



Public Document Pack

Uttlesford District Council

Chief Executive: Peter Holt

Assets of Community Value and Local Heritage List Committee

Date: Wednesday, 17th November, 2021

Time: 2.00 pm

Venue: Council Chamber - Council Offices, London Road, Saffron Walden,
CB11 4ER

Chair: Councillor C Day

Members: Councillors J Evans, R Freeman, P Lees and L Pepper

Public Speaking

At the start of the meeting there will be an opportunity of up to 15 minutes for members of the public to ask questions and make statements subject to having given notice by 12 noon two working days before the meeting. Please register your intention to speak at this meeting by writing to committee@uttlesford.gov.uk

Public speakers will be offered the opportunity to read out their questions or statements at the meeting, or to attend the meeting to read out their questions or statement themselves.

Those who would like to watch the meeting live can do so virtually [here](#). The broadcast will be made available as soon as the meeting begins.

**AGENDA
PART 1**

Open to Public and Press

1 Apologies for Absence and Declarations of Interest

To receive apologies for absence and declarations of interest.

2 Minutes of the previous meeting

4 - 7

To consider the minutes of the previous meeting.

3 Nomination of Land to the rear of the Coach and Horses as an Asset of Community Value

8 - 27

To consider the nomination of land to the rear of the Coach and Horses, Newport as an Asset of Community Value.

MEETINGS AND THE PUBLIC

In light of the recent High Court judgement regarding the extension of remote meeting regulations, Council, Cabinet and Committee meetings will now be returning to in-person and will be held on-site from Thursday 6th May 2021. However, due to social distancing measures and capacity considerations in line with the Council's risk assessment, public access and participation will continue to be encouraged virtually until further notice.

Members of the public are welcome to listen live to the debate of any of the Council's Cabinet or Committee meetings. All live broadcasts and meeting papers can be viewed on the Council's calendar of meetings webpage.

Members of the public and representatives of parish and town councils are permitted to speak at this meeting and will be encouraged to do so via the video conferencing platform Zoom. Very limited space is available in the Council Chamber. If you wish to make a statement via Zoom video link, you will need to register with Democratic Services by midday two working days before the meeting. There is a 15 minute public speaking limit and 3 minute speaking slots will be given on a first come, first served basis. Those wishing to make a statement via video link will require an internet connection and a device with a microphone and video camera enabled. Those wishing to make a statement to the meeting who do not have internet access can do so via telephone.

Technical guidance on the practicalities of participating via Zoom will be given at the point of confirming your registration slot, but if you have any questions regarding the best way to participate in this meeting please call Democratic Services on 01799 510 369/410/548 who will advise on the options available.

Facilities for people with disabilities

If you are deaf or have impaired hearing and would like a signer available at a meeting, please contact committee@uttlesford.gov.uk or phone 01799 510369/410/548 as soon as possible prior to the meeting.

Fire/emergency evacuation procedure

If the fire alarm sounds continuously, or if you are instructed to do so, you must leave the building by the nearest designated fire exit. You will be directed to the nearest exit by a designated officer. It is vital you follow their instructions.

For information about this meeting please contact Democratic Services

Telephone: 01799 510548, 510369 or 510410

Email: Committee@uttlesford.gov.uk

General Enquiries

Council Offices, London Road, Saffron Walden, CB11 4ER

Telephone: 01799 510510

Fax: 01799 510550

Email: uconnect@uttlesford.gov.uk

Website: www.uttlesford.gov.uk

Agenda Item 2

**ASSETS OF COMMUNITY VALUE AND LOCAL HERITAGE LIST
COMMITTEE held at COUNCIL CHAMBER - COUNCIL OFFICES, LONDON
ROAD, SAFFRON WALDEN, CB11 4ER, on TUESDAY, 17 AUGUST 2021 at
2.00 pm**

Present: Councillor C Day (Chair)
Councillors J Evans, R Freeman, P Lees and L Pepper

Officers in attendance: C Edwards (Democratic Services Officer), C Gibson (Democratic Services Officer), J Hill (Planning Policy Officer) and E Smith (Solicitor).

ACV15 APOLOGIES FOR ABSENCE AND DECLARATIONS OF INTEREST

There were no apologies for absence or declarations of interest.

ACV16 MINUTES OF THE PREVIOUS MEETING

The minutes of the meeting held on 21 June 2021 were approved.

ACV17 NOMINATION OF HILL GREEN AS AN ASSET OF COMMUNITY VALUE

The Planning Policy Officer presented a report asking Members to consider the nomination of Hill Green as an Asset of Community Value (AoCV). She outlined the necessary criteria that needed to be established for an asset to be considered as an AoCV. The nomination had been made by Clavering Parish Council and was supported by Clavering Cricket Club.

Members sought some clarification around the leasehold tenancy, the current unidentified landlords and the ownership of the cricket pavilion. The Parish Council were encouraged to seek to identify the current landlords.

All Members expressed support for what was considered to be a valid nomination.

