



Notice under Section 91 of the Localism Act 2011

Request to Enter The Star Inn into Woking Borough Council's List of Assets of Community Value

1. Background

On 14 December 2015, Woking Borough Council received a nomination under Section 89 of the Localism Act 2011 ("the Act") to list The Star Inn, Wych Hill, Woking as an Asset of Community Value. The nomination has been made by "Friends of the Star Inn". A map setting out the boundaries of the asset nominated to be listed ("The Asset") is provided as an appendix to this notice.

1.2 Under Section 87 of the Act the Council must maintain a list of assets of community value.

Section 88 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.

1.3 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.

1.4 This is the second nomination which has been made in respect of the Star Inn. On 23 March 2015 a nomination was made by Hook Heath Residents' Association. That application was considered by the Strategic Asset Manager in May 2015 at which point a decision was made that the Star Inn should be placed on the register of Assets of Community Value. A review of that Decision was requested by Stark Property Enterprises Limited (owners of the Star Inn) in accordance with Regulation 11 of the Assets of Community Value (England) Regulations 2012. The review was undertaken by the Head of Democratic and Legal Services who determined, on 4 September 2015 that the Starr Inn should not have been included on the Council's List of Assets of Community Value. This was on the basis that "the use of the Star Inn, in the recent past, did not further the social well-being or interests of the local community and accordingly the requirements of Section 88(2) of the Localism Act 2011 had not been satisfied."

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 Any internal review process in relation to listing will 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 by 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 Friends of the Star Inn 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 Friends of the Star Inn does not include the matters required under Regulation 6 of the Regulations
 - c. The letter of nomination from the Friends of the Star Inn 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 nominating organisation will be advised of the decision not to place the Star Inn 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).

The Star Inn will be added to the list of land nominated by 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:	14 th December 2015	DATE DECISION TO BE MADE BY:	8 th February 2016
NOMINATED ASSET:	The Star Inn, Wych Hill, Woking, Surrey, GU22 0EU.		
NOMINATION SUBMITTED BY:	"Friends of the Star Inn" (also referred to in the nomination letter as "21 Friends of the Star Inn")		

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 nomination letter states that "Friends of the Star Inn" is an unincorporated body with 21 members.</p> <p>The nomination is accompanied by a document headed "Asset of Community Value Registration. Nomination re Star Pub, GU22 0EU *No Costs Involved for Nomination**" which is signed by 33 individuals with post code addressed in: GU22 7, GU22 0, GU21 7, GU21 6, GU 22 8.</p>
Feedback from other parties and other information gained in relation to this criterion:	<p>Southern Co-Operative (which has a leasehold interest in the Star Inn) comments: "It is unclear from the Second Nomination what type of organisation FoSI is and whether it meets the requirements of the Act as being capable of making a nomination. There is no information accompanying the Second Nomination to prove that FoSI satisfy the nomination requirements provided at Section 89(2)(b)(iii) of the Act".</p>
The SAM's consideration of the evidence provided	<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). Information provided with the nomination is very limited and is not clear as to the nature and membership of the nominating organisation. Reference is made to the organisation having 21 members but details of this membership, and the basis of membership are not supplied. The organisation describes itself as an "unincorporated community body" however no further details are provided. No information is provided which demonstrates that the nominating organisation does not distribute any surplus it makes to its members.</p>
Criteria met?	NO

A2. Does the nominating body have a local connection to the asset nominated?	
Evidence supplied by nominee:	<p>The Nomination refers to having an “agreement with Hook Heath Residents Association” in relation to a strategy for opposing the change of use of the Star Inn from that of a public house to retail use. No details of the “agreement” are provided.</p> <p>The signatory to the Nomination (Mr Emmanuel Okorie) was the organiser of a petition against the proposed change of use of the site.</p>
Feedback from other parties and other information gained in relation to this criterion	Representation has been received from the Co-Operative Group (which has a leasehold interest in The Star Inn) stating that: : “It is unclear from the Second Nomination what type of organisation FoSI is and whether it meets the requirements of the Act as being capable of making a nomination. There is no information accompanying the Second Nomination to prove that FoSI satisfy the nomination requirements provided at Section 89(2)(b)(iii) of the Act”.
The SAM’s consideration of the evidence provided	The registered address of the nominee is confirmed as being in the Borough however no further information is provided on the addresses of the ‘21 Friends of the Star Inn’. All of the members need to be on the electoral register and locally connected to the area. The nominee does not provide information to satisfy this criterion. On this basis, the Strategic Asset Manager is not content that the nominating body has a local connection to the nominated asset.
Criteria met?	NO

