

Agenda



FINANCE AND DEMOCRACY COMMITTEE

Date:	Monday, 6 June 2016 at 6:30 pm
Venue:	Town Hall, St Annes, FY8 1LW
Committee members:	Councillor Karen Buckley (Chairman) Councillor Roger Small (Vice-Chairman) Councillors David Donaldson, Tony Ford JP, Angela Jacques, Kiran Mulholland, Linda Nulty, Liz Oades, Richard Redcliffe, Vince Settle, Elaine Silverwood, Richard Taylor.

Public Platform

To hear representations from members of the public in accordance with council procedure rule 11.
To register to speak under Public Platform: see [Public Speaking at Council Meetings](#).

	PROCEDURAL ITEMS:	PAGE
1	Declarations of Interest: Declarations of interest, and the responsibility for declaring the same, are matters for elected members. Members are able to obtain advice, in writing, in advance of meetings. This should only be sought via the Council's Monitoring Officer. However, it should be noted that no advice on interests sought less than one working day prior to any meeting will be provided.	1
2	Confirmation of Minutes: To confirm the minutes, as previously circulated, of the meeting held on 21 March 2016 as a correct record.	1
3	Substitute Members: Details of any substitute members notified in accordance with council procedure rule 24(c).	1
	DECISION ITEMS	
4	Community Asset Nomination : Post Office Hotel, Kirkham	3 - 7

Contact: Katharine McDonnell - Telephone: (01253) 658423 – Email: democracy@fylde.gov.uk

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REPORT

REPORT OF	MEETING	DATE	ITEM NO
RESOURCES DIRECTORATE	FINANCE AND DEMOCRACY COMMITTEE	6 JUNE 2016	4
COMMUNITY ASSET NOMINATION: POST OFFICE HOTEL, KIRKHAM			

PUBLIC ITEM

This item is for consideration in the public part of the meeting.

SUMMARY

The council has received a nomination for the inclusion of the Post Office Hotel at Kirkham in its list of assets of community value. Under the Localism Act 2011, the committee must decide whether the property fulfils the criteria for inclusion and, if it does, include it in the list.

RECOMMENDATIONS

Decide whether to include the Post Office Hotel, Freckleton Street, Kirkham in the council's list of assets of community value.

SUMMARY OF PREVIOUS DECISIONS

None

CORPORATE PRIORITIES	
Spending your money in the most efficient way to achieve excellent services (Value for Money)	
Delivering the services that customers expect of an excellent council (Clean and Green)	
Working with all partners (Vibrant Economy)	✓
To make sure Fylde continues to be one of the most desirable places to live (A Great Place to Live)	✓
Promoting Fylde as a great destination to visit (A Great Place to Visit)	

REPORT

CRITERIA FOR LISTING

1. The Localism Act 2011 introduces a concept of an 'Asset of Community Value'. Section 87 of the Localism Act places a duty on Local Authorities to 'maintain a list of land in its area that is land of community value'. 'Land' includes buildings and structures.

2. Land is of community value if (in the opinion of the local authority) an actual or current use¹ of it furthers the social wellbeing or social interests of the local community and it is realistic to think that there can continue to be a use of the land which will further (whether or not in the same way) the social wellbeing or social interests of the local community.
3. Land is also of community value if (again in the opinion of the local authority) there has been a time in the recent past when an actual use of it furthered the social wellbeing or social interests of the local community and it is realistic to think that there is a time in the next five years when there could be a use of the land that would further (whether or not in the same way) the social wellbeing or social interests of the local community.
4. 'Social interests' includes cultural interests, recreational interests and sporting interests.
5. Although it is for the local authority to determine whether land falls within the criteria to be included in the list, assets may only be included in the list in response to a nomination by a parish council or a voluntary or community body with a local connection. In addition to the List of Assets of Community Value the council must also maintain a list of land which has been the subject of unsuccessful nominations.

EFFECT OF LISTING

6. If the land is included in the list, the land would become subject to notification requirements and moratorium periods that would apply if an owner of the land wished to dispose of it.
7. An owner cannot dispose of property/land that is on the list, unless they have informed the local authority of their intention to do so. Informing the local authority triggers the interim moratorium period. The interim moratorium period lasts for 6 weeks, during which time a community interest group can request the local authority that they be treated as a potential bidder. If the local authority receives such a request, the full moratorium period, which lasts for six months from the time the owner notified the authority of its intention to dispose, takes effect. The owner may not, subject to certain exceptions, dispose of the property during an applicable moratorium period.

THE APPLICATION

8. The application covers the Post Office Hotel, a public house at 18 Freckleton Street, Kirkham.
9. The nomination to list the pub was made by the Central Lancashire branch of CAMRA (the Campaign for Real Ale). The branch is a voluntary or community body which meets the criteria² to make a community nomination. The property does not fall within one of the exceptional categories of land that are not capable of being land of community value (residence, caravan site, operational land). The committee must therefore consider whether, in their opinion, the land falls within either of the categories of land of community value set out in paragraphs 2 or 3 above.
10. In support of the nomination, the nominating body states that the pub is an asset of community value because:

'The pub hosts advertising for local events.'

'There is a beer garden attached to the pub which is used and enjoyed by local people'

'There is free parking available which is accessed by the local community'

'There are good transport links available to/from the pub'

¹ Ancillary uses do not count.

² See section 89 of the Localism Act 2011 and regulations 4 and 5 of the Assets of Community Value (England) Regulations 2012

'There is good access for disabled people at the pub

'Meeting spaces are available for local community groups and charities to use

'The pub offers: A Dart Board, Pool Tables and Board Games

'This pub is one of very few which still retain separate rooms/bars which enables each to have its own character/atmosphere. Most pubs have now been "modernised" into an open-plan structure, which means they lose the fine traditional atmosphere of a British pub.