Councillor Lees proposed that the site be listed as an AoCV. This was seconded by Councillor Evans and the decision was unanimous.

RESOLVED that the site be listed as an Asset of Community Value.

Meeting closed at 2.14 pm.

DECISION NOTICE

The matter before the Committee today is a request, known as a nomination, that the entry upon Uttlesford District Council's list of Assets of Community Value (ACV), in respect of land situate and known as Hill Green, Clavering, be

renewed for a further five years. The nomination is made by Clavering Parish Council who have a leasehold interest in the land.

The Localism Act 2011 introduces a concept of an 'Asset of Community Value' (ACV). 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'.

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 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 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.

The Act states that "social interests" "includes (in particular) each of the following – (a) cultural interests, (b) recreational interests and (c) sporting interests.

Assets of Community Value are buildings or land which involve the physical use by the community and include for example a village shop, pub, community centre, allotment or recreation ground.

In arriving at our decision we are required to answer the following questions :

- a) whether there is a valid nomination;
- b) whether the use of the building (current or recent past) furthers the social wellbeing or social 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 social interests of the community.

In considering these questions, we need to consider the principal, rather than ancillary, uses of the building. If we conclude, on the basis of proper evidence

since our decision today potentially impacts upon someone's ability to deal with land owned by them, that the answers to these questions are "yes", then the land should be included in the list of ACV's.

We have taken into account the provisions of the legislation, the Council's policy, and such case law as there is in the area. We also feel we should explain, for the record, what a successful nomination will achieve and what it will not. It is not a species of "listing lite". It gives no protection against development and it is not permanent – it lasts for five years only.

What it does do is give community groups, as defined in the legislation, a window of opportunity to make a bid for the asset should it come on the market for sale, and some sales – disposals – are exempt. It does not give the right to force a sale, any purchase by one of the prescribed groups must be at market value and the landowner can refuse to sell to the community group. He or she can also withdraw the premises from community use.

We have had the opportunity of reading a detailed officer's report in this case, a copy of which has been served on the Parish Council. It has not been possible to trace the current owner[s] of the freehold reversion and as time passes this particular issue is going to be of increasing importance. We have also heard from Ms Hill, the Case Officer, who spoke very eloquently to her report. She presented us with the application form and site plan completed by the Parish Council, setting out, among other things details of the groups and activities that take place on the site. Some of our number are familiar with the location. We have no reason to doubt that these activities do take place there and will continue to do so; we have been provided with fixture lists for the cricket club and have viewed letters and photographs of activities taking place there that have been uploaded to the Council's online Planning Portal under reference UTT/212181/ACV. We also believe that the Parish Council would be a definite purchaser of the freehold reversion, and because of the very nature of that interest, the earlier they can acquire it the more favourable the price.

There are a number of things we may not take into account in arriving at our decision. One of these is the impact our decision may have on the value of the property, and nor may we consider the question of what compensation, if any, might be payable in respect thereof. A registration as an ACV has no impact upon whether or not planning permission will be granted on an adjacent site; all it is, ultimately is a statutory pause in the sale process while a community group seeks to put together a bid – it is not a right to a compulsory purchase, & it must be at market value.

Having said all of this, our decision is that this application for a renewal is granted. However, we would like to sound some notes of caution. Firstly, we strongly recommend that the Parish Council makes serious and sustained efforts to trace the current freehold reversioner[s]. They may need to engage professional assistance. Their lease has 27 years to run but with every month that passes the value of that lease decreases and that of the freehold reversion increases.

Secondly, a more general point. The Council has revised its policies regarding the granting of ACV status in view of the true nature of the right, which is a right to bid rather than a listing that will prevent development. If the nominator already

has a legal interest in the land and therefore has control over it, then ACV registration gives no protection against development.

As leaseholder, Clavering Parish Council have de facto control of this land and are unlikely to assign their interest to another, hence it is most unlikely that it will cease to be in community usage; it is for this reason, therefore, that we urge them to use the period of this registration to make every possible effort to trace the current freehold reversioner of this land.

Agenda Item 3

Committee:	Assets of Community value and Local Heritage List Committee	Date:	Wednesday 17 November
Title:	Nomination of 'Land to the rear of the Coach & Horses public house', Newport, as an Asset of Community Value		
Report Author:	Joanna Hill, Planning Policy Officer jhill@uttlesford.gov.uk		

Summary

1. The Localism Act 2011 introduces a concept of an 'Asset of Community Value' (ACV). 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. What the provisions¹ do and do not do:
 - The provisions give communities a right to identify a building or other land that they believe to be of importance to their community's social well-being. The aim is that, if the asset comes up for sale, then they will be given a fair chance to make a bid to buy it on the open market
 - The provisions do **not** restrict in any way who the owner of a listed asset can sell his property to, or at what price
 - They do **not** confer a right of first refusal to community interest groups
 - The provisions **do not** place any restriction on what an owner can do with their property, once listed, if it remains in their ownership. This is because it is planning policy that determines permitted uses for particular sites.
3. The fact that a site is listed as an ACV may affect planning decisions – it is open to the Local Planning Authority to decide that listing as an Asset of Community Value is a material consideration, if an application for change of use is submitted, considering all the circumstances of the case. It is trite law that the weight any particular consideration has in the balance is an issue for the expert judgment of the decision maker and not a question of law.
4. The National Planning Policy Framework (2021) requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. The purpose of the planning system is 'to contribute to the achievement of sustainable development . . . meeting the needs of the present without compromising the ability of future generations to meet their own needs' (para 7).

