CHAPTER 3, PART 5 OF THE LOCALISM ACT 2011
ASSETS OF COMMUNITY VALUE (ENGLAND) REGULATIONS 2012

NOMINATION OF BUILDING AND/OR LAND TO BE INCLUDED IN LIST OF ASSETS OF COMMUNITY VALUE

DELEGATED REPORT

Reference: PR86-045

Case Officer: Cheryl Parks

Site Address: The Chequers Inn, The Street, Smarden, Ashford, Kent TN27 8QA

Title Number(s): K299476 (FREEHOLD)

Nominating Body: Smarden Community Pub Group

Nomination Validated: 28 June 2024

Deadline Date: 23 August 2024

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Introduction

Under the Localism Act 2011 ('the Act'), the Council must maintain a list of buildings or other land in its area that are of community value, known as its 'List of Assets of Community Value.'

Certain categories of assets are excluded from listing, the principal one being residential property. There is, however, an exception to this general exclusion where an asset which could otherwise be listed contains integral residential quarters, such as accommodation as part of a pub or a caretaker's flat.

Generally, buildings or land are of community value if, in the opinion of the Council:

- 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[1].

Buildings or land may also be of community value if in the opinion of the Council:

- 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[2] 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].

Buildings or land which are of community value may only be included in the 'List of Assets of Community Value' in response to a community nomination by certain specified bodies, such as parish councils or voluntary or community organisations with a local connection.

A valid community nomination must contain certain information[4], including:

- a description of the nominated building or land including its proposed boundaries;
- a statement of all the information which the nominator has with regard to the names of the current occupants of the land, and the names and current last-known addresses of all those holding a freehold or leasehold estate in the land;
- the reasons for thinking that the Council should conclude that the building or land is of community value;
- evidence that the nominator is eligible to make the community nomination;

If the Council accepts a valid nomination then it must be included on the 'List of Assets of Community Value.' If the Council does not accept that the asset nominated meets the statutory definition, or if it is one of the excluded

[1] Subsection 88(1) of the Act.

[2] Note: the wording of this condition is different to all the other conditions in that it refers to furthering 'the social wellbeing or interest of the local community' rather than 'the social wellbeing or ***social*** interests of the local community.' However, in *St. Gabriel Properties Limited v London Borough of Lewisham and another (2015)*, Judge Warren held that the word 'social' should be read in here (para. 27).

[3] Subsection 88(2) of the Act.

[4] Regulation 6 The Assets of Community Value (England) Regulations 2012

categories, then the valid nomination must be placed on a 'List of Assets Nominated Unsuccessfully by Community Nomination.'

Procedure

Information about this community nomination has been sent to the following:

- Smarden Community Pub Group (Nominating Body)
- The Freehold Owners
- The Occupiers
- The Mortgagee
- Smarden Parish Council
- Cllr N Ovenden (Leader of the Council)
- Cllr L Wright (Cabinet Member for Communities and Health)
- Cllr K Brunger-Randall (Ward Member)

Strictly speaking, the process does not provide for a consultation or for an invitation for the submission of representations. Nevertheless, I have taken on board the comments of the Freehold Owner and the Cabinet Member that I received. Whilst the Cabinet Member was broadly supportive of the nomination without providing specific reasons, the owner was not supportive and wished for the nomination to be rejected. He explained his frustration with what he perceived to be a local campaign against his future plans for the pub.

If the Solicitor to the Council and Monitoring Officer includes the asset on the Council's 'List of Assets of Community Value' then the owner has the right to request a listing review within eight weeks of the date when written notice of listing is given, and it falls to the Chief Executive to review the decision.

If the owner is not satisfied with the outcome of the internal listing review then they have the right to appeal to the General Regulatory Chamber of the First-Tier Tribunal against the review decision.

The property will remain listed during the review and appeal processes.

Consequences of Listing

If an asset is listed nothing further happens unless and until the owner decides to dispose of it. If the owner does decide to dispose of the asset then, unless an exemption applies, the owner must first notify the Council in writing.

