

Committee: Cabinet

Agenda Item

Date: 30 March 2017

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**Title: Nomination for Railway Arms Public House,
Saffron Walden to be listed as an Asset of
Community Value**

**Portfolio
Holder: Cllr Barker**

Key decision: No

Summary

1. The Localism Act 2011 introduces a concept of an 'Asset of Community Value'. Section 87 of the Localism Act places a duty of Local Authorities to 'maintain a list of land in its area that is land of community value'.
2. An Asset is of community value if (in the opinion of the local authority) either:
 - 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
 - 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.or
 - 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
 - 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.
3. The Act states that "social interest" "includes (in particular) each of the following – (a) cultural interest, (b) recreation interest and (c) sporting interests. Pubs can qualify as assets of community value if they meet the tests set out in paragraph 2.
4. The Council have received a request from Saffron Walden Town Council to include The Railway Arms, Station Road, Saffron Walden on the list of assets.
5. The purpose of this report is to enable members to determine:
 - a. Whether this is a valid nomination
 - b. Whether, in the recent past, the use of the building furthered the social wellbeing or interests of the local community. use of the building

(current or recent past) furthers the social welling or interests of the community.

- c. Whether it is realistic to think that in the next 5 years the building could be used to further the social wellbeing or interests of the community.

In considering these questions, members need to consider principal, rather than ancillary, uses of the building.

If members conclude that the answers to these questions are “yes”, the building should be included in the list of assets of community value.

Recommendations

- 6. To determine whether to include the Railway Arms Public House, Saffron Walden on the Assets of Community Value list:

Financial Implications

- 7. There are direct financial implications arising at this stage which relate to the formal process of identifying and contacting asset owners and, if relevant, registering an asset as a Land Charge. These costs can be met from existing budget and staff resources.
- 8. There is also an unquantifiable financial risk to the Council, if there was a claim for compensation. This needs to be kept under review and at an appropriate time consideration should be given to establishing a contingency reserve to mitigate the risk to the Council’s budget. However, the potential liability should not be taken into account in deciding whether or not this is an asset of community value.

Background Papers

- 9. Submission for consideration as Assets of Community Value and any representations

Impact

Communication/Consultation	In line with paragraph 8 of The Assets of Community Value (England) Regulations 2012 the Council have taken all practicable steps to give information that it is considering listing the land to the owner of the land, freeholder and occupant. This has taken the form of letters and site notices.
Community Safety	No impact.
Equalities	The duty will effect all equally.

Health and Safety	No impact.
Human Rights/Legal Implications	Pursuant to s.19 Human Rights Act 1998 the Secretary of State has certified that in his opinion the Localism Act is compatible with the Convention rights. If the land is included on the list of Community Assets it will form a Land Charge.
Sustainability	No impact.
Ward-specific impacts	Saffron Walden Shire
Workforce/Workplace	Work will be coordinated within the Planning and Housing Policy, Land Charges and Legal Teams.

Situation

a. Is this a valid nomination?

10. S89 of the Act states that land in a local authority area which is of community value may be included in its list of assets of community value only in response to a “community nomination”, or where permitted by regulation made by the Secretary of State. A community nomination means a nomination by a parish council in respect of land in the parish council’s area or “by a person that is a voluntary or community body with a local connection”.

11. The nomination is being made by Saffron Walden Town Council. The Town Council falls within the definition of a parish council for these purposes and the nominated land is within its area.

12. A nomination must also include:

- i. A description of the nominated land including its proposed boundaries.
- ii. Any information the nominator has about the freeholders, leaseholders and current occupants of the site.
- iii. The reasons for nominating the asset, explaining why the nominator believes the asset meets the definition in the Act.
- iv. The nominator’s eligibility to make the nomination.

It meets these requirements.

13. This is therefore a valid nomination under S89(2)(i).

b. Does the use of the building (current or recent past) further the social wellbeing or interests of the community?

14. The Railway Arms PH closed on the 6 January 2017. The test therefore is whether there was a time in the recent past when a use of building or land had furthered the social wellbeing or interests of the community.
15. The Railway Arms was open until early January this year. There is no statutory definition of “the recent past” and it is open to councils to reach their own views on what is “the recent past”. In common sense terms, the Council could reasonably conclude that the Railway Arms PH was being used “in the recent past”.
16. Evidence has been submitted by the Town Council in their nomination form of why it believes that the Railway Arms furthered the social wellbeing or interests of the community. The application states:
 - i. The pub has been used by many clubs and societies for meetings, events and charity fundraising. As an example the nomination lists 9 specific groups which have used the Railway Arms for meetings, events and charity fundraising.
 - ii. The Railway Arms sold real ale and other drinks to a regular clientele drawn largely, though not exclusively, from the southern part of the town where it was only one of two traditional pubs remaining. Being located in a residential area it provided a different offer and catered to a different audience to the town centre pubs. The property benefits from a beer garden.
 - iii. It provided a venue for music events. It used to host beer festivals offering a range of local beers.
 - iv. Newspapers were often available and local events were advertised
 - v. Furthermore, the pub forms part of the history of the area being built together with the former station (now in residential use) in the same style.
 - vi. The use of the pub by clubs and societies demonstrates its community value as a place for organisations to meet and further their cultural, recreational or sporting interests. The location of the pub means that it provides an asset well located to where people live, enabling them to easily take part in these social and community events. The benefits of a beer garden means that it has been possible for families to take part in these social and community events. The pub has provided a venue for cultural events such as the music events and beer festivals. It has also provided a venue for the publicity of social and community events. The pub is also of cultural value as a physical link to the history of the area.

c. Is it realistic to think that in the next 5 years the use of the building could further the social wellbeing or interests of the community.