■ _____
¹ Department for Communities & Local Government (September 2011) *Assets of Community Value - Policy Statement*.

5. Nominations for registration as an Asset of Community Value, should only be made where use of land or property by the local community is well evidenced and there is a genuine commitment and consideration of how a community group may raise funds to bid for that land. A detailed business plan with costings is not required but there should be a realistic and practical idea of what can be achieved or expected. Listing as an ACV has an impact on the value of property and on the rights of private property owners². This is an issue that has not as yet ever been directly litigated but it is a point that remains open to interpretation by the Courts. However, it has never been the intention of the legislature that the provisions pertaining to Assets of Community Value should be used as a tool to block sustainable development or as 'listing lite', and the extant case law is clear, albeit obiter, that this is indeed an illegitimate use of the legislation.
6. An Asset is of community value if (in the opinion of the local authority) either:
- [Localism Act paragraph 88 part 1]
- 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;* (emphasis added)
- or
- [Localism Act paragraph 88 part 2]
- 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 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 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.* (emphasis added)
7. The Act states that “social interests” “includes (in particular) each of the following – (a) cultural interests, (b) recreational interests and (c) sporting interests.
8. Assets of Community Value are buildings or land which involve the physical use by the community and include for example a village shop, pub, community centre, allotment or recreation ground.

■ _____
² Department for Communities & Local Government (September 2011) *Assets of Community Value – Policy Statement*.

9. The purpose of this report is to enable members to determine:
- a) whether there is a valid nomination;
 - b) whether non-ancillary use of the land (current or recent past) furthers the social wellbeing or social 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 social interests of the community.*(emphasis added)

In considering these questions, members need to consider principal, rather than ancillary, use(s) of the land. If members conclude that the answers to these questions are “yes”, the land should be included in the list of ACVs.

Recommendation

10. The Officer recommendation is not to list the Land to the rear of the Coach & Horses as an ACV, due to the following reasons:

- The rearmost part of ‘land to the rear’ has been withdrawn from community usage and it is no longer realistic to think that the land may be used for community use in the future. Correspondence from solicitors instructed on behalf of the owners of the land, currently fenced off, has made it clear that if listed the land will not be restored to community use.
- The reason for nominating only the ‘land to the rear’, rather than the Coach & Horses public house together with the ‘land to the rear’; and the relationship between community use of the ‘land to the rear’ and community use of the Coach & Horses public house has not been made clear in the nomination.
- Much of the written third party material relied on in support of the nomination show *support of the nomination* and are not evidence as to that person’s use of the land; many of those communications are cut and pasted from letters showing opposition to a previous planning application in respect of the land.
- The Council will not support the listing of nominations of ACV where the primary intent is to block specific planning applications for sustainable development.

11. It is recommended that the Parish Council inform the owner, Cordage 9 Limited, of their interest in and ability to purchase the land, but they should be mindful that a landowner is always at liberty to refuse a community offer.

Financial Implications

12. There are direct financial implications arising at this stage which relate to the formal process of identifying and contacting asset owners, time of Planning

Policy and Legal Officers and, if relevant, registering an asset as a Land Charge. These costs can be met from existing budget and staff resources.

13. 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

14. Extracts from the nomination form are appended and can be viewed with the supporting information and evidence on the website via the planning search function [here](#) using reference UTT/21/2871/ACV.

15. Supporting evidence includes:

- Resolution of Newport Parish Council to make the nomination 6th September 2021 (531.1).
- CH bookings - spreadsheet outlining 365 bookings in 2019 (1 January to 31 December) by 29 organisations/types of booking
- Letters/emails with photographs, confirming usage for:
 - Private birthday party (Big Birthday Festival) – 130 attendees
 - Souled Out Summer 2017 15 July 2017 – vintage music festival. 250 attendees
 - Souled Out Summer 15 July 2017 – 400 attendees
 - Hot Barbeque Rhythm & Soul Club All-dayer 4th September 2021 – sold 100 tickets but cancelled due to Covid
 - Car events – 3rd Tuesday of each month all throughout the year, since 2017, with up to 50 cars
 - Petanque – 12 September Petanque League (30-40 attendees). The Coach & Horses have 2 teams in the league
 - Wakes: 11 March 2015 (200 attendees); 28 March 2019 (50 attendees); May 2021
 - Wedding reception with marquee in the garden – 25 May 2019 (150-175 attendees)

16. On behalf of the landowners

- Letter from Messrs Freeths Solicitors with attachments, namely
 - Letter from Punch Pubs and Co
 - Extract from Hansard debates x 2
 - PINS Appeal decision notice no APP/Y5420/W/30019221
 - FTT Tribunal Judgments X 2 in cases CR/2014/0016 and CR2020/0004 & 5
- UTT judgment no [2018]UKUT 15. This is a Court of record. Proposed plans for the land (Appendix 3)

Impact

17.