Interim Moratorium

The service of a notice of a relevant disposal for the purposes of section 95(2) of the Act triggers a six-week interim period from the point the owner serves notice

on the Council. The Council must then inform the nominating community group and other interested parties of the owner's intention to dispose of the asset.

During the interim moratorium period, a community interest group may make a written request to be treated as a potential bidder. If they do not do so in this period then the owner is free to sell their asset at the end of the six-week period. It is important to note that in order to formally bid, or give notice of an intention to bid on the asset, the community interest group must be an organisation meeting certain strict criteria, set out in The Assets of Community Value (England) Regulations 2012 ("the Regulations")[5]. In essence, the organisation seeking to bid must be incorporated, meaning although an unincorporated body[6] can make an initial nomination, they are not subsequently able to pursue a bid for the asset unless they become an incorporated body.

Full Moratorium

If a community interest group does make a request to be treated as a potential bidder during this interim period, then a full six-month moratorium on disposal (from the date of the original owner notice served on the Council) will operate. The community group does not need to provide any evidence of intention or financial resources to make such a bid.

During this full moratorium period, the owner may continue to market the asset and negotiate sales, but they may not exchange contracts (or enter into a binding contract to do so later). There is one exception, however: the owner may sell to a community interest group during the moratorium period.

After the moratorium – either the interim or the full period, as appropriate – the owner is free to sell to whomever they choose and at whatever price. No further moratorium will apply for the remainder of a protected period lasting 18 months (running from the same start date being when the owner notified the Council of the intention to dispose of the asset).

Regardless of any disposal, pursuant to s87(3) of the Act, an asset which has been listed by the Council on its List of Assets of Community Value is required to be removed from the list at the end of a period of five years (from the date of its original listing). It may, of course, be removed earlier as a consequence of a listing review or appeal to the First-Tier Tribunal, or where, pursuant to Reg 2 of the Regulations, the Council receives information that leads it to no longer consider the land/building to be of community value.

[5] See Regulation 12 The Assets of Community Value (England) Regulations 2012 and Section 95(3) Localism Act 2011

[6] Pursuant to Regulations 4 and 5 The Assets of Community Value (England) Regulations 2012

Compensation

Private owners (not public bodies) may claim compensation for loss and expense incurred through the asset being listed. This may include a claim arising from a period of delay in entering into a binding agreement to sell which is wholly caused by the interim or full moratorium period; or for legal expenses incurred in a successful appeal to the First-Tier Tribunal. The assumption is that most claims will arise from a moratorium period being applied; however, the wording of the legislation does allow for claims for loss or expense arising simply as a result of the asset being listed.

The Council is responsible for administering the compensation scheme, including assessing and determining compensation awards.

As with the listing itself, an owner may request an internal review of the Council's compensation decision. If the owner remains unsatisfied then they may appeal to the General Regulatory Chamber of the First-Tier Tribunal against the review decision.

To inform the assessment of the nomination I have reviewed information from a number of publicly available sources including the officer's reports to Planning Committee and the minutes of those meetings, news articles from both local and national newspapers, and by visiting websites which make reference to the pub and its history, including the website for the pub itself.

Late in the time period for the making of a decision, conflicting evidence came to light about the intended use of the building after 31 August 2024 which led me to seek additional clarification from the owners on a number of matters. Unfortunately, this resulted in a delay in making a final decision, beyond the expected eight-week period, to allow time for a response to be provided and for consideration of the fresh information provided, but this does not legally debar the Council from making a decision on the nomination. A copy of the request made to the owner (Appendix 1) and the response received (Appendix 2) are appended to this report.

