

DECISION ITEM



REPORT OF	MEETING	DATE	ITEM NO
RESOURCES DIRECTORATE	FINANCE AND DEMOCRACY COMMITTEE	30 NOVEMBER 2015	7

COMMUNITY ASSET NOMINATION: THE FAIRHAVEN, CLIFTON DRIVE, LYTHAM ST ANNES

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 Fairhaven public house in Fairhaven 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

1. Agree that the Fairhaven public house, Lytham St Annes is land of community value, in that in the opinion of the authority the actual use of the building furthers the social wellbeing and 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 the social wellbeing or social interests of the local community; and
2. Accept the nomination to include the Fairhaven in the council's list of assets of community value.

CORPORATE PRIORITIES

To Promote the Enhancement of The Natural & Built Environment (Place)	√	To Encourage Cohesive Communities (People)	√
To Promote a Thriving Economy (Prosperity)		To Meet Expectations of our Customers (Performance)	√

SUMMARY OF PREVIOUS DECISIONS

None

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 use¹ 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. 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 Fairhaven public house on Clifton Drive, Fairhaven, including its residential quarters and its car park bounded by Clifton Drive and Marine Drive.
9. The nomination to list the Fairhaven was made by Friends of the Fairhaven, which 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.

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

10. In support of the nomination, the body states:

- '1. It is the only pub on Clifton Drive between Queens pub in Lytham & St Annes: - A rare asset*
'2. It will be additional tourist asset particularly after enhancement to Granny's Bay, Church Scar and Fairhaven Lake
'3. Its community use is invaluable:-
- Quiz night weekly;*
 - Darts team;*
 - Evening rock club meeting;*
 - Potential for club meetings & other functions;*
 - Potential for senior lunches & other senior functions;*
 - Potential to entertain the community & it already does so when open;*
 - It's a meeting place socially for the community;*
 - People come from as far away as Fleetwood for lunch then a walk around the lake*
 - It has wheelchair access:-Is easy for disabled people to access the pub to enhance their lives as is already the case.*
 - It is right in the heart of the community:-Easy local access for all without having to drive etc.*
- '4. Its history goes back a long way. It was built in 1895 as the 1st building and then replaced in 1976 as it is today. Its part of the heritage of our community. See pic. Page 71 of "Images of Lytham St Annes" by Steve Singleton*
'5. Its potential for vibrant trade within the community is vast thereby forming an integral part of our community as a whole.
'6. We are passionate about keeping it open as a thriving community asset.
'7. The signatures presented form only a small part of those interested.
'8. It is the only pub in Fairhaven. Next nearest is Blossoms in Ansdell over a high hill the elderly find it difficult to traverse.'

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 that an actual or current use³ of the land furthers the social wellbeing or social interests of the local community.
13. 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 country⁴ since the listing provisions came into force. Pubs form the largest single category of listed community assets.⁵
14. The Fairhaven is described by its owners as *'a well-established food led pub [which]... attracts customers from further afield...and boasts a strong local customer base'*. It is said to attract *'families, couples, regulars, holidaymakers and passing trade'*⁶.
15. Though the Fairhaven attracts trade from tourists and has a prominent food offer, there appears to be no reason to suggest that it does not also fulfil the community role of a traditional pub. It is

³ Ancillary uses do not count.

⁴ Campaign for Real Ale website at www.camra.org.uk/list-your-local

⁵ Planning Resource website at www.planningresource.co.uk/article/1309475/pubs-top-councils-community-asset-rules

⁶ Enterprise Inns website at www.enterpriseinns.com/run-a-pub/pubs/Pages/fairhaven-lytham.aspx

also relevant in this regard that there is only one other traditional pub within a radius of one mile of the Fairhaven. As the Fairhaven fulfils the community role of a traditional pub, the first part of the test for listing appears to be met.

16. The second part of the test is that 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. The committee therefore needs to consider whether it is realistic to think that the Fairhaven could continue to fulfil the community role of a traditional pub. Given the '*first rate reputation*', '*vibrant trade*' and '*strong local customer base*' of the premises⁷, it seems likely that the community pub role could continue and that the second part of the test is fulfilled⁸.
17. 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 £30k. 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	<p>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</p>
Community Safety	None
Human Rights and Equalities	<p>The Government considers that the system for listing assets of community value is compatible with the European Convention on Human Rights</p>

⁷ Enterprise Inns website at www.enterpriseinns.com/run-a-pub/pubs/Pages/fairhaven-lytham.aspx

⁸ If the committee felt that it was not realistic to consider that the community pub role of the premises could continue, it should then go on to consider whether it would be realistic to think that there can continue to be a use of the land which will further the social wellbeing or social interests of the local community in some other way

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	10 November 2015	

LIST OF BACKGROUND PAPERS		
Name of document	Date	Where available for inspection
Letter and attachments from Mrs C Hedges	2 November 2015	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