Communication/Consultation	In line with regulation 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.
Community Safety	No impact.
Equalities	The duty will affect 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.
Sustainability	If the land is included on the list of Community Assets, it will form a Land Charge.
Ward-specific impacts	Located in Newport
Workforce/Workplace	No impact

Situation

Is this a valid nomination?

18. S.89 of the Localism 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 regulations 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".

19. The proposal to nominate the land as an ACV was voted on by Newport Parish Council on 6 September 2021 (item 531.1 in the minutes). The nomination includes:

- A map outlining the site and boundary has been submitted
- Address of the owner and landlord of the Coach & Horses

20. Reasons for nominating (C4 of the nomination form) A nomination must 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, with an explanation of why the nominator believes the asset meets the definition in the Act.
- iv. Evidence of the nominator's eligibility to make the nomination.

21. If it meets these requirements, it is a valid nomination under Localism Act S.89(2) and ACV Regulations 2012 regulation 6. This nomination meets those requirements.

22. With regard to the nature and timing of this nomination, there is a need to consider the role of ACVs. The provisions are intended to enable the Community Right to Bid, should a piece of land come up for sale. However, consideration should be made whether the ACV nomination is being used as a means to block a planning application for potential sustainable development, suggested by:

- Direct reference to the planning applications in section C2 of the nomination form. Objections to the planning applications should not be considered in relation to this nomination, they do not provide evidence of usage of the nominated land or support for this ACV nomination
- Quotation by Mr Slade (section C4 of nomination form) in support of the nomination and call for the pub to be protected from development
- The title of email correspondence submitted as supporting evidence: 'Coach & Horses - Important information needed to fight the development'
- The Coach & Horses has not been nominated as an ACV before. The White Horse was nominated by Newport Parish Council and it was listed as an ACV on 25 June 2014. The nomination expired in 2019 and has not been renewed
- Newport Parish Council has never approached the landowner expressing interest in purchasing the land, should it come up for sale

If the Committee consider the primary objective of this nomination is to prevent development, this land should not be listed as an ACV.

b) Does non-ancillary use of the land (current or recent past) further the social wellbeing or social interests of the local community?

Non-ancillary use of the land:

23. The main or principal use of the land is that of a pub garden and overflow parking, used by people who use the Coach & Horses public house. It is private land and the Coach & Horses public house allows use of the land by its customers. Facilities include seating and tables, an area for petanque and children's play equipment. The landlord confirmed that there was a large play structure but that has been removed.

24. The land nominated is shown in Appendix 2. It is an extensive area leading from the rear of the pub house building to the boundary of grade II registered Shortgrove Park. The nomination does not clearly indicate the location of facilities or different usage areas across the 'land to the rear'.
25. The nomination refers to the land as 'the only green space in the north of the village'. The Council has heard through the first consultation on the Local Plan that this space is valued, however, it is a private garden under the tenancy/management of the Coach & Horses, to which the public are admitted with the consent of the owner of that land. That consent may be withdrawn at any time. It is not open or green space with public access.
26. The nomination references the history and value of the Coach & Horses, but the site of the public house building is **not** included in the nomination. Both the nomination and supporting information spreadsheet titled 'CH bookings' give details of bookings, but is not clear whether these are bookings for the Coach & Horses public house or specifically for use of the 'land at the rear'; the inference is that those attending the event will use the pub's facilities.
27. The nomination does not clearly establish a direct relationship between the use and facilities of the 'land to the rear' vs the use and facilities of the Coach & Horses public house building. The 'land to the rear' relies on the provision of refreshments food, toilet and baby changing facilities and parking by the Coach & Horses. Members must consider whether the facilities and use of the land nominated are reliant on the public house building and car park (not included in the nomination).

Use, access and ownership of the land nominated:

28. The nomination form (section C3) states that a large part of the garden has been fenced off since April 2020, this has been confirmed by the Landlord of the Coach & Horses and shown in the photographs of a site visit on 17 October 2020. Effectively the area identified as AA26992 on the Title Plan below has been closed off from use by the Coach & Horses and the community, and the landowner has stated, clearly and unequivocally through their solicitors, that this will remain the case. This is a step they have a legal right to take.
29. Photographs from the site visit (17 October 2021) show that in the area immediately to the rear of the pub are pub tables; some play structures for children; a gravel area (for petanque) and the grass area is also used for parking; and the area beyond is fenced off.
30. The Land Registry indicates that Punch Partnerships (PML) Limited purchased the land in August 2005, (Title Plan EX522961). The area outlined in red in the plan below (both the continuous and dotted line) concerns Title number EX522961, which includes both the Coach & Horses building and the

garden/open space at the rear. On 20 May 2021 the area marked Title AA26992 and shown by the continuous red line, was sold to Cordage 9 Limited. This is the area which has been fenced off since April 2020.