'New research from Oxford University shows that people who have a "local" pub are happier, are more satisfied with their life and have a wider network of friends.

'There are no other facilities in the area that provide the array of activities that this specific pub does

'The pub enables local people to enjoy a range of drinks (and food) in a pleasant, convivial atmosphere, which furthers their individual well-being

'The pub enables local people to meet and socialise in a welcoming environment which, individually, they find rewarding and enjoyable. Such local interaction is also in the interests of the locality as a whole as it encourages community cohesion and a collective sense of wellbeing'

CONSIDERATION

11. As it is clear that it is within the authority's area, the only question for the committee is whether the land nominated is of community value, as defined in the Localism Act and reproduced in paragraphs 2 and 3 of this report. If the land is considered to be of community value, listing is mandatory.
12. As the proposed listing relates to a present use, the first part of the test for listing is whether there is an actual current use³ of it that furthers the social wellbeing or social interests of the local community.
13. If the first part of the test is fulfilled, the committee would need to consider whether the second part of the test for listing is also fulfilled. The second part of the test is whether it is realistic to think that there is a time in the next five years when there could be a use of the land that would further (whether or not in the same way) the social wellbeing or social interests of the local community.

THE FIRST PART OF THE TEST

14. The first part of the test for listing is whether there is an actual current use⁴ of the land that furthers the social wellbeing or social interests of the local community, or a time in the recent past when an actual use of the property has done so.
15. The current use of the land is as a pub. The question is therefore whether that use furthers the social wellbeing or social interests of the local community.
16. A traditional pub will usually further the social interests or social wellbeing of its local community. A pub will often provide the focus for its community and act as an informal meeting place, as well as a base for sports and pastimes. Over 850 pubs have been listed as assets of community value across the country⁵ since the listing provisions came into force. Pubs form the largest single category of listed community assets.⁶

³ Ancillary uses do not count.

⁴ Ancillary uses do not count.

⁵ Campaign for Real Ale website at www.camra.org.uk/list-your-local

⁶ Planning Resource website at www.planningresource.co.uk/article/1309475/pubs-top-councils-community-asset-rules

17. The Post Office Hotel is a traditional pub in an established area of Kirkham. There have been a number of licence holders in the last ten years and the premises are presently being marketed as being '*suitable for redevelopment (subject to planning)*'
18. While a traditional pub will usually further the social interests or social wellbeing of its community, members will want to satisfy themselves that this particular pub is actually being used by its local community to the extent that it can be said to do so in this instance.
19. The reasons for listing set out in the nomination draw heavily on an "ACV checklist" published by CAMRA to assist branches to successfully nominate pubs for listing as assets of community value. There is nothing improper about using a published checklist to assist in compiling a nomination. However, members will need be of the opinion that the points made in the nomination apply to this particular pub in order to agree to list it as an asset of community value. A representative of the nominating body has been invited to address the committee, and should be able to provide more detail to members.
20. If members do not consider that the present use furthers the social wellbeing or social interests of the local community, they should go on to consider whether there has been a time in the recent past when an actual use of it furthered the social wellbeing or social interests of the local community.

THE SECOND PART OF THE TEST

21. If the committee considers that the first test for listing is satisfied, it should then go on to consider the second part of the test. The second part of the test is whether it is realistic to think that there can continue to be (or that in the next five years there could be) a use of the land that would further (whether or not in the same way) the social wellbeing or social interests of the local community.
22. The committee therefore needs to consider whether it is realistic to think that the Post Office Hotel could continue to fulfil the community role of a traditional pub. The fact that the property is being marketed will be relevant to this question, but not determinative.
23. If both parts of the statutory test are fulfilled, the committee must resolve to list the land as an asset of community value.

IMPLICATIONS	
Finance	<p>The listing of land can give rise to a claim for compensation from the owner of the land if he has incurred loss or expense in relation to the land which would be likely not to have been incurred if the land had not been listed. However, the possibility of a compensation liability is not a ground which the council can take into account in deciding whether to include land on its list.</p> <p>The Council is liable for any compensation payment that may be required to be paid to owners of properties in the circumstances described above up to a limit of £20k in any financial year, with any compensation above this level being met by central government. In recognition of this new potential burden the Council has received grants from central government in the total sum of £46k. A Community Right to Bid/Challenge Reserve was created to set aside this grant to fund the costs of any future compensation that might be payable under the scheme.</p>
Legal	The owner of land can require a review of the decision to list his land. A review must be carried out by an officer of the authority of appropriate seniority who did not take any part in making the decision to be reviewed. The result of the review can be appealed through the tribunal system
Community Safety	None
Human Rights and Equalities	The Government considers that the system for listing assets of community value is compatible with the European Convention on Human Rights
Sustainability and Environmental Impact	None
Health & Safety and Risk Management	See the comments under 'Finance'

LEAD AUTHOR	TEL	DATE	DOC ID
Ian Curtis	01253 658506	16 May 2016	

LIST OF BACKGROUND PAPERS		
Name of document	Date	Where available for inspection
Letter and attachments from Mr I Neil	19 April 2016	Town Hall, St Annes
Community Right to Bid: Non-Statutory Advice Note for Local Authorities	October 2012	www.gov.uk/government/publications/community-right-to-bid-non-statutory-advice-note-for-local-authorities
CAMRA ACV checklist		http://www.camra.org.uk/campaign-news/-/asset_publisher/yk4Dvk8vaYU/content/assistance-available-to-help-with-acv-nominations