A3. Does the nomination include the required information about the asset?	
<input checked="" type="checkbox"/> Description of the nominated land including its proposed boundaries <input checked="" type="checkbox"/> Names of current occupants of the land <input checked="" type="checkbox"/> Names and current or last-known addresses of all those holding a freehold or leasehold estate in the land	
Evidence supplied by nominee:	Plan provided showing the extent and boundary of the asset taken from a Land Registry document.
Feedback from other parties and other information gained in relation to this criterion:	Representation by The Co-Operative Group confirms that it has a leasehold interest in the property which is owned by Stark Properties Limited. (Note: this is consistent with information received at the time of the First ACV Nomination at which time a copy of the lease between the Co-Operative Group and Stark Properties Limited was also provided).
The SAM’s consideration of the evidence provided	While a Site Location Plan was provided which clarified the boundaries of the nominated asset, no ownership details were provided with the nomination. On the basis of representations submitted in response to the nomination however, and representations submitted in respect of the First ACV Nomination, the SAM is satisfied that adequate information is available regarding occupation and ownership of the land.
Criteria met?	YES

<p>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):</p> <ul style="list-style-type: none"> <input checked="" type="checkbox"/> A residence together with land connected with that residence <input checked="" type="checkbox"/> Land in respect of which a site licence is required under Part 1 of the Caravan Sites and Control of Development Act 1960 <input checked="" type="checkbox"/> Operational land as defined in section 263 of the Town and Country Planning Act 1990. 	
Evidence supplied by nominee:	The Star Inn functioned as a Public House for more than 143 years (based on the OS map of 1871). It ceased trading and was sold as part of a portfolio of 11 inns by Punch Taverns in 2014.
Feedback from other parties and other information gained in relation to this criterion:	<p>The following information was provided by The Hook Heath Resident's Association in support of the first nomination of the Star Inn for placement on the list of Assets of Community Value.</p> <p><i>"It closed as a public house in 3 October 2014 and was sold by the then owners, Punch Partnerships (PTL) Limited, to Stark Property Enterprises Limited on 30 October 2014.</i></p> <p><i>Co-operative Group Food Limited agreed a 15 year lease on the property starting from 10 October 2014 and has submitted planning application to enlarge and modify the building.</i></p> <p><i>As such, nomination and supporting evidence sufficiently demonstrates that the asset is outside the categories of assets within Schedule 1 of the Assets of Community Value (England) Regulations 2012."</i></p>
The SAM's consideration of the evidence provided	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.
Criteria met?	YES

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"> • NOTE 1: A working definition of "recent past" is "within the past three years" • 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. 	
Evidence supplied by nominee:	The nomination states that the Star Inn was still trading at the time of the first planning application and comments (without providing any substantiating evidence) that the licensees in 2014 had been in place for only 6 months and ran " <i>lucrative beer and breakfast business and a venue well used for community events such as family gatherings related to births, marriages and deaths</i> ".
Feedback from other parties and other information gained in relation to this criterion:	No feedback has been received from third parties to suggest that the recent use of the building was not an 'actual' use. The primary use was as a public house and this use continued until 2014.
The SAM's consideration of the evidence provided	From the evidence provided the Strategic Asset Manager is satisfied that the recent usage was an actual and non-ancillary use.
Criteria met?	YES

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.