Plan to indicate land according to HM Land Registry Title number EX522961



Further social wellbeing or social interests:

31. With regard to public houses, the inherent nature of a business offering refreshments and food provides an environment and facilities for people to socialise. However, case law suggests that there must be more: in order to be listed as an ACV there is a need to consider whether a specific public house 'furthers' social wellbeing and social interests; and whether the facilities and events that 'further' social wellbeing and interests are 'not ancillary' usage of the land or buildings. Case law identified by Christopher Cant in 2017 has established that public houses must go beyond the provision of refreshment and food to 'further' social wellbeing and interest. That cited by the landowner post-dates his monograph. However, this nomination does not include the public house building.

32. The nomination is supported by letters confirming car, music and private events. The letters and spreadsheet evidence a range of uses including:
- Live music festivals – these are more sporadic in frequency including 28 May 2016, 15 July 2017, 26 August 2017, 23 June 2018, 18 August 2018
 - Car meets/events – meets 3rd Tuesday of the month since approximately 2017
 - Petanque – the Sawston and District finals league was held 12 September (year not specified). It is not clear exactly where the petanque is played or how often ‘land at the rear’ is used for petanque
 - Bookings in 2019 by approximately 20 groups including walking groups, Thaxted Morris Men, Book Club, quiz nigh, Railway groups, CAMRA, Essex Wildlife Trust, Open air cinema, U3A. Bookings range from once a year to monthly
 - Private bookings almost every day of the year – it is not clear if these are bookings for food or room hire or use of ‘land at the rear’
 - Weddings, wakes and birthdays
33. It is evident that the Coach & Horses public house and the ‘land at the rear’ play an important role in community life. However:
- There is lack of specificity in the evidence regarding use and relationship of the ‘land to the rear’ vs use of the Coach & Horses building; if the booking is of the facilities of the pub, then use of this land is ancillary to that of the Coach and Horses.
 - The source of the ‘CH bookings’ is unclear and there are limited letters from the different groups e.g. book group, Hockey Umpires, Green lanes association, shoot confirming usage of the garden/‘land to the rear’ (vs general use of the Coach & Horses)
34. However, the owner of the land is adamantly opposed to registration and has already withdrawn the land from community use.

The local community:

35. Questions included within the nomination form request information regarding the nature of the ‘local community groups’. The Parish Council outline that the asset is popular with all ages, having hosted birthday parties for children and adults from 9 to 90. It is also widely used by clubs and associations from the surrounding area. All of this, however, suggests that the bookings are of the pub together with this piece of land. The demographic of the population of Newport is not evidence of usage of the Coach & Horses or the ‘land to the rear’.
36. It is not for this Committee to review the merits of or objections to the planning applications relating to this site. However, for our purposes, it is relevant to consider whether it is realistic to think that in the next 5 years the building or land could be used to further the social wellbeing or social interests of the

community and in this case the landowner has unequivocally stated that it will not be. Future use is an essential part of the criteria for listing.

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

37. Despite the challenges of the last 18 months, due to the Covid pandemic, there is no evidence to suggest that the Coach & Horses will not continue as a viable public house. It is realistic to think that the pub garden immediately to the rear of the pub building will continue to be used by people consuming food and drink provided by the Coach & Horses, and for special events and gatherings hosted by the pub. Among the Committee papers is a letter from Punch, the operators of the pub, confirming this will be the case. However, the area identified as Title AA26992 on the title plan is closed off from the community. Cordage 9 Limited have confirmed it will remain so.

Conclusion:

38. This is a valid nomination.

39. However, for the sake of completeness members should also consider whether it is primarily an attempt to block a planning application(s) for development is an acceptable use of an ACV nomination. Both PINS and the FTT and UTTs have made it clear that it is not.

40. Members would also need to consider whether the evidence provided shows that the non-ancillary use of this land, current or in the recent past, furthers the social wellbeing or interests of the community, and whether it is realistic to think that all the land nominated can continue to be used in a manner that furthers the social wellbeing and interests of the local community. In this case the owner of the land has made its position clear – it will prevent the future criterion from being met and that is a material consideration.

41. Consideration of these issues will lead the Committee to determine whether land to the rear of the Coach & Horses should be listed as Asset of Community Value for a period of five years.

Risk Analysis

42.

