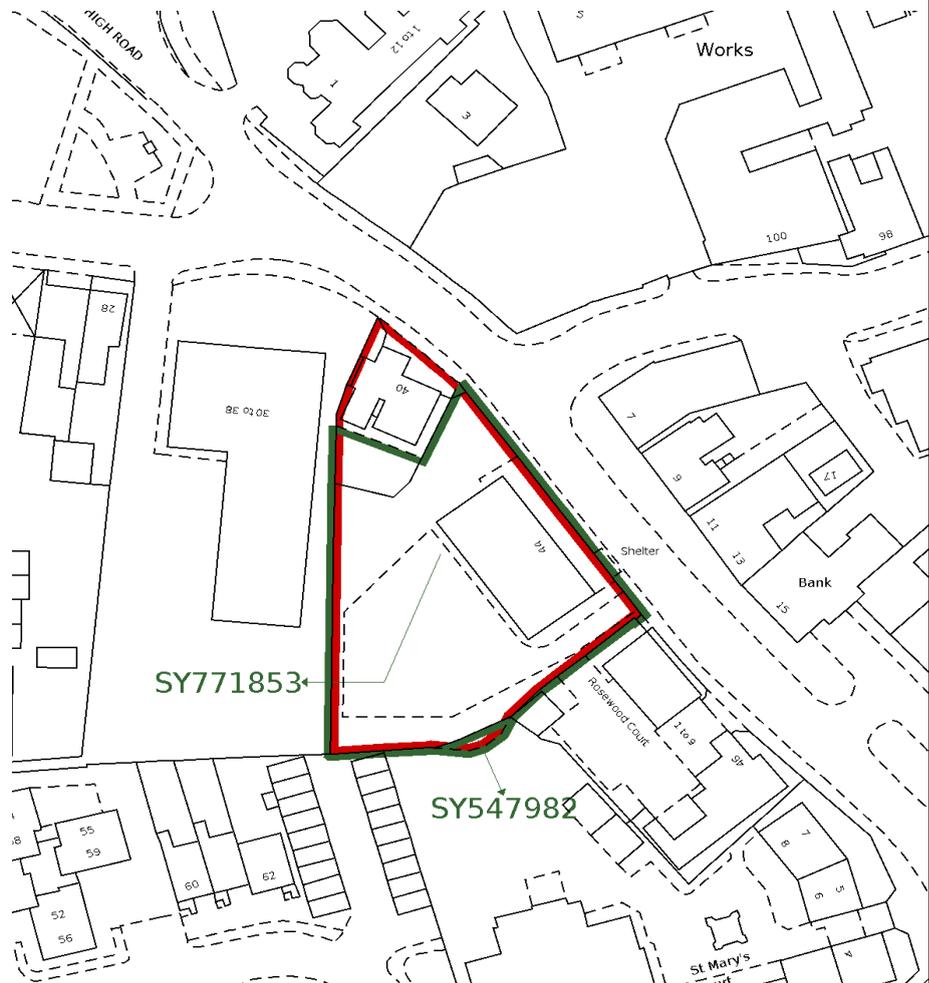
Evidence supplied by nominee:

Ownership details have been provided by the Nominee ‘

The Surrey County Council is the freeholder. They have written to state that, as freeholder, they raise no objection to the application.

The extent and boundary of the asset have been described as required as being the building and the immediate fenced off area around it although no detailed plan has been supplied.

The Strategic Asset Manager has obtained the Land Registry Title Plan referred to which shows the boundaries of the Land. The area coloured green containing the flats (the larger area) is now excluded from the Title and the actual nominated site is both small and well contained around the building :-



Feedback from other parties and other information gained in relation to this criterion:

The Surrey County Council as freehold owners raise no objection to this nomination.

The SAM's consideration of the evidence provided

A Land Registry Search clarified the boundaries of the nominated asset and the ownership details sufficient to satisfy Reg. 6 of the .Assets of Community Value Regulations 2012.

Criteria met?

**YES**

**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):

- A residence together with land connected with that residence
- Land in respect of which a site licence is required under Part 1 of the Caravan Sites and Control of Development Act 1960
- Operational land as defined in section 263 of the Town and Country Planning Act 1990.

<p>Evidence supplied by nominee:</p>	<p>The boundaries of the Land do not appear to include any residential accommodation or its curtilage.</p> <p>The land does not appear to require a site licence under Part 1 of the Caravan Sites and Control of Development Act 1960.</p> <p>Section 263 on the meaning of operational land is qualified by Section 264 on “cases in which land is to be treated as not operational land”.</p> <p>Evidence has been supplied that the Fire Station closed in the 1960s and there have been intervening uses. It is unlikely therefore that the land is operational land under Section 263 (a) as land which is used for the purpose of carrying on their undertaking and (b) land in which an interest is held for that purpose.</p> <p>Evidence has been supplied that:-</p> <p><i>“Having explored several recent proposals, the current owners (Surrey County Council) have no resources or plans to maintain, restore or re-use this building, and are now considering disposing of it by public auction in 2021”. The evidence supplied is not categoric but it seems unlikely that the land is currently operational land.</i></p> <p>This is further qualified where a planning permission has been granted but the Council’s internet planning register reveals no such applications.</p>
<p>Feedback from other parties and other information gained in relation to this criterion:</p>	<p>The Surrey County Council as freehold owners raise no objection to this nomination.</p>
<p>The SAM’s consideration of the evidence provided</p>	<p>From the evidence provided, the Strategic Asset Manager is satisfied that the asset is not in any of the categories that cannot be assets of community value.</p>
<p>Criteria met?</p>	<p><b>YES</b></p>