Assessment

An initial nomination form received from The Smarden Community Pub Group on 03 April 2024, which proposed the registration of the Chequers Inn as an Asset of Community Value ("ACV"), contained insufficient information for a proper assessment and was therefore invalid, for failing to meet the full requirements of the Regulations[7]. There was little evidence provided in respect of the nominating organisation meeting the required eligibility criteria to put forward the

[7] Regulation 6 lists the requirements for a community nomination

nomination, and no plan illustrating the location of the proposed ACV was included as part of the nomination. By letter on 30 May, I notified the nominator that the proposal was invalid and set out the reasons for this. I advised that it would not be possible to consider the nomination unless an updated and amended nomination form was prepared and submitted, with a plan demarcating the extent of the buildings and land nominated, as well as evidence of the organisation's eligibility to make a community nomination, pursuant to Regs 4 and 5 of the Regulations.

I was subsequently provided with the required detailed plan, a new nomination form and a copy of the constitutional arrangements for the nominating organisation, Smarden Community Pub Group.

Following the receipt of the further information from the nominator, and my review of it, I am satisfied that the nominating body can be considered to be 'a voluntary or community body' with 'a local connection,' as defined in Regs 4 and 5 of the Regulations and therefore is eligible to make a nomination.

The community nomination, as set out in the new nomination form and supplemented by the further documentation provided, contains the information required by the Regulations for it to be considered by the Council. I was therefore able to confirm the nomination was valid and did so by letter dated 28 June 2024.

The community nomination form asked the nominating body to provide their reasons for thinking that the Council should conclude that the building/land is of community value. The questions and their answers as included on the nomination form are reproduced in full below:

Q1. What is the current main use of the land/building(s)?

A1. *'Public House and accommodation.'*

Q2. How does the current main use of the land/building(s) further the social wellbeing or social interests of the local community…?

A2. *'The Chequers is in the centre of the village and has provided a recreational hub for members of the community since the 14th century. Many locals rely on the land/building to provide them with a central point of connection for socialising. Smarden is a rural community, and this building provides the community with an essential central meeting point, particularly those residents who do not drive. The building is currently used by some groups situated within the village to further cultural and sporting connections, something members have made clear would happen*

more if it could be preserved as a community asset and not be mummified by development.'

Q3. Why do you consider that this, or some other main use to which the land/building(s) will be put which will further the social wellbeing or social interests of the local community, will continue and over what period…?

A3. *'The owners have applied for Change of Use to turn the Inn from a valued community business into a residential property. Smarden is a rural community and without the current modest number of businesses currently situated there continuing to exist, the community would undoubtedly suffer. By retaining the current use of the building as a business, it will maintain this important socialising and community hub, will ensure no loss of local employment and, will ensure tourism continues to be driven into the community via the historic nature of the Inn, its fame having been used in films, TV programs and published in the wider press and, through the hotel style accommodation offered by it which is unavailable elsewhere within the local area. The tourism generated by the Chequers Inn feeds other businesses within the village and the wider local area within Ashford Borough Council's administrative area, who would undoubtedly suffer by the loss of this community asset.'*

The Council cannot list buildings or land on its own initiative – they must be nominated. Therefore, the onus is on the nominating body to give their reasons for thinking that the Council should conclude that the building/land is of community value. There is little guidance, however, on the criteria a local authority should consider when deciding whether an asset is of community value. The responses from the nominator in respect of the future continuation of community wellbeing and social interest are somewhat lacking in detail, focussing more on why they feel the pub use should be retained rather than addressing how the pub, or any other future use to which the owner may turn the asset, will or realistically could further the social wellbeing or social interests of the local community, and over what period. Assertions in respect of preventing loss of local employment and retaining tourism are un-evidenced and though doubtless genuinely-held desires, in any event depend on the pub use continuing rather than being reasons why this will occur.

Schedule 1 of the Regulations details land and buildings that are not of community value. The Chequers Inn, being a pub with ancillary residential accommodation, is not a building/land excluded from listing by virtue of this schedule.

Having established that listing is not precluded it is necessary to assess the proposed nomination against the statutory tests in s88 of the Act. Since the Chequers Inn is trading at the time of writing this report, albeit in a reduced

capacity since 31 August 2024, the two-limbed test in s88(1) is the appropriate one against which to assess the nomination.

The first limb of the test is as follows:

"*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*"

In supporting statements from the nominating community body, reference is made to the pub being a central meeting point, and hosting cultural and recreational activities for the benefit of the local community. This is supported by evidence from other sources, which refer, for example, to a village bake-off in 2020 judged by Mr Paul Hollywood from the television series Great British Bake Off, being held at the pub. The proposers also assert that there are benefits to other local businesses that arise as a direct result of custom at the Chequers Inn. Because of the attractive visitor accommodation, and tourist offerings in the surrounding area, they consider that visitors are drawn to the village and this is of benefit to other local businesses; this leads to indirect benefits to the social wellbeing of the village as a whole. There is, therefore, an evidential basis for the assertion that, at the date of nomination the pub currently served the social interests and wellbeing of the community. Although the written information in the nomination form (and set out above) is limited, it does still set out the basis for the contention by the nominator that the pub should be considered to currently further the social wellbeing or social interests of the local community, as required by Regulations.

The pub, until its very recent closure for walk-in trade, provided for both the supply of food and drink, as well as high quality overnight accommodation. It is served by an attractive garden area and has its own dedicated area for vehicle parking. Being a freehouse as opposed to a brewery-owned or tied hostelry, it benefitted from the ability to offer locally produced ales and sources local ingredients for its menu making it an attractive destination for visitors.

It is acknowledged that the local community's ability to use the 'pub' element of the business ceased on 31 August 2024, but the booking of accommodation remains possible and from changes made recently to the social media accounts of the Chequers Inn it would appear that the ability to book meals in the restaurant may also remain possible. It is not clear, however, whether this is solely for use of those staying in the guest accommodation, or more widely by non-staying patrons. Regardless, the continued operation of the accommodation in itself, in my view, demonstrates an actual current use of the building or other land that is not an ancillary use and does further the social wellbeing or social interests of the local community. If, in fact, the restaurant is available for use by non-staying patrons then this adds further weight to my view but is not an essential element of my assessment.

In considering the evidence, it is reasonable to conclude that the first limb of the s88(1) test is met, in that the 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.

Turning to the second limb of the test, if an asset is to be listed it is necessary to conclude that

"*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*"

In respect of the future and a continuing use, as required by the second limb of the test, this is more difficult to evidence, requiring some subjective consideration rather than the more objective nature of the first limb of the test. Case law[8] has identified that the future community use need not be the same as the current use or that in the recent past, and that the owner's future intentions will be taken into account and will be given more weight if those intentions cannot be stopped.

For example, in the *Spirit Pub Co* case the owner of the proposed ACV had already been granted planning permission for a change of use before the asset was listed, and was waiting for the expiry of a lease before implementing the permission to convert the pub into a fast food outlet. This permission could not be stopped or reversed by the listing of the ACV since there is no direct interaction between the statutory regimes for planning and for ACV's and in view of the existence of a binding contract for sale of the building as a fast food outlet, the Tribunal took the view that other possible future uses, including that someone else might re-open it as a pub, became much less likely and were, effectively, not realistic.

Case law has also held that issues of financial viability alone will not usually be sufficient to prevent consideration of listing but this does not rule out consideration of financial viability altogether. A number of cases concerning the nomination of pubs have focused on the issue of whether it is realistic to expect the use to continue in a way that will further the social wellbeing and interests of the local community and on the interpretation of the wording of the statute.

It is recognised that the current owners of the pub are citing poor trade and difficulties in securing the ongoing viability of operating as a pub as one of the reasons for their seeking of a change of use of the pub to residential use. At the Planning Committee meeting in August the landlady announced that resulting

[8] Patel v Hackney Council; Spirit Pub Co. v Rushmoor BC CR/2013/0003

from many years of financial difficulty the pub has faced, and the wish of the owners to retire, that it would cease trading at the end of August 2024. The website of the pub was subsequently updated to note the impending closure of the business on 31 August 2024.

On further checking the website on 2 September 2024 this statement had been removed but had not been replaced with any other notice regarding closure of the business. However, as noted earlier in this report, the business pages on Facebook and Instagram have been updated to refer to the Chequers as a 'restaurant and guest house'.