Risk	Likelihood	Impact	Mitigating actions
<p>The nominating body or the owner is unhappy with the decision reached.</p> <p>The potential diminution of value of land or property, if listed as an ACV, has not yet been litigated. However, Members should be aware of this risk.</p>	<p>High risk if the land is listed as an ACV.</p> <p>High risk that one of the bodies will be unhappy with the decision.</p>	<p>The owner has rights of internal review and appeal and can claim for compensation.</p> <p>The nominating body does not have rights of review or appeal. A new nomination can be made with additional information.</p> <p>If it is felt the Council had acted unlawfully, it could seek to challenge by way of judicial review.</p>	<p>Carefully scrutinise submissions for inclusion on the Asset List so as to ensure only those which comply with the criteria are included.</p>

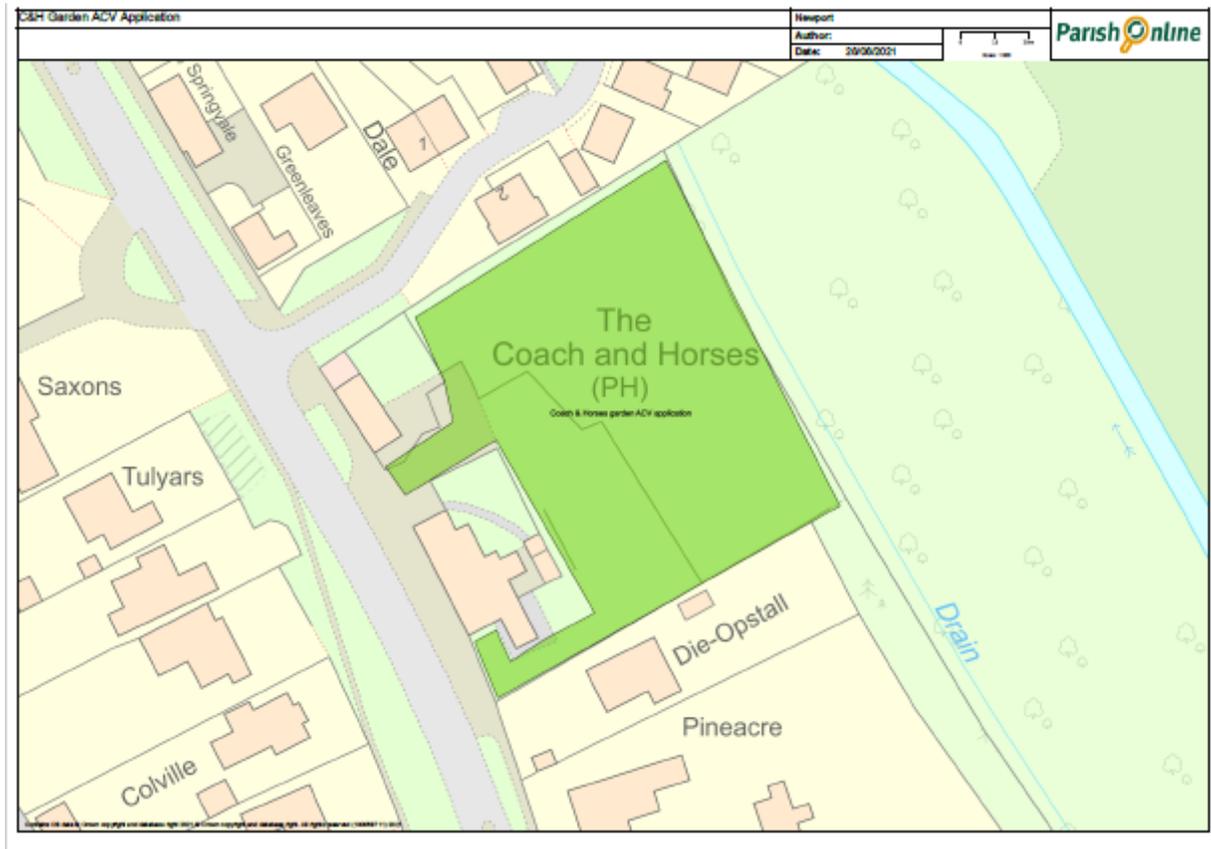
1 = Little or no risk or impact

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.

Appendix 1 – Boundary of the land nominated



Appendix 2 – Extracts from the Nomination form

C1. Current use of Asset

Describe the significant or main uses of the asset (i.e. non-ancillary):

Please provide detailed information, for example:

- What facilities does the property or land offer? What are the different land uses? E.g. if it is a pub consider all facilities e.g. bar area, restaurant, car park, garden, accommodation etc.
- What activities take place?
- Events programme, timetable or calendar, screen grabs from websites
- Frequency of activities

[If the activities are conducted by persons or groups other than the nominator then evidence in the form of letters containing full details of the activities carried on by them must be supplied.

With regard to public houses, existing caselaw is clear that use as a restaurant only, ie for the consumption of food and alcoholic beverages, is insufficient to qualify premises for an ACV listing.]

The Coach & Horses was built in the late 16th century and used initially as a coaching inn and later as a public house and restaurant. The building has been grade II listed since 1951 and the large beer garden extends to the boundary of the grade II registered Shortgrove Park.

The land attached to the public house has been used until recently as a beer garden, for overflow parking and, most significantly as a venue for large outdoor events. These have included meetings of classic car clubs, a petanque league and an annual music festival (see attached photographs).