**STEP B: This section considers the current or recent usage of the asset.**

<p>B. Is the current or recent usage which is the subject of the nomination an actual and non-ancillary usage?</p> <ul style="list-style-type: none"> <li>• NOTE 1: A working definition of “recent past” is “within the past three years”</li> <li>• NOTE 2: 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>	
<p>Evidence supplied by nominee:</p>	<p><b>4. EVIDENCE OF COMMUNITY VALUE</b></p> <p>The Nominator, the Byfleet Heritage Society (BHS) state:-</p> <p><i>“4.1 Please set out your reasons for nominating the asset:</i></p> <p><i>We are nominating this asset as it is the last remaining significant, but currently neglected, historic building in Byfleet. It was officially designated by the DCMS on 27<sup>th</sup> February, 2008, as a Grade II nationally-listed building of "special architectural or historical interest" and is listed in the Borough Council's "Buildings of Architectural Significance" in Byfleet</i></p> <p><i>It is also an important and attractive feature of the Byfleet Conservation Area, making a positive contribution to that area's character and appearance.</i></p> <p><i>It has been unoccupied for many years and consistently neglected. It is in poor condition and therefore potentially under threat.</i></p> <p><i>We believe that few, if any, Victorian fire stations survive today in such original condition in Surrey or elsewhere in Britain.</i></p> <p><i>It survives in remarkably original condition since first built in 1885, having only been enlarged twice in 1923 and c 1940, and has been left relatively untouched since its closure some 60 years ago.</i></p> <p><i>In 2008, English Heritage in stating why the building merited listed designation, said "it is a good example of a small late C19 fire station built to serve a privately-established local volunteer fire brigade", and "although a small and simple building, the design of the original building is bold, and makes as much decorative use as possible of the surface area available". English Heritage also stated: "Although it has been extended twice, the original 1885 building remains largely intact; the early C20 extension is built to blend with the original design", and "It makes a strong contribution to the conservation area, which includes other Victorian buildings". Having explored several recent proposals, the current owners (Surrey County Council) have no resources or plans to maintain, restore or re-use this building, and are now considering disposing of it by public auction in 2021”.</i></p> <p><b>4.2 Please set out any evidence of past or existing community use/importance:</b></p> <p><i>“From 1885 until 1960 it was the operating base for Byfleet's fire brigade, initially staffed by retained volunteers, later absorbed into the National Fire Service and ultimately Surrey County Council. Following its closure it was occupied by the Woking Adventure Group, which used it as a store for its sub-aqua diving equipment.</i></p> <p><i>Byfleet Heritage Society had a right of access granted by Surrey County Council for a number of years, during which the building was regularly opened to the public from 2009 to 2014, as a result of which much interest in preserving it was expressed. During these well-attended open days, historic fire-fighting equipment and photographs were displayed, and visits were made by Brooklands Museum's vintage 'Merryweather' fire engine”.</i></p>

<p>Feedback from other parties and other information gained in relation to this criterion:</p>	<p>Two Ward Councillors have written to support the application. The building is considered to be beautiful and part of the community heritage, a village landmark and unique in the country. Everything possible must be done to save and protect it.</p>
<p>The SAM's consideration of the evidence provided</p>	<p>The Nominator, BHS, clearly have extensive knowledge of the history of the building and its merit as a Grade II Listed Building and also its importance within the Conservation Area. However those matters are not persuasive in terms of a request to enter the Byfleet Fire Station into Woking Borough Council's List of Assets of Community Value. Under other legislation, mainly the Planning (Listed Buildings and Conservation Areas) Act 1990 these matters impose duties to preserve or enhance the building, on the owners and occupiers, provide grants and provide Local Authorities with remedies.</p> <p>In summary the evidence of use in the recent past that has been supplied shows that the Fire Station use ceased in the 1960's.</p> <p>The last known use was as a storage facility for Woking Adventure Group.</p> <p>The BHS had a right of access from 2009 to 2014 to open the building to the public on a "regular" basis.</p> <p>The building is currently unoccupied.</p> <p>The term "recent past" is undefined. However the cases of Scott v South Norfolk District Council CR/2014/007 and Worthy Developments Ltd v Forest of Dean District Council CR/20140005 indicate that it is not as long as five years as this period is given later in the Act for the future condition. Hence Woking Borough Council ask for up to three years.</p> <p>From the evidence provided the Strategic Asset Manager is not satisfied that there is a current or recent usage ("recent" is within the past three years) which is the subject of the nomination, is an existing actual and non-ancillary usage of community value.</p>
<p>Criteria met?</p>	<p><b>NO</b></p>