C2. Why is the usage seen as having social value in the context of the community on whose behalf the nomination is being made?	
Evidence supplied by nominee:	<p>As a pub, the recent use of the Star Inn furthered the social well-being and social interests of the local community through family gatherings related to 'births, marriages and deaths'.</p> <p>No further information was provided by the nominee.</p>
Feedback from other parties and other information gained in relation to this criterion:	<p>The social value of the Star Inn to the local community was considered at the time of the First ACV nomination.</p> <p>In a review of the decision by to list the Star Inn as an Asset of Community Value, the Head of Democratic and Legal Services found that there was insufficient evidence to support the case that the Star Inn, in the recent past (or since March 2010), furthered the well-being or interests of the local community.</p> <p>No further feedback has been received from members of the local community in response to the Second ACV Nomination.</p> <p>The current leaseholder, 'The Cooperative Group', has written to highlight that no additional evidence has been submitted and there has been no material change in circumstances which supports the Second ACV Nomination. The representations state that it would be inconsistent for the SAM to come to a different conclusion than that reached by the Head of Democratic and Legal Services in the Review of the First ACV Nomination.</p> <p>A representation has been received from the property owner, Stark Property Enterprises Limited stating that since the time of the First ACV Nomination the only material change in circumstances has been that the Co-Operative Group has secured planning permission to change the use of the premises to Class A1 retail use. The representation notes that it would be inconsistent and irrational for the Council to change its view as to whether the Star Inn furthered the well-being or interests of the local community in the recent past.</p>

<p>The SAM's consideration of the evidence provided</p>	<p>No further information or evidence to support the nomination was provided by the 'Friends of the Star Inn' to substantiate its claim that property was of social value to the local community in the recent past.</p> <p>No representations from the local community have been received since the planning permission was granted in November 2015.</p> <p>It is noted that, in commenting on the planning application to change the use of the Star Inn to Class A1 retail use a local residents stated that: <i>"The Star Inn is the only facility within easy walking distance for many Hook Heath residents that has the potential to provide food and drink as well as overnight accommodation. It is a valued local amenity that would be lost if permission were granted to convert the building for use as a mini supermarket. A recent survey of residents indicated a wish to enhance the Star Inn so as to provide a local gastro pub or similar facility. Punch Taverns, the previous owners of the Star Inn, did not demonstrate that a public house on this site is no longer viable and the previous licensee stated that she would be willing to continue under a new landlord. Woking Core Strategy policy CS4 provides for the protection and retention of existing local facilities. The Star Inn should be offered for sale as a going concern before permission for alternative uses of the building is given consideration."</i></p> <p>Similar views were expressed by other residents.</p> <p>There is a difference between a building having 'potential' to provide a use which would benefit the local community and the issue of whether the building did provide such a use in the recent past.</p>
<p>Criteria met?</p>	<p>NO</p>

If the criteria are met, go to Step D. If not, place on the list of unsuccessful nominations. 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. 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?	
Evidence supplied by nominee:	The nominee suggests that should the Council place The Star Inn on the list of Assets of Community Value then the 'goodwill' of the signatories of the petition against the change of use of the site by the Co-Operative could be used to attract a commercially successful pub group to re-establish a public house in the building.
Feedback from other parties and other information gained in relation to this criterion:	In the Review of the previous decision by Woking Borough Council to list The Star Inn an Asset of Community Value, the Head of Democratic and Legal Services found that there was sufficient evidence to support the case that the Star Inn, could be used to provide a facility of social value to the community of Hook Heath in the next five years. In the period since that conclusion was reached planning permission has been granted for the change of use of the Star Inn to Class A1 retail use.
The SAM's consideration of the evidence provided	There is some evidence to suggest that there could continue to be a non-ancillary use of the building that could further the social well-being or social interests of the local community. The public house closed in 2014 and it is realistic to consider that a use providing a facility of social value to the community of Hook Heath could be re-provided in the next five years.
Criteria met?	YES

DECISION:	THAT THIS ASSET SHOULD NOT BE PLACED ON THE REGISTER OF ASSETS OF COMMUNITY VALUE
REASON FOR DECISION	The asset lies within the administrative boundary of Woking Borough Council. The nominating organisation, Friends of the Star Inn, 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. The nomination from Friends of the Star Inn does not include the matters required under regulation 6 of the Regulations. On the basis of the information submitted the Strategic Asset Manager is unable to conclude that the use of the Star Inn, in the recent past, furthered the wellbeing or interests of the local community. For this reason the requirement of Section 88(2)(a) of the 2011 Act has not been satisfied.
Decision Taken by	Ian Tomes
Date	10 th February 2016