

The Ring O'Bells, PRIXFORD – nomination as an Asset of Community Value (ACV)

Note: References to the “Act” are to the Localism Act 2011.

References to the “Regulations” are to the Assets of Community Value (England) Regulations 2012.

On 1st August 2018 a valid nomination was received under the provisions of the Regulations to list as a community asset the Ring O'Bells, PRIXFORD. The nomination was in the name of Save Our Pub Group.

Conclusion: **Based on the available evidence the Ring O'Bells, PRIXFORD will be added to North Devon Council's list of Assets of Community Value.**

Consideration 1: Has the nomination been made by an appropriate body?

89(2)(b)(i) of the Act provides for an unincorporated body with at least 21 members to nominate land within the local authority area who have a local connection and whose members appear on the local authority's electoral roll ; this is expanded upon in regulation 5 of the Regulations.

This criteria is therefore met.

Consideration 2: Is the nomination complete, including the necessary matters specified in paragraph 6 of the Regulations?

Paragraph 6 requires a description of the land, information on the owners and occupiers, reasons for believing there is a community value, and evidence that nominator is eligible. When submitted, the nomination did not contain evidence that the nominator was eligible to make a community nomination. Notes of a Pop-Up Pub event which confirmed that over 30 people in attendance (which had been included in the list of members of the Save our Group) were supportive for making a new nomination was submitted on 1st August 2018. The view is taken that the nomination was valid from that date.

Consideration 3: Does the Ring O'Bells, PRIXFORD qualify as being of “community value”?

s88(1) of the Act specifies that land is 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 community; and

(b) it is realistic to think that there can continue to be” such use

Section 88(2) goes on to state that even if there is no current community use of the asset, for instance because the asset is currently closed, an asset might still be deemed to be of community value if the authority is of the opinion that

“(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 That would further (whether or not in the same way as before) the social wellbeing or social interests of the local community”

Section 88(6) defines “social interests” as including cultural, recreational and sporting interests but there is no definition of social wellbeing or any definition that limits the breadth of the meaning of social interests. There is also no definition of what constitutes the “local community” but various appeals have given some guidance. There is also no definition of “recent past” although again, various decisions provide some guidance. These points are discussed below.

Following the receipt of the valid nomination, letters were sent to the owners, the Ward Member (Councillor Tucker) and the Clerk to Marwood Parish Council. These letters requested any comments prior to the 26th September 2018. A response was received from the owner on 10th August 2018 requesting a copy of the nomination form and advising that he would comment on the application in due course. A submission was received from the owner on 18th August 2018 as an “appeal” “for the Chief Executive’s consideration in reviewing the application”.

By way of background, the Ring O’Bells closed on 8th April 2012. Prior to that it had operated as a public house selling food and drink, with a skittle alley and included accommodation for the owners. Various community and sporting events were held at the pub. The Save Our Pub group was set up in 2013 following the closure of the pub. The Group submitted a nomination for the pub to be listed as an asset of community value and it was successfully listed on 2nd July 2013. The Local Authority received notification from the owner on 9th August 2013 on their intention to dispose of the property. The nominating group were informed of the intended disposal and expressed an interest to the Council in bidding for the asset. The full moratorium period was therefore launched to enable the Group to develop a business plan and finance. During this period a firm of liquidators were appointed. The Group produced a business plan and secured finances from within the community and from Fullabrook Windfarm CIC to support the entire purchase of the asset and placed an offer to liquidators to purchase the asset. The Group agreed a partnership with a celebrity chef to undertake the day to day operations of the pub. The full moratorium period ended on 9th February 2014 and the community group did not successfully purchase the pub during this period. The current owner purchased the asset on 30th September 2015.

In accordance with the Act and Regulations, Local Authorities are required to remove assets from the register of community assets 5 years from the date of entry on the list. The asset was removed from the register of assets of community value on 2nd July 2018.

Recent Past

The nomination falls to be determined under section 88 (2) due to the fact that at the time of nomination, it was closed. The first issue to consider is whether there was a time in the “recent past” when the pub was used for a non ancillary use that furthered the social wellbeing or interests of the local community. There is no definition in statute or in guidance of the term “recent past”. There have been a number of court cases involving assets which have been closed for more than a 5 year period with various outcomes of whether more than 5 years is determined as “recent past” and depended upon the circumstances of each case.

Factors that have been taken into account in determining what constitutes the recent past of a nominated asset include the length of period of community use of the nominated asset in the past, the type of asset involved and the nature of the community use of the nominated assets. The Ring O'Bells was built over 170 years ago.

Given the length of time that the Ring O'Bells had a community use prior to closure, it is considered that the use, which last occurred in April 2012, would be in the recent past.

Community Use

It is therefore necessary to consider whether the use of the pub prior to closure was a non-ancillary use that furthered the social wellbeing or interests of the local community.

The nomination lists a number of features and characteristics of the pub and its manner of trading. It is described as the pub being "at the centre of almost all community activity", "it served as the place where people could meet for a drink or a meal with family and friends on an ad-hoc basis" and it "enabled the villages to have a community feel where everybody knew each other and were able to share information on local news and events". It also lists the types of events that were held in the pub which included men's and women's skittle teams, shove ha'penny, darts, entertainment such as quizzes, rugby and football world cups and New Year parties, events such as weddings, christening parties, funeral wakes and VE anniversary celebrations, fund raising for local charities and local music performers. It also states that there is no public transport in the area apart from one bus a week on Tuesdays to Barnstaple. The nearest public house is the Muddiford Inn in Muddiford which it referred to being within walking distance however being "completely inaccessible for anyone with impaired mobility/disability unless they have access to a car".

