

The Stag Inn, Rackenford – 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 **14th May 2024** a nomination was received under the provisions of the Regulations to list as a community asset the **Stag Inn, Rackenford**. The nomination was in the name of **Rackenford Parish Council**.

Conclusion:	Based on the available evidence the Stag Inn, Rackenford be added to North Devon Council’s list of Assets of Community Value.
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Consideration 1: Has the nomination been made by an appropriate body?

89(2)(b)(i) of the Act provides for a Parish Council to nominate land in the Parish/Town Council’s area (i.e. Rackenford Parish Council) 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 para 6 of the Regulations?

Para 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. This has all been provided and so the nomination is deemed valid.

Consideration 3: Does the Stag Inn, Rackenford, 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.

Background

Following the receipt of the nomination, an email was sent to the Ward Member and a letter sent to the owner of the Inn in accordance with the information provided on the nomination form. These requested any comments prior to the 12 July 2024. To date no responses have been received from any parties.

By way of background, the Inn closed in March 2024 when the current owners of the Stag Inn took the decision to retire in March 2024. The nomination states that although the nominee has stated that the owners have no current plans to sell, changes in circumstances might bring about a need to do so. The community would like the opportunity to acquire the building if this occurs.

The Stag Inn is located in the centre of Rackenford village and the nomination states that it has been an important social hub for centuries and in a recent survey conducted by Rackenford Parish Council preserving the Stag Inn was identified as a top priority for the local community. It also states that the Inn is an important part of Devon history being regarded as one of, if not the oldest pubs in the county. The website for The Stag Inn states that it dates back to the 12th century.

Rackenford is within the district ward of Witheridge. Rackenford has a population of around 417 (as of the 2021 Census). Amenities in the village of Rackenford include a community shop run by volunteers, and a church. The village also has a licensed social/sports club called the Rackenford Club (Previously the New Bell Inn) which is approximately half a mile from the centre of the village (from the community shop).

The Rackenford Club also appears to hold community events. Within their facebook posts there is mention of Irish Folk Music, a tractor run, a Smoky BBQ Sunday Lunch, a

christmas lunch and grand draw in dec 2022, Christmas bingo and draw in 2021, football events in 2021,
Rackenford is situated approximately eight miles from the market town of Tiverton and five miles from Witheridge.

The Stag Inn has a large single storey extension to the rear which in the past was utilised as a community hall but is now partly utilised for a pub kitchen expansion and storage. The nominations states that if reinstated the pub can offer not only a space for socialisation, drinking and eating but also a dedicated community hall space for indoor events, clubs and gatherings which is much needed.

The hall at the rear of the main pub building which was frequently used for skittles and other activities was repurposed in 2019 to make space for a larger pub kitchen and as such can no longer be used by the community. This hall was subsequently used by the community up to as recently as 2019 when the current owners repurposed the space for a kitchen expansion.

The nomination states that the Stag Inn has been an important social hub for the community of Rackenford and the surrounding area for centuries with the main building being open for drinks and food during normal licensing hours. In the last few years the Stag Inn pub has been open to the public semi-regularly for food and drink and has catered for several craft events, club gatherings and Burns Nights attended by many in the local community.

The nominee also stated In the 1970s the old gaiety hall in Rackenford was knocked down and planning for domestic dwellings to be built on the land was approved in part due to the building of a new community hall behind the Stag Inn pub. However, this information cannot be verified with North Devon Council records.

The Stag Inn was previously listed as a community asset on 15 May 2014, and removed after the required five years on 15 May 2019.

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.

Given the length of time that the Stag Inn had a community use up until 2024 prior to its closure, it is considered that the use 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 community activities and events that have previously been held at the Inn such as providing a local meeting place for socialisation and a space for community groups and clubs, craft events, suppers, celebrations, live music and quiz nights to name a few.

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 Stag Inn 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.

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. Rackenford however is rural in nature and so it is reasonable to take the view that the local community includes at least Creacombe and Witheridge 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 March 2024, the use of the Stag Inn did further the social wellbeing and interests of the local community. Prior to March 2020, on their FaceBook page, there were a couple of live music nights, a valentines disco, an Exmoor food festival lunch in February 2020, and a couple’s Wedding Breakfast location. In December 2019 they held carol singing in the pub and in 2019 music events in their function room. There is also evidence of takeaway meal services, takeaway drinks, and homemade bread and cakes during periods of lockdown.

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?

No response has been received from the owner of the Stag Inn, therefore there is no indication regarding the reasons for the closure in terms of the viability of the business other than the nominator advising that the owners wished to retired.

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”. The nomination advises that the Stag Inn has the potential to be a central hub in Rackenford and the surrounding area providing a bar with plenty of seating and dining space in the main pub building ad a modest villa hall and kitchen for events, clubs and gatherings.

The nomination goes on to state that the aim would be to set up a community ownership organisation in the form of a Community Land Trust as a Community Benefit Society (CBS) or Community Interest Company (CIC). This would enable a Community Share Option to be offered to raise some capital directly, supported with an application to the Government's community buildings grant fund for the remainder. The resulting organisation would run the building and facilities for the community together with a team of volunteers with all profits being recycled to preserve and maintain the building. Costs would mostly be covered by the sale of food and drink in the main pub together with income from hiring of the hall for groups, clubs and gatherings.

As such, it is considered that the Stag Inn, Rackenford, does further the social wellbeing or social interests of the area and that there is a realistic prospect of future community use and therefore should be included in the list of Assets of Community Value.

Decision

The Decision is therefore that the Stag Inn, Rackenford should be added to the list of Community Assets held by the Council.

Simon Fuller,
Senior Solicitor
12 July 2024