



Housing, Health and Community Committee
11 March 2024

REPORT TITLE:	Asset of Community Value: Prince of Wales
REPORT OF:	Zara Clarke, Leisure Project Support and Liaison Officer

REPORT SUMMARY

The Localism Act 2011 requires local authorities to keep a list of assets (meaning buildings or other land) which are of community value. Once an asset is placed on the list it will usually remain there for five years. The effect of listing is that generally speaking an owner intending to dispose of the asset must give notice to the local authority. A community interest group then has six weeks in which to ask to be treated as a potential bidder. If it does so, the disposal cannot take place for six months. The theory is that this period known as the “moratorium” will allow the community group to come up with an alternative proposal although, at the end of the moratorium, it is entirely up to the owner whether a disposal goes through, to whom and for how much. There are arrangements for the local authority to pay compensation to an owner who loses money in consequence of the asset being listed.

A valid nomination has been received by Mountnessing Village Council on 26 January 2024 (Appendix A) in relation to the land as indicated on the attached site plan (Appendix B).

The report is for Members to list or not to list the land as an Asset of Community Value as indicated in Appendix B

RECOMMENDATION

R1: List the land known as Prince of Wales, as indicated on the site map in Appendix B of the report, as an Asset of Community Value.

SUPPORTING INFORMATION

1.0 REASON FOR RECOMMENDATION

- 1.1 The nomination meets both the statutory tests as set out in 3.7 and therefore it is recommended to list Prince of Wales and land as an Asset of Community Value and add it to the Council's Register of Assets of Community Value.

2.0 BACKGROUND INFORMATION

- 2.1 A report was presented to Policy, Performance and Resources Committee on 7 December 2011 (min. ref. 386) so that members were aware of the implications for the Council of the Localism Act 2011 which was given Royal Assent on 15 November 2011. Part of the Localism Act 2011 includes the ability for communities to be able to ask for community assets to be put on a register of 'Assets of Community Value'. These can include local pubs, shops, village halls, libraries and community centers.
- 2.2 The Localism Act provides an opportunity for communities to raise finance to competitively bid when a community asset comes on the open market. This is achieved through a legal framework governed by the Local Authority. The Act allows communities to nominate assets of community value (ACV's). The council is given eight weeks to determine whether it meets the criteria for listing from the date of submission, and then places its decision on the list. When the owner of a listed asset wishes to dispose of it, the Act introduces a delay or 'moratorium' before he or she can do so, to give any interested and eligible community groups the time to prepare a bid. However, at the end of the moratorium period the owner can sell to whomever they choose at a price agreed by the buyer.
- 2.3 The Council received a valid nomination (Appendix A) on 26 January 2024 from Mountnessing Village Council in relation to the land as indicated on the attached site plan in Appendix B. The regulations made under the Localism Act 2011 require the Council to determine within 8 weeks whether to list the nominated asset. Therefore, the deadline for a decision is 22 March 2024 which is why this report is before Members today.
- 2.4 In broad outline the new provision under the Localism Act 2011 for listing an Asset of Community Value and subsequent disposal are set out in Appendix C. In particular Members are reminded of what is meant by a relevant disposal of a listed asset (see 1.15 of Appendix C).

3.0 OTHER OPTIONS CONSIDERED

- 3.1 The essential statutory test for an ACV is set out in Section 88 of the Localism Act 2011. It is for the local authority to judge whether the criteria are met (subject to any challenge by way of judicial review). The criteria are set out as follows:
- 3.2 **Is the nominating organisation an eligible body to nominate?** Officers have checked and confirmed that Mountnessing Village Council are an eligible body to nominate the land as an Asset of Community Value.
- 3.3 **Does the nominating body have a local connection to the asset?** Yes, Mountnessing Village Council operates in the Mountnessing area.
- 3.4 **Does the nomination include the required information about the asset?** (This includes the proposed boundaries, names of the current occupants of the land and names of the current or last known address of those holding a freehold or leasehold estate of the land). All of the necessary information was supplied to the Council (see nomination form Appendix A) and site plan (Appendix B).
- 3.5 **Is the nominated asset outside one of the categories that cannot be and Asset of Community Value (a residence together with land associated with that residence; land in respect of which site license is required under Part 1 of the Caravan Sites and Control of Development Act 1960; and operating land as defined in Section 263 of the Town and Country Planning Act 1990).** The land indicated is not one of the exempt categories that cannot be listed as an ACV, so this nomination cannot be ruled out on that principle.
- 3.6 **Is the current or (recent usage) which is subject to the nomination an actual and non-ancillary usage?** The pub has been shut by the temporary landlord. The pub was used as a social meeting point for local clubs, groups societies in the area holding committees, pub games and celebrations. It was also a focal meeting point for local businesses to network and engage with residents.
- 3.7 The Council also needs to consider if in their opinion (a) an actual current 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. They may take into account the following:

- 3.8 **What is the ‘local community’ of the asset as defined by geographical area?** Officers consider that this would include the immediate vicinity of the Borough of Brentwood and surrounding areas.
- 3.9 **What is the current/recent use of the asset?** The current function of the asset has ceased leaving clubs and groups without a venue.
- 3.10 **How well is the asset used?** The nominee has stated it was a meeting point for businesses and groups to socialise. Clubs such as cricket, tennis, volleyball and darts would be regular uses of the pub.
- 3.11 **What will be the impact if the usage ceases?** The nominee states there is no other local pub that has provision for pub games in the area and local connections with the community clubs and groups.
- 3.12 **How does it meet the social interests of the community as a whole and not users/customers of a specific service?** For information in the Act ‘Social interests’ includes each of the following – cultural interests, recreational interests and sporting interests. The Asset provides recreational and sporting interests for the local community.
- 3.13 **How is the asset regarded by the local community (community consultation, evidence of support)?**

Mountnessing Village Council have consulted with their local community by undertaking a recent petition and saw 250 names, addresses and signatures gathered to make the Prince of Wales an Asset of Community Value.

4.0 RELEVANT RISKS

- 4.1 The Council has a legal duty to comply with the legislation relating to Assets of Community Value within the timescales specified in the Localism Act.

5.0 ENGAGEMENT/CONSULTATION

- 5.1 A save your pub petition with 250 signatures from the local community and users of the pub.

6.0 FINANCIAL IMPLICATIONS

Name & Title: Tim Willis, Director – Resources (Section 151 Officer)
Tel & Email: 01277 312500 / tim.willis@brentwood.rochford.gov.uk

- 6.1 Under the Assets of Community Value regulations the local authority is responsible for paying compensation in respect of listed assets within its area, in certain circumstances. This is relevant when a private property owner claims for costs or loss incurred as a direct result of complying with the regulations. There is no statutory cap on the amount of compensation that may be payable in respect of any one claim, but any individual or total payments of over £20k in a financial year will be funded by the Government.
- 6.2 Whilst the funding from government will help to meet some of the costs of the new arrangements, local authorities will still be expected to fund the first £20k of any compensation payments if they were to become due.
- 6.3 The current balance in the Community Rights to Bid reserve has a balance of £37,644.

7.0 LEGAL/GOVERNANCE IMPLICATIONS

Name & Title: Claire Mayhew, Acting Joint Director – People & Governance (Monitoring Officer)

Tel & Email 01277 312500 / claire.mayhew@brentwood.rochford.gov.uk

- 7.1 The Council has a statutory responsibility to comply with the provisions as set out in the Localism Act and the Regulations made under the Act, currently Assets of Community Value (England) Regulations 2012 SI 2421.

8.0 EQUALITY & HEALTH IMPLICATIONS

Name & Title: Kim Anderson, Corporate Manager - Communities, Leisure and Health

Tel & Email 01277 312500 / kim.anderson@brentwood.gov.uk

- 8.1 The Public Sector Equality Duty applies to the Council when it makes decisions. The duty requires us to have regard to the need to:
- a) Eliminate unlawful discrimination, harassment and victimisation and other behaviour prohibited by the Act. In summary, the Act makes discrimination etc. on the grounds of a protected characteristic unlawful.
 - b) Advance equality of opportunity between people who share a protected characteristic and those who do not.
 - c) Foster good relations between people who share a protected characteristic and those who do not, including tackling prejudice and promoting understanding.

- 8.2 The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, marriage and civil partnership, race, religion or belief, gender, and sexual orientation. The Act states that 'marriage and civil partnership' is not a relevant protected characteristic for (b) or (c) although it is relevant for (a).
- 8.3 The proposals in this report will not have a disproportionate adverse impact on anybody with a protected characteristic.
- 8.4 The Localism Act provides equal opportunity for local communities to nominate assets that are important to them.

9.0 ECONOMIC IMPLICATIONS

Name & Title: Leigh Nicholson, Director - Place

Tel & Email 01277 312500 /leigh.nicholson@brentwood.rochford.gov.uk

- 9.1 There are no direct economic implications.

REPORT AUTHOR:

Name: Zara Clarke

Title: Leisure Project Support and Liaison Officer

Phone: 01277 312500

Email: zara.clarke@brentwood.gov.uk

APPENDICES

- Appendix A: Nomination Form – Asset of Community Value
- Appendix B: Site plan of nominated land – The Prince of Wales
- Appendix C: Provisions under the Localism Act 2011 relating to Assets of Community Value

BACKGROUND PAPERS

- Localism Act 2011 - Assets of Community Value

SUBJECT HISTORY (last 3 years)

Council Meeting	Date
None	

--	--