Until 2020, when it was fenced off by the owners as part of a series of planning applications (see section C3) the land contained picnic benches with seating, a large open lawn, several mature trees, overflow parking on the grass area and a large 'pirate ship' play area for children.

The main use of the building and grounds is as a public house and restaurant. In the previous 2 months, July and August 2021, the pub has had bookings for 2,898 meals. However, for the purpose of this application the figures for 2019, in which more than 10,000 meals were served, have mainly been used. This is because 2019 was the last year without impact from lockdown or temporary loss of space due to recent planning applications – see C3 below and attached spreadsheet (CH bookings.xlsx).

Paper copies of booking diaries for 2019 and online booking system for 2021 are available should they be required to confirm the details in the attached spreadsheet.

In addition to the core restaurant business the Coach & Horses also hosts events for individuals and groups, such as wedding receptions, wakes, charity and community group meetings, AGMs, and live music events.

Many of these clubs and events, such as the music festival, the petanque league and the classic car shows, are of a nature whereby they can only take place outdoors, so would be unable to continue without the space covered by this nomination. A further proportion of the events hosted at the pub itself would also be curtailed as the building alone would not have space for the groups (at times more than 300) without overspill into the garden, or a marquee installed on it. A third section of the business of the pub, particularly the larger events, would not be possible without the overflow parking that is available on the grassed area.

The pub can accommodate 80 covers inside the building, 52 in the rear garden and 28 to the front of the pub, making 160 covers in total. It frequently hosts events of over 200 people and without the overflow parking can only accommodate 15 vehicles, 5 of which are needed for staff and residents.

*See attached emails from organisers of previous events held in the garden, including dates and numbers of attendees.

The venue is very popular with families, due in large part to the outdoor space and play facilities including a large wooden pirate ship.

C2. Describe in detail the local community who uses the Asset

Please provide detailed information of who uses this Asset, for example:

- Age / gender
- Socio-demographic nature of users
- Number of members
- The nature of different groups using the Asset
- Catchment area – how far to people travel to use the Asset?

Please provide letters and/or supporting information to evidence the different groups in the community that use the Asset. Letters from community groups should detail any usage arrangements i.e. dates and times of usage and for what activities. These can be provided separately with the nomination form.

The population of Newport was 2,352 at the 2011 census, but with significant development since is now about 3,500. The garden of the Coach & Horses is the only outdoor area in the village with access to services such as food, drink, [toilets](#) and baby changing facilities. It is also the only green space in the North of the village, with the green spaces elsewhere (Gaces Acre, the common and the recreation ground) beyond a reasonable walking distance for some residents.

The asset is popular with all ages, having hosted birthday parties for children and adults from 9 to 90. It is also widely used by clubs and associations from the surrounding area.

An examination of the bookings from 2019 show group bookings for over 30 separate organisations including book clubs, local shoots, charities, schools, scout groups, walkers, [sports groups](#) and others (see attached spreadsheet – CH events.xlsx for full list).

The public house's garden has been the subject of 3 planning applications for housing development in the past 2 years, UTT/20/0803/FUL, UTT/20/3370/FUL & UTT/21/2874/FUL. The first was refused, and the appeal was not upheld, the second has been refused, and an appeal made, and the third application (which is [similar to](#) the refused ones with one house removed) has not yet been determined. In support of these applications the landowner removed many mature trees and fenced off most of the pub garden. This has had an impact on the use of the outdoor space (see C3 below). These applications were strongly opposed not just by the local community but from all around the region. There were 885 individually written letters of opposition between the three applications.

An analysis of a selection of the opposition letters to the first planning application show that 81% specifically mentioned the garden as an asset (see attached spreadsheet Coach and Horses Jan 2020 application response sample.xlsx). Applying this ratio to the full list of oppositions suggests that ~717 respondents will have mentioned the garden.

The geographical spread of opponents is also testament to how far people travel to use the asset, with responses from:

- The local area (Newport, Quendon, Rickling, Clavering, Saffron Walden, Elsenham, Wendon's Ambo, etc...)

- The wider region (Cambridge, Bishops Stortford, Stansted, Harlow, Thaxted, Wimbish, Dunmow, Chelmsford, Haverhill, Bury St Edmunds, etc...)
- The rest of the UK (London, Aylesbury, Glastonbury, Coventry, Bolton, Slough, Leicester, etc...)

C3. Is the current use of the Asset different from how it was used in the past?

Please delete as appropriate:

- The current use is different from the recent past [please provide the information below]

If different: How was the Asset used in the past and how is it different from the current use. Please provide detailed information including:

- A timeframe
- Previous facilities and use of the Asset
- How the social well-being, cultural, recreational or sporting benefit has changed
- Please provide independent evidence of such use.

Continue on a separate sheet if necessary.

Since around the time of the first planning application, UTT/20/0803/FUL in April 2020, a large part of the garden has been fenced off by the owners and allowed to deteriorate without maintenance.