**STEP C: This section considers whether the use furthers (or furthered, for uses in the recent past) the social interests or social wellbeing of the local community.**

<b>C2. Why is the usage seen as having social value in the context of the community on whose behalf the nomination is being made?</b>	
Evidence supplied by nominee:	<p>The Byfleet Heritage Society state:-</p> <p>“ 4.3 Please set out the extent to which the asset was used by the local community:</p> <p><i>The asset was an important facility for the Byfleet fire brigade, whose members were volunteers living in or close to the community of Byfleet. It was the base in which a fire tender was housed to serve the local community, including Brooklands Aerodrome and Race Track, and the villages of Byfleet, West Byfleet and Pyrford, including attendance at the Brooklands aircraft factories after German air raids during World War II</i></p> <p><i>Following its closure as a fire station in the 1960s, it served another community use, by housing the Woking Adventure Group's equipment. More recently, the building was opened to the local community, (see 4.2 above) creating much interest in its history and in its preservation for future use.</i></p> <p><i>Many local residents and other interested individuals and organisations further afield appreciate this building, and are increasingly concerned for its future. Many would support a new initiative to restore it for the benefit of the community”.</i></p>
Feedback from other parties and other information gained in relation to this criterion:	<p>Two Ward Councillors have written to support the application. The building is considered to be beautiful and part of the community heritage, a village landmark and unique in the country. Everything possible must be done to save and protect it. The application is said to have the full support of the community.</p>
The SAM's consideration of the evidence provided	<p>See Section C1above.</p> <p>From the evidence provided the Strategic Asset Manager is not satisfied that there is a current or recent usage (“recent” is within the past three years) which is the subject of the nomination, is an existing actual and non-ancillary usage of community value. Given the lack of such a use it cannot be seen as “having social value in the context of the community on whose behalf the nomination is being made”.</p> <p>The requirement of Section 88(2)(a) of the 2011 Act has not been satisfied.</p>
Criteria met?	<b>NO</b>

**If the criteria are met, go to Step D. If not, place on the list of unsuccessful nominations.**

**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.**

D

<p><b>D. Is it 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?</b></p>	
<p>Evidence supplied by nominee:</p>	<p>The Nominee (BHS) states:-            “4.4 Please describe the use that you would propose for the asset and relevance to the community.</p> <p><i>The building could be used as a repair shop for items such as bicycles, small machinery, etc, where apprentices could be trained, thus providing a valuable community service.</i></p> <p><i>Local schools could be invited to visit, to look at the building. Displays could be mounted showing the history of the building and its occupants.</i></p> <p><i>Facilities could be provided for the community at large, providing a small tea room, with the possibility of this area being made available for the purposes of meetings, training, school visits.etc. Interest in all these ideas has already been discussed with residents of Byfleet and other interested parties, including specialists who have expressed an interest in assisting in the building's renovation work.</i></p> <p>4.5 Please show how the asset might be made to sustain a community use in terms of its suitability and potential viability:</p> <p><i>“We believe that the asset should be devoted to community use as outlined in 4.4 above. We know that there is substantial support in the area to see the building renovated, preserved and made available for the use of the community.</i></p> <p><i>Many in the community would welcome the opportunity to preserve and maintain the building, which they are unable to do at present. It is not beyond economic repair and has good prospects for sympathetic restoration and sustainable re-use for a variety of community functions.</i></p> <p><i>It is proposed that all existing uses of the asset will continue. All groups currently using the asset will benefit from its continued provision. In addition in future the WBNF intends to enhance the asset using funds from the Community Infrastructure Levy”.</i></p>
<p>Feedback from other parties and other information gained in relation to this criterion:</p>	<p>None</p>

The SAM's consideration of the evidence provided	Whilst there is no requirement to consider Step D as Step C was unsuccessful in order to provide further guidance and be helpful to the Nominee the Strategic Asset Manager considers that due to the lack of evidence of an existing use there cannot <u>continue</u> to be non-ancillary use of the building or other land which will further the social wellbeing or social interests of the local community and it would expect a business plan to support such a continuation in any case.
Criteria met?	<b>NO</b>

<b>DECISION:</b>	<b>THAT THIS ASSET SHOULD NOT BE PLACED ON THE ASSETS OF COMMUNITY VALUE</b>
<b>REASON FOR DECISION</b>	<p>The nominating organisation, Byfleet Heritage Society, has not demonstrated that it is entitled, under Section 89(2)(b)(iii) of the Act, to make a community nomination in respect of the asset.</p> <p>The nomination from Byfleet Heritage Society does not include the matters required under Regulation 6 of the Regulations.</p> <p>On the basis of the information submitted the Strategic Asset Manager is unable to conclude that the use of the Byfleet Fire Station, "in the recent past", in other words the last three years, furthered the wellbeing or interests of the local community.</p> <p>For this reason the requirement of Section 88(2)(a) of the 2011 Act has not been satisfied.</p>
<b>Decision Taken by</b>	Ian Tomes
<b>Date</b>	19 <sup>th</sup> March 2021