

4 April 2018



Ms Sassi Mannion
Uttlesford District Council
Council Offices
London Road
Saffron Walden
Essex
CB11 4ER

Dear Sassi

Re: POW Camp 116, Hatfield Heath: Nomination as an Asset of Community Value

I write following your respective letters to my clients David Sargeant and Simon Fish and our subsequent conversation on 3rd April 2018. I understand that that the Parish Council's nomination of POW Camp 116 as an Asset of Community Value is due to be considered by the Cabinet on the 4 April 2018 and that it is your professional view that the site does not qualify as an 'Asset of Community Value' under Section 88 of the Localism Act. I wholeheartedly agree that the site doesn't lawfully meet the necessary criteria and wish to provide further clarity on the site's use over the past century. The facts clearly demonstrate that at no point could it be considered to meet the legal criteria as set out below, for the reasons explained later on.

Section 88(1) and (2) of the 2011 Act provides as follows: -

"88 Land of community value

(1) For the purposes of this Chapter but subject to regulations under subsection (3), a building or other land in a local authority's area is land of community value if in the opinion of the authority -

(a) 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

(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.

(2) For the purposes of this Chapter but subject to regulations under subsection (3), a building or other land in a local authority's area that is not land of community value as a result of subsection (1) is land of community value if in the opinion of the local authority -

(a) 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

(b) 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.

As set out in section 88 referenced above, there are two possible reasons that an asset can be listed, either its current use is one that will '*further the social wellbeing or social interests of the local community*' or it has in the recent past been of such use **AND** there is a realistic prospect of it being used again in the next five years.

Firstly, in their entirety the current use of the two sites are not in community use, nor have they ever been and so do not meet either of the qualifying criteria of 2(b) that must be satisfied.

Camp 116 was requisitioned by the MoD in the early years of the Second World War and was built in 1941/2 to house Italian prisoners, with Germans arriving in 1943/4. Prior to this the land was in agricultural use and following its decommissioning in 1955 the property was returned to its original owners.

Both owners elected to retain the huts that had been erected and have subsequently used them for a mixture of residential use ancillary to the house or commercial and storage uses. These buildings have since and continue to remain in private use and ownership. Following the purchase of the front part of the site by the current owner in 2009, he sought to maintain and repair the boundary fences to prevent potential trespass. As such, their use has never been a qualifying use nor has there been any permitted public access of the kind necessary.

I note that the Parish Council claim that school visits have occurred that further social wellbeing; however, this is neither the site's main use nor have they been allowed access on to the site and into the buildings.

The Parish Council claim that they would be able to purchase the property should it become available for purchase using Heritage Lottery Funding. However, given the commercial value of the site and the costs associated with restoring the buildings to create a 'National Trust' style set up, it is highly unlikely that they would be able to secure the necessary funds and certainly not in the timescales set down by the legislation. On behalf of one of the land owners, I am currently involved in a largescale restoration scheme for St Osyth Priory, which involves a Heritage Lottery Funding application and I know from my own experience that the funding is very competitive and the likelihood of securing funding for a scheme of this type is highly unlikely without substantial match funding. Further, the timescales involved for the two-round bid process and the fact there is a moratorium on bids from August this year for our region make the prospects of a successful bid unrealistic in the next 18 months, which is the timeframe the legislation envisages before the site could be sold free of the restriction.

Therefore, there is no realistic prospect of a community use being facilitated on the site within the next five years not only because of the unrealistic prospect of the monies involved being secured in the timescales but because my clients are unlikely to sell the property to the Parish Council because this is a fictitious bid made purely to frustrate the redevelopment of the site for much needed housing. There is a housing crisis in this country and well-intentioned legislation should not be hijacked by local nimbys.

I would also like to bring to your attention the guidance Historic England publish:

“There is no obligation on the owner to sell or to give the community group a right of first refusal. It is there to avoid missing the opportunity to negotiate an agreeable sale.

The scheme is obviously principally aimed at securing the ongoing community benefit of local shops, pubs, libraries and the like. These buildings will frequently also be heritage assets. Whilst their heritage value or significance cannot be described as a community use in the meaning of this regime, there is clearly nothing wrong in using this mechanism to secure the opportunity to negotiate the acquisition of important heritage assets that also have a community utility.”

As can be seen from this published material, there are no legal grounds for listing these sites including, in addition, to those listed already that much of the site is ancillary residential and therefore is exempt from listing.

It should also be noted that Pelham Structures, who are prompting the site for development on behalf of my clients, have made several attempts to engage with the Hatfield Regis History Society and the Parish Council and have offered to preserve the Mural referred to and to provide an information board at the entrance to the site, should redevelopment be permitted. Further, they have also written to the Council requesting that this be secured by condition. As such, I would suggest many of the claims made in the application forms are misleading and incorrect.

In your report you refer to the risks should the council add the property to the list of Community Assets against your recommendation and in our view in breach of legislation and I feel it important to reiterate these. As set out above, to do so would be an error in law and would therefore leave the council open to a potential challenge and liable to pay compensation. As such, it cannot be considered in the public interest for the site to be added to the list.

I have not sought to list all the reasons why listing these two sites would be wrong and unlawful, but we reserve the right to do so if the Committee decides to register the site. The above provides a general

overview of the position and for these reasons I support the conclusions of your report and encourage the Cabinet to endorse the recommendation.

Once again, thank you for speaking with me and should you have any questions please don't hesitate to contact me.

Yours sincerely
City & Country Residential Ltd

A handwritten signature in black ink, appearing to be 'S. Bampton', written over a horizontal line.

Samuel Bampton
Planner

ⁱⁱ <https://historicengland.org.uk/advice/hpg/HAR/CRB/>