On the issue of whether the use is ancillary, after considering the uses referred to in the nomination I consider that many of the uses were part and parcel of the primary use as a public house.

It is therefore necessary to consider whether how the Ring O'Bells was used as a public house furthered the social wellbeing or interest of the local community.

As mentioned before, other than the definition of "social interests" in s88(2) there is no statutory definition of what furthers the social wellbeing or interests. It has been left to local authorities to determine this in the light of local circumstances. In the case of North Devon, the adopted policy states that:-

"A property that enhances the social interest and social wellbeing of the local community is one that in its absence would deprive the local community of a building or property which is essential to the special character of the local area and provides a place to meet and socialise, place to shop, recreational, sporting or cultural facility or a place used to provide a community service".

The owner has made reference to Pnixford being located within Marwood Parish, which has a new community hall built in 2015 that "hosts many public and community events". The owner also states "it has hosted several licensed "pop-up pub" events" and "in many regards, it is competition for any commercial venue in terms of its very low cost amenities for the community to enjoy". The Group refers to supporting "a number of recent pop-up pub events which have been run by local brewers GT Ales. These have provided an opportunity for the community to get together". There is evidence on the community hall's website of the types of community events that are held there. Marwood also has a church hall which is used for community events. The Muddiford Inn is located less than 2 miles away and there is evidence on their website of the types of community events that are held there.

Neither is there a definition of what is meant by “local community”. It is difficult to put a clear meaning to this as it will differ depending on the nature of the area and the asset. Prixford however is rural in nature and so it is reasonable to take the view that the local community includes at least Prixford, Guineaford, Kings Heanton and Marwood but is likely to extend beyond those boundaries.

Taking the above into account, my view is that prior to the closure of the pub in April 2012, the use of the pub did further the social wellbeing and interests of the local community.

Realistic Prospect of Future Community Use

Having reached that conclusion, it is necessary to go on to consider whether s88(2)(b) is satisfied. In other words, is it realistic to think that there is a time in the next five years when the pub could be put to a non-ancillary use which furthers the social wellbeing or social interests of the local community?

In this regard, the owner has stated that the pub was closed on “8th April 2012 after some time when the owners were fighting the finances and finally the bank repossessed the property. The owners had undertaken several property improvements over their time and had applied for planning consent to create some finances to make the venture viable again but were unsuccessful”.

The owner also states that the “pub would cost a significant sum to equip and to bring it up to a condition ready for use. Structurally it is not “too bad” but easily £150,000/£175,000 would be required to be expended to meet all the regulatory demands for hygiene, safety and fire regulations etc, as well as being attractive, redecorated and refurnished to receive guests. There is not a single piece of kitchen equipment.” He also refers to the costs of employing staff being approximately £160,000 and the VAT inclusive turnover required to cover the costs. He also referred to the deterioration in the pub trade and made reference to the closures of the White Hart, Bratton Fleming and the Foxhunters Inn, West Down due to their lack of viability. The point that pubs face very difficult trading circumstances, especially in rural areas, is however accepted.

Whilst the owner indicate that the “pub failed through an inadequacy of trade”, the nominator refers to “the extent of use of the pub would vary because of many factors, including the state of the economy and landlord at the time. There were many times, particularly when these conditions were favourable, that the pub was thriving with many customers. These customers would include people from the local community, elsewhere in North Devon and holidaymakers.”

There have been various views expressed in appeal decisions as to what is meant by “realistic”. What seems clear is that the issue of whether future community use is realistic or not does not depend solely on commercial viability. There are examples of community run public houses and the test is rather whether a future community use is not fanciable or unrealistic. In accordance with paragraph 7.3 of the Council’s policy, the nominator was requested “to demonstrate a realistic prospect of continued or future use of the asset. A copy of the Group’s previously business plan dated September 2014 was submitted, however no up-to-date information was provided. The nominator refers to attempts for dialogues with the new owners and whether they are interested in re-opening the pub. They state “in these circumstances it would appear that the current owners would be an unwilling seller. As such we have no current plans to make an additional bid to purchase the pub. We would hope that, in the event that the pub is re-listed, the current owners would be interested in establishing a dialogue with the Group. In these circumstances we would be interested in considering a new bid to purchase the Pub”, however, advised that there is currently no suggestion that they would attempt to re-open the pub on a “volunteer-led” basis. They also stated that they would also be

supportive of any dialogue between the current owners and any other investor who would maintain the integrity of the pub.

The owners advise that “we have a rational idea to reintroduce a proper community asset in due time” and make reference that their plans might be to consider a smaller licensed gastro pub and “their ideas would be accompanied by viable albeit limited residential development on the large site too, to create the capital to warrant the creation of a business there as well.”

Taking the history and the owners intentions into account and also considering the fact that there has been no intervening planning application etc, it is considered that it is realistic to think that there is a time in the next 5 years where there could be a community use of the building.

Decision

The Decision is therefore that the Ring O’Bells, Prixford should be added to the list of Community Assets held by the Council.

Ken Miles
Head of Corporate and Community
26th September 2018