17. In considering this question, the test is whether it is “realistic” to think that the use of the building could further the social wellbeing or interests of the community. It is not a balance of probabilities test – realistic means “more than fanciful”. The use does not have to be the same as that which took place within the recent past.
18. The Town council consider it is realistic to suppose that the pub could continue, over the next five years and more, to further the social wellbeing and social interest of the local community for the reasons set out in its application.
19. To date there is no current planning application relating to this property.
20. The pub has only recently closed (6 January 2017). There is no evidence that the building could not physically continue as a public house furthering the social wellbeing and interests of the community.
21. Solicitors for the owners have claimed that its use as a pub is unviable and have submitted accounts in support of this claim. These are appended to this report, along with the full representations on behalf of the owners. .

Representations

22. The Council has received representations regarding the above proposed assets of community value and are appended to this report. A summary of the key points raised are:-
23. A long letter has been received sent by Freeths, solicitors, on behalf of the owner. The letter and attachments are appended to this report. Detailed comments on the letter will be circulated to the Cabinet.
24. Representations supporting the nomination

Save the Railway Arms Pub (STRAP)

- The Railway Arms dates from 1865 and the arrival in the town of the Audley End to Bartlow branch line. Built in the same style and with the same materials as the station building itself, it was clearly intended to serve travellers and traders using the station.
- In terms of the recent past the actual use of the building as a public house clearly furthered the social wellbeing or interests of the local community in that it attracted people from different social and professional backgrounds, providing a space for interaction between people who might not otherwise meet and in so doing it benefitted social cohesion and wellbeing. It has been a place of celebration, often at times of local, national, and international significance, and as such it has been part of the social fabric of the town. These are not ancillary uses.

- Turning to the next five years it is clear that Saffron Walden could benefit enormously from a community owned pub, with a strong community ethos. It could be more successful than a pub focussed solely on food and drink.
- The recent STRAP AGM mandated the expanded committee to investigate putting in place a legal entity (possibly a Community Benefit Society or Community Interest Company) with the ability to put in a bid for the Railway, to put together a business case and explore the level of interest within the wider community. Should we proceed we will seek to ensure that any re-opened pub would be family-friendly and attractive to all parts of the community, with good quality food and drinks priced to suit all pockets. Thus it is clear that the second and third tests are passed.
- In the few weeks since then we have seen coverage in the local press and our membership numbers have soared, reaching close to 100. We have been accepted onto the Plunkett Foundation's 'More Than A Pub' programme and have completed the associated Action Plan. We are now in contention for a bursary of £2500 to meet early set up costs. We plan to keep working over the coming weeks and to report back to a general meeting on 5th April.

Individual residents

- The PH is not just a place for the consumption of alcohol but is a venue in which the public can meet on a social basis and interact with their fellow neighbours.
- Used by Saffron Walden Musical Theatre Co.; Saffron Walden Rugby Club, Saffron Striders, Walden Tri., book club, Saffron Walden Dive Club; Philosophy in the Pub, pub quiz
- Previously the pub had a darts team and put up tug-o-war and five aside football team for the Saffron Walden Carnival. This philosophy can again be engendered in a family pub which has a catchment area of the southern part of the town.
- The property offers the opportunity for activities which bind the community together, combat boredom and loneliness and enhance a sense of wellbeing.
- the Railway attracted people from different social and professional backgrounds and interaction between people who might not otherwise meet is invaluable in terms of social cohesion and wellbeing
- The pub was the first port of call for people having moved into the locality.
- Used venue to make lots of long standing friends both of social and business nature.
- Important for the next generation to have the same opportunity to have such a facility to relax, develop acquaintances so the community thrives.
- Beer garden big enough to offer children's play equipment and lends itself to community events such as Battle of the Band competitions etc
- The pub has been used to showcase art and photography of local artists
- Well placed to serve a growing community
- The Railway Arms building itself is of historic importance, having been built in association with the train station across the road. It shares the same architectural style. The story of the old Audley End to Bartlow train line

could be read and experienced within the building, attracting people from out of town.

- Pubs are very important. They play a variety of roles: they help create cohesion, they provide local character, they contribute to the local economy and they provide an important focal point for local communities.

Conclusion

25. A valid nomination has been made to the Council.
26. Evidence has been put to the Council that the nomination recently furthered the social wellbeing or interests of the community through its venue as a public house for use by individuals and groups who used the property as a place to meet and socialise to further their cultural, recreational or sporting interests. This has been disputed on behalf of the owner.
27. Members need to consider whether it is realistic to think that, at a time within the next five years, the property could be used in a manner that furthers the social wellbeing and interests of the local community. The owner has disputed that this is the case and members should give careful consideration to the points made and evidence supplied on the owner's behalf.
28. Consideration of these issues will lead the Cabinet to determine whether or not the Railway Arms, Public House, Station Road, Saffron Walden should be included in the list of assets of community value.

Risk Analysis

29.

Risk	Likelihood	Impact	Mitigating actions
The nominating body or the owner is unhappy with the decision reached.	High risk that one of the bodies will be unhappy with the decision.	The owner has rights of internal review and appeal and can claim for compensation. The nominating body does not have rights of review or appeal. If it felt the Council had acted unlawfully, it	Carefully scrutinise submissions for inclusion on the Asset List so as to ensure only those which comply with the criteria are included.

		could seek to challenge by way of judicial review.	
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1 = Little or no risk or impact

2 = Some risk or impact – action may be necessary.

3 = Significant risk or impact – action required

4 = Near certainty of risk occurring, catastrophic effect or failure of project.