

The White Hart, Bratton Fleming – 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 19th September 2019 a nomination was received under the provisions of the Regulations to list as a community asset the White Hart, Bratton Fleming. The nomination was in the name of Bratton Fleming Community Benefit Society Limited.

Conclusion:	Based on the available evidence the White Hart, Bratton Fleming will 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)(iii) of the Act provides for a Voluntary or community body with a local connection to nominate land in the voluntary or community body’s area; this is expanded upon in regulation 5 of the Regulations.

This criterion is therefore met; Bratton Fleming Community Benefit Society Ltd is a company limited by guarantee.

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 the nominator is eligible. When submitted, the nomination contained all of the relevant information and was therefore valid from the date that the nomination was received.

Consideration 3: Does the White Hart, Bratton Fleming 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.

Following receipt of the nomination, letters were sent to the Ward Member, Clerk to Bratton Fleming Parish Council and the owner of the White Hart in accordance with the information provided on the nomination form. These letters requested any comments prior to the 14th November 2019. On 20th September 2019 the owner requested copies of the nomination and supporting documents. On 25th September 2019 comments were received from the owner in which reference was made to previous planning applications in respect of the accommodation above the pub. The owner also made reference to the integrity of the list of signatures collected which was submitted with the nomination form. The list had been submitted to provide evidence in support of the nomination.

The White Hart closed in 2012 and was sold to the new owner in 2014. The asset was purchased by Philip Milton. It is understood that the White Hart has remained closed since 2012.

The White Hart is located in the centre of the village of Bratton Fleming. Bratton Fleming has a primary school, post office and village store, church and village hall. Bratton Fleming is situated approximately 6 miles from Barnstaple and four miles from Goodleigh. The White Hart Inn has traded as a pub since 1830 and had been the only public house in the village for some considerable time when it closed in 2012.

Other public houses in the vicinity are realistically only accessible from Bratton Fleming by private rather than public transport, the nearest being the New Inn at Goodleigh, the Station Inn at Blackmoor Gate and the Black Venus at Challacombe, being approximately four, five and six miles distant respectively.

The ground floor of the asset comprises of a function room/restaurant, bar area and an enclosed beer garden which can be accessed from the carpark. The upper floor was used for staff accommodation and is currently rented out.

The Bratton Fleming Community Benefit Society Limited was registered (number 7509) on 23rd March 2017 as a Community Benefit Society with the Financial Conduct Authority. The Society adopted the model governing rules as sponsored by the Plunkett Foundation.

In accordance with the Act and Regulations, Local Authorities are required to remove assets from the register of community assets five years from the date of entry on the list. The asset was removed from the register of assets of community value on 19th September 2019, having been previously listed on 18th September 2014.

Recent Past

The nomination falls to be determined under s88 (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 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 five year period with various outcomes of whether more than five years is determined as “recent past”, much has 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 asset. The White Hart public house has been in existence since 1830.

Given the length of time that the White Hart had a community use prior to closure, it is considered that the use which last occurred in December 2012 would be in the recent past.

Community Use

It is, therefore, necessary to consider whether the use of the pub is a non-ancillary use that furthers the social wellbeing or interests of the local community.

In relation to the evidence, the Council does not require evidence in a particular form to be submitted but supporting evidence of the recent types of events organised by the community that take place at nearby venues can be found on the internet which include Death in Dallasty, an evening celebrating local music talent, charity bingo night, and a pop-up Pub and Ceilidh Dance.

Prior to its closure the nomination describes the asset as being an important asset for the community, with the public house having been in existence since 1830 and the retention of the pub as a facility is well supported by the local community as evidenced by the signatures collected totalling 133. Having discounted duplications this number is still in excess of 75 locals. The venue was used for a wide range of functions primarily during normal pub opening hours. The type of functions held at the pub included wedding receptions, birthday parties, and funeral gatherings. It was well used by many village groups such as bell ringers and book clubs. It describes the Inn as having a significant summer trade however a number of local people alone using the facility year round on weekdays and tourists visiting the area used to use the facilities as well as workers at the nearby Grange Hill Industrial Estate. It goes on to state that the garden was also an important feature and not just in good weather as marquees were used to cater for guests. The attached car park is described as a vital feature of the pub enabling visitors travelling from neighbouring villages to attend the pub. The nomination lists a number of features and characteristics of the pub and its manner of trading.

The North Devon and Torridge Local Plan 2011-2031 (adopted October 2018) in section 12 Rural Strategies paragraph 12.40 states “Identified community assets and other community facilities, including the public house, are important to meet the needs of local residents.” The Planning Inspectorate made a site visit to the White Hart on 11th June 2019. Appeal Ref: APP/X1118/W/18/3209716, in his decision under the heading “Viability of public House” paragraph 22, Inspector Mr Steven Rennie BSc (Hons), BA (Hons), MA, MRTPI states that “...there is no substantive evidence to show that the White Hart was simply not viable as a business when it was in operation. Furthermore, there are other public houses in the wider area, some

of which are in more remote locations than this, which are still running. The White Hart is situated within a relatively large village for the area and would be within walking distance for many within the community.”

On the issue of whether the use of the Pub is a non-ancillary use, after considering the uses referred to in the nomination and available evidence it is considered that many of the uses are part and parcel of the primary use as a public house.

A further question is whether the White Hart being 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(6) there is no statutory definition of what furthers the social wellbeing or interests. It has been left to the local authorities to determine this in light of local circumstances. In this 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 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. Bratton Fleming however is rural in nature and so it is reasonable to take the view that the local community includes Bratton Fleming residents and the residents of other nearby villages, and even beyond those boundaries.

Taking the above into account, it is evident that prior to the closure of the pub in 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. 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 “refurbishment works would need circa £175,000 alone to complete”. He also states that “commercial viability is imperative too” for the future of the public house.

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 or is one of a number realistic options. 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”. This has been explained in the nomination that although their funding bid to the Plunkett Foundation has expired they are confident of being able to reapply should the property come to the market for sale. A Management Committee would primarily be responsible for running the pub, appointed by the Benefit Society and profits being re-invested into the business with the ability to create paid posts as the community business developed.

It would appear, therefore, that future community use is a realistic option in the case of the White Hart in the sense that it is one of a number of realistic options for the building.

Decision

As the nominated asset has been properly nominated, and in the Council's view qualifies as an asset of community value, the White Hart must be added to the list of Community Assets held by the Council.

Trevor Blatchford
Monitoring Officer and Senior Solicitor

14th November 2019