In this case the crucial consideration is whether it is realistic to think that a use that will further community wellbeing and social interests can continue.

In considering whether it is indeed realistic to think the test can be met, there is some guidance from case law.

In the *Gullivers Bowls Club*[9] judgment, when looking specifically at viability and poor trading results arguments it was held:

"I do not accept that the statute requires me to foresee such long-term viability. Indeed, it seems in the very nature of the legislation that it should encompass institutions with an uncertain future. Nor, in my judgment, is commercial viability the test. Community use need not be and often is not commercially profitable."

However, commercial viability and trading history is only one factor, and it must also be noted that the particular case was considering a member's bowls club, not a pub which will have very different financial considerations.

In the *TV Harrison CIC* case, Lane J held that the suppositions of Judge Warren in *Gullivers* as to the interpretation of "realistic to think" was the correct interpretation. He also held as follows:

"As a point of construction, I do not consider that the word 'continue' in s88(1)(b) requires future unbroken continuity. The test explicitly permits there to be use that furthers the social wellbeing or social interests of the local community in a different way, and such multiple uses would likely entail periods of interruption. Likewise, a public house may periodically close and later be re-opened under new management."

In the case of the Chequers Inn, there has been a recent planning application for change of use from public house/inn to single dwellinghouse, which has been

[9] Gullivers Bowls Club Ltd v Rother District Council & Anor (CR/2013/0009)

granted subject to conditions and informatives[10]. There are some parallels with the *Spirit Pub Co* case but also a distinction which can be drawn. Where a permission has been granted for a change of use this cannot be reversed by the listing of an ACV, and therefore the second limb of the ACV test, in respect of continuing future use, becomes more difficult to evidence. In this particular case, however, it is likely that structural changes internally and externally will also require Listed Building consent. In the absence of Listed Building consent for alterations, it is less likely that a change of use will be implemented straight away. Even if it was (i.e. without making any internal changes that would require Listed Building Consent), in practical terms it is unlikely to take place in this way on a permanent basis, as the continuing presence of listed public-house features in the building might inhibit effective full residential use. There remains, therefore, a possibility that the pub could re-open at some point in the future, despite the initially expressed intentions of the owners. Subsequent statements made at the Planning Committee meeting on 15 August 2024 and reported in the local and national press, as well as the publication of revised online sales particulars for the building and its landholding, however, have cast further doubt and given rise to fresh uncertainty as to the future use of the Chequers Inn.

In order to clarify what the owners' intentions are for the short term following the grant of planning permission, I requested some clarification in a letter dated 23 August 2024 (and copied for information to the nominator). The responses to my specific questions provided by the owners have been taken into account in the overall assessment of the nomination.

This nomination and its assessment leads to a recommendation based on relatively fine margins and has necessarily involved a great deal of evidence gathering and assessment. In order to be successful the nomination must meet both limbs of the test. In the case of the Chequers Inn, the first limb, objectively, can be met despite the very recent changes in respect of closing the pub element of the business, but in reviewing the second, more subjective second limb, the assessment is more nuanced and requires some detailed consideration.

It is clear from case law that financial difficulties alone are not sufficient to defeat a nomination, but also that the owner's intentions are material, even if not determinative.

The grant of planning permission for a change of use to residential is also a key factor, and despite the uncertainty introduced by the lack of Listed Building consent at the present time, must be given some weight in the recommendation since the change of use in this case (to residential, not fast food) cannot be

[10] Planning Committee, 14/08/24 Committee report and minutes

stopped by the listing of an ACV because it does not require sale of the building in order to be implemented. The current occupiers/owners have the ability to implement a change of use to residential themselves (without any disposal).

In the requested additional information (see Appendix 2) it was clarified by the owner that although the Chequers Inn would cease selling food and drink from 1 September it will remain available for accommodation. It was also confirmed in the response received that the pub has been "sold subject to contract as a going concern" and that the change of use planning permission will not be implemented at this time.

Given this is information provided by the owner then it should be afforded weight in the ultimate consideration of whether the second limb of the statutory test can be met. However, despite this recent clarification from the owner, the question over whether the restaurant remains open still persists and is still unclear. As set out earlier in this report, however, I do not consider this specific point on its own to be determinative, in that without the restaurant being open, there is still a realistic possibility of the continuation of the use of the building and land that will further the social wellbeing or social interests of the community.

Drawing together all of the evidence and matters considered in this report, including the supplementary information provided in response to the letter of 23 August 2024, on balance, and despite the owners' closure of the pub on 31 August, it is in my view 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 in the future, notably given the owners written statement in respect of non-implementation of the planning permission at this time.

Conclusions

In my view it is eminently reasonable to conclude that the actual current use of the building/land as a pub does further the social wellbeing or social interests of the local community. It is equally realistic to assume that the pub, whether reopened by a new owner, retained in its current use and form or operated solely for bed and breakfast accommodation, or alternatively operated in the same or another use by a community group following a successful bid and purchase, would continue to further the social wellbeing and social interests of the local community.

In the absence of any evidence to the contrary, and in consideration of the Chequers Inn remaining open for overnight accommodation at the time of

writing this report, I consider that the first limb of the statutory test in s88(1) of the Act is met.

Despite the recent grant of planning permission for a change of use and the closure of the pub, following the owners' written responses to clarify certain matters, in my view, it is realistic to think that there can continue to be use of the building/land which will further (whether or not in the same way) the social wellbeing or social interests of the local community. As a result, I am able to conclude that the second limb of the ACV test in s88(1) of the Act is also met in this case.

The decision in respect of the listing of The Chequers Inn as an ACV must be taken in accordance with the statutory tests as fully assessed in this report. The tests in s88 of the Act must be met in full for a nomination to be successful. In this particular instance and despite the very recent operational changes, both tests can, in my opinion, be met. Accordingly, taking all of the aforementioned factors into account, in my view, this building/land is appropriate for inclusion in the Council's 'List of Assets of Community Value' and the nomination should be accepted.

Recommendation:

That the Solicitor to the Council and Monitoring Officer should accept the nomination for The Chequers Inn, The Street, Smarden to be included in the Council's 'List of Assets of Community Value.'

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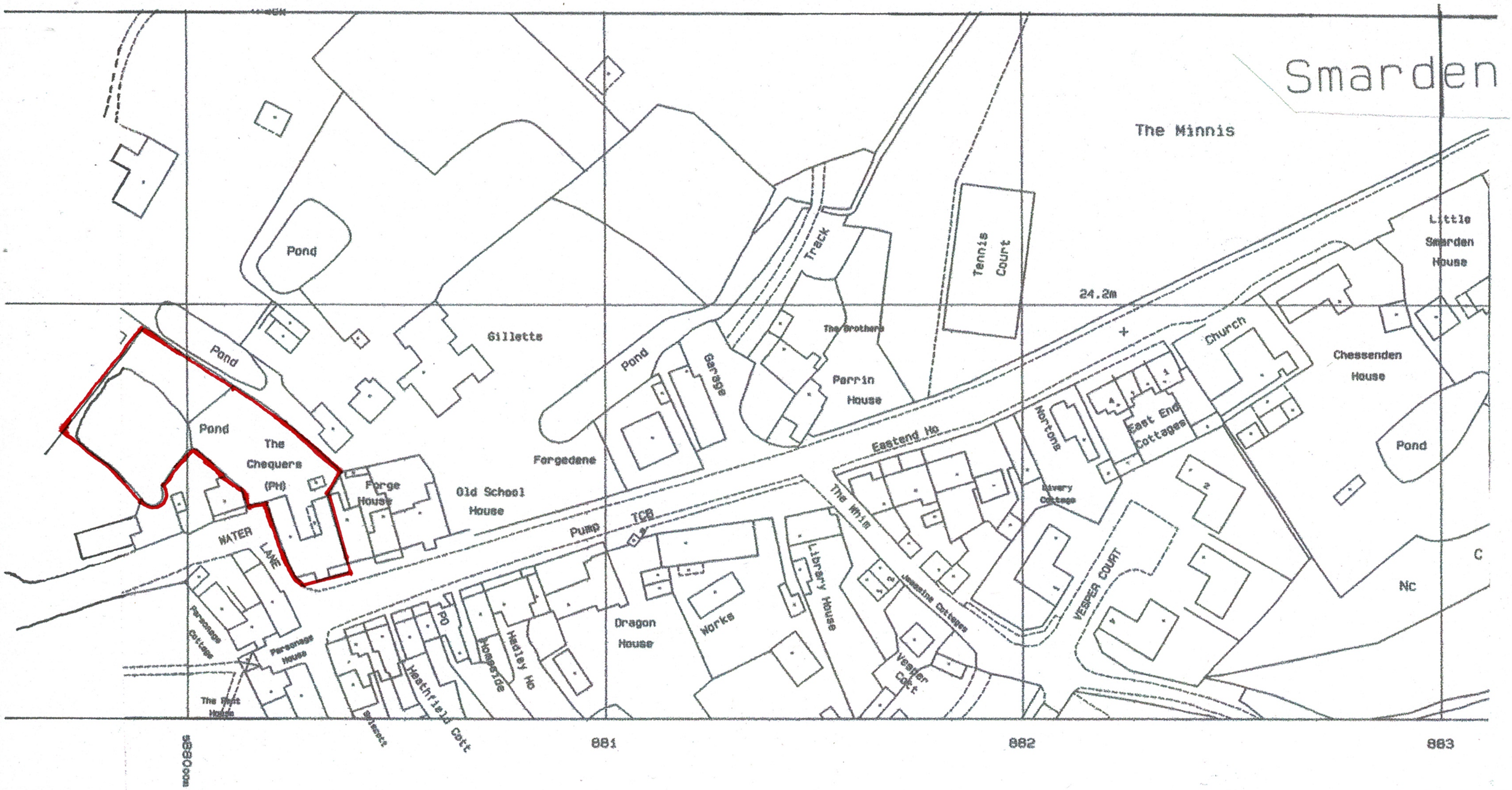
AUTHORITY

In accordance with the functions delegated to me, I hereby accept the nomination for The Chequers Inn, The Street, Smarden to be included in the Council's 'List of Assets of Community Value', for the reasons set out above.



Solicitor to the Council and Monitoring Officer

Date: 04/09/2024



NOMINATION OF BUILDING AND LAND FOR LISTING AS AN ASSET OF COMMUNITY VALUE LOCALISM ACT 2011

SUBJECT PROPERTY

THE CHEQUERS INN, THE STREET, SMARDEN, KENT. TN27 8QA.

NOMINATED BY

SMARDEN COMMUNITY PUB GROUP.

20 0 20 40 60 80 100

Metres

Scale 1: 1250

N

Legal & Democracy
Solicitor to the Council & Monitoring Officer
T W Mortimer LLB Solicitor

Ask for: Cheryl Parks MCILEX
Email: cheryl.parks@ashford.gov.uk
Direct line: 01233 330215

Mr G Spalding
Owner, The Chequers Inn
The Street
Smarden
TN27 8QA

By email only to thechequersinnsmarden@gmail.com
cc. smardencommunitypub@gmail.com

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Our Ref: C P/PR86-045
Your Ref:
Date: 23 August 2024

Dear Mr Spalding

Localism Act 2011
Asset of Community Value nomination: The Chequers Inn, Smarden.

The Council, as you are aware, is currently considering the nomination of the Chequers Inn as an Asset of Community Value ("ACV").

During the recent consideration of your own application for planning permission for change of use of the pub/inn to a single dwelling house, spoken and written statements have been made both at the Planning Committee meeting and afterwards, and this letter seeks some additional clarification from you on certain matters, since there appears to be some conflicting information. In order to reach a fair and appropriate decision on the ACV nomination, the Council needs to be fully appraised of all relevant facts. It would assist, therefore, if you could kindly provide written answers to the questions in this letter to enable the Council to further consider the ACV nomination.

At the Planning Committee meeting on 14 August, your daughter Mrs Hollywood spoke on your behalf as Applicant. In her speech, she announced that the pub would cease trading on 31 August. A statement to that effect is now showing on your website.

It is noted that despite the statement on the home page about closure, it does still appear to be possible to book both tables and rooms using your website for dates after 31 August.

Mrs Hollywood also stated at the Planning Committee meeting that she hoped that the pub could be sold as a business with the 'safety net' of planning permission for change of use. This would appear to indicate that there is no immediate intention to implement the change of use permission and

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instead to retain the current pub/restaurant planning use, with an intent to sell the pub as a going concern, with the additional benefit of planning permission for a change of use.

Mr Hollywood, her husband, who was present with her at the Committee meeting, is quoted in the national press and BBC online subsequent to the meeting as saying there was an intention to sell the pub as a business and never plans to turn it into a house – but this is, of course, slightly contradicted by other statements made, and the website statement regarding closure.

Further, the Council has now become aware of new sales particulars for the building, posted on Rightmove and Zoopla.com in the last few days, which make no reference to the ability for anyone interested to purchase a business as a going concern, but only refer to the sale as residential land.

In order for the Council to fully understand the intentions of the owner for the future use of the pub in both the short and longer term, which are a factor in considering the nomination as an ACV, could you please answer the following questions within 14 days. You may enclose any supporting documentation which you would like the Council to take into account.

Q1.Can you please confirm that it is indeed the intention that all business activities will cease completely on 31 August and that the doors will be closed to all customers and guests immediately after 31 August?

Q2.Will you be honouring or cancelling existing bookings? Can you confirm the position for each offering, including accommodation / room bookings, any functions and bookings for meals.

Q3.If any of these will not be honoured, please advise what steps you have taken and when, to advise those who have booked of this?

Q4. Please confirm the context for the statements made about selling the pub as a business, and if this is a current intention, how it would be carried out.

A copy of this letter has been sent for information and transparency only to the nominator, Smarden Community Pub Group.

Yours sincerely

Cheryl Parks

Cheryl Parks MCILEX
Senior Planning & Development Lawyer
for and on behalf of
Solicitor to the Council & Monitoring Officer

Cheryl Parks

Subject: FW: Asset Community Value The Chequers Inn Smarden

From: [redacted] <thechequersinnsmarden@gmail.com>
Sent: 29 August 2024 11:01
To: Cheryl Parks <Cheryl.Parks@ashford.gov.uk>
Subject: Re: Asset Community Value The Chequers Inn Smarden

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If you suspect this to be a phishing email, please click the Report Phishing button in Outlook.
If you have clicked the link or entered credentials into a website you are not sure of, you must let IT know as soon as possible.

Hi Ms Parks, following our telephone conversation earlier today, please accept these answers to your questions.
1- The business will close as a pub and restaurant as of 31st of August but will remain open for accommodation until the sale to the new buyer completes.
2 - see above.
3 - see above.
4 - The pub has already been sold subject to contract and will remain a going concern, therefore the change of use will not be implemented at this time.

I trust this helps with your decision when considering the A.C.V.

Kind regards

Glenn Spalding (Proprietor)

On Fri, 23 Aug 2024 at 15:44, Cheryl Parks <Cheryl.Parks@ashford.gov.uk> wrote:

> Good afternoon
>
> Please find attached a letter in respect of the recent grant of Planning Permission for change of use, and the Asset of Community Value Nomination.
>
> Kind regards
>
> Cheryl Parks MCILEX
>
> Senior Planning & Development Lawyer
>
> Legal & Democracy
>
> Email: cheryl.parks@ashford.gov.uk

Telephone: 01233 330215

Ashford Borough Council,

Civic Centre, Tannery Lane,

Ashford, Kent, TN23 1PL

DX 151140 Ashford (Kent) 7

Ref: PR86-045/ 00786385

for and on behalf of Solicitor to the Council & Monitoring Officer - T W Mortimer LLB Solicitor

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