

Stafford Borough Council

Asset of Community Value: Internal Review of Listing Decision

Decision based upon written representations

Asset: Railway Inn, Station Road, Norton Bridge

Reviewer: Tim Clegg, Chief Executive

Owner: Mr Mark Byrne

Nominator: Friends of Norton Bridge

Representations:

The Nominator made written representations both within its nomination, dated 14th November 2016, and by email dated 19th October 2017.

The Owner made written representations contesting the listing of this asset by letters, dated 12th October 2017.

A summary of the owners grounds for requesting the review are:

- (a) The Nominator was not a voluntary or community body qualified to submit a community nomination.
- (b) The Council failed to follow the correct statutory test, applying s.88(1)(a) of the Localism Act instead of s.88(2)(a).
- (c) Insufficient evidence to show that use of the property had furthered the social wellbeing or interests of the local community
- (d) The Council failed to consider whether it was realistic to think that the property could continue to be used to further the social wellbeing or social interests of the local community in future.
- (e) Even if the public house was considered a community asset, there is no evidence to support the listing of the adjoining field.

Reasoning:

1. Was the Nominator qualified under