Some outdoor activities, such as the petanque league and the classic car shows, have been able to go ahead in a limited way, but it has not been possible for the Coach & Horses to host large events, such as the outdoor wedding receptions and live music events in the attached photographs.

The scale of the classic cars shows has been reduced severely in comparison with the very large events held in the past. This threatens the future viability of the shows.

The applications and appeals decided to date have been refused/dismissed and it is the hope of Newport Parish Council that the land will be returned to its former use as soon as possible.

C4. Why do you feel the property or land is an Asset of Community Value?

Please describe in detail why this specific Asset should be listed. [General information about use of a category or type of building or land e.g. pubs are not relevant]
Continue a separate sheet if necessary.

As detailed above, the garden of the Coach & Horses has, for many years, been a focus of community activity in the village of Newport. It is the only venue of its size suitable to host events such as the yearly music festival (Gaynorfest) or the classic car club

gatherings, not to mention the countless weddings, wakes, birthdays, and others for groups of up to a hundred or more guests.

The Coach & Horses public house itself is afforded a good deal of protection, firstly as the building is grade II listed and secondly as it is a very popular destination pub, making it highly unlikely that it would be sold for development. Shortgrove park, behind the land in question, is also afforded a level of protection as a grade II registered parkland.

The land between these two assets is not protected and has been the focus of three recent planning applications. It is very important to Newport as a community that this land is protected as the valuable community asset it is.

The number and geographic spread of oppositions registered to the recent planning applications serve to highlight the broad appeal and value of this asset. Below are some extracts from these opposition letters to highlight this fact:

"The pub hosts many community events in the village. These events bring the local community together and the pub garden provides one of the few open spaces that can host music, act as a play area, offer space for fundraising events etc" – Anthony Gerard, Newport Essex.

"The pub is a well run and thriving business, the removal of its large natural garden and parking would inevitably lead to its future demise. This pub is an important part of the community and the last remaining of its type in the village and must be protected by the Planning Authority from this development." – Mr Derek Slade, Newport Essex.

"I have visited this pub on several occasions when visiting family. It is a lovely place that enjoys holding outdoor events and parties using the gardens" - Ms Roz Inns Pittock, Leicester.

"The Coach and Horses pub - and its garden - has been a focal point of the community for decades. It is the only pub in the village with any green space (and a large one at that) and due to its presence, really the only place where people of all ages can congregate together for an enjoyable time, a true "family pub". The pub garden has hosted a multitude of events over the years, including music festivals, wedding receptions, wakes, and family parties - taking this away from the locals would be an unforgivable tragedy" - Miss Mary Rose Roberts, Cambridge.

C5. How could the building or land be acquired and used in future?

If it is listed as an Asset of Community Value, community interest groups (not limited to your organisation) will get the opportunity to bid for it if it comes up for sale. Please set out how you think such a group could realistically fund the purchase of the building or land, and how they could run it for the benefit of the community. [Continue on](#) a separate sheet if necessary.

C5a. What is the estimated value of the Asset? And what is this based on?

£100,000.00

This is based on the owners' own valuation, as noted in the attached document - Land Registry Application June 2020.pdf

C5b. How would a community group realistically fund the purchase of the building or land, and how they could run it for the benefit of the community?

The expectation is that the land would be bought by the Parish Council using a combination of reserves, community contributions and finance from the Public Works Loan Board.

Interest in this from the community has been high.

Some plans that have been put forward for the area are:

- The current tenant has indicated that he would replace the, now damaged, play equipment and return the garden to its former state.
- The woodland at the back of the pub garden leading down to the River Cam is part of the Grade 2 Shortgrove Historic Park and Garden which was laid out by Capability Brown and added to on his themes in Victorian times. The Parkland boundary is the fence of the pub garden. This part of Shortgrove has a new owner who is resolving years of backlog – for example the repair to flint walls up Sparrows Hill Road, ditching and path restoration.
- Should the pub garden be taken over by the Parish Council the Shortgrove owner has offered use of the woodland down to the river for the pub. It is in need of tree maintenance and tidying but could be a significant extra attraction and asset for the community. Most of the bank of the Cam in Newport is privately owned and with no public access. This is the sort of project the village would enthusiastically carry out.
- The Parish Council, with Community involvement, would replant specimen trees to replace those stripped out by the owners when the garden was fenced off.

C6. Are there other venues locally that offer the same or similar facilities within reasonable distance?

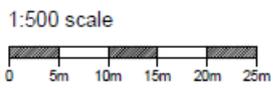
Please give details including distance from the nominated Asset.

This is the only venue in the area with an outside space of this type. There is one other pub in the village, but this is much smaller with very limited outdoor space so cannot be used for the same range of events.

There are large public houses in nearby Saffron Walden (3.4mi) and Stansted (6.4mi), but none with comparable outdoor space.

Appendix 3 – Plans and intention submitted by the owner





Block Plan

- Legend**
-  Retained PH Land
 -  Development Plot
 -  ACV Nominated Land
 -  Land to be returned to PH if planning permission be granted.

Appendix 4 – View of the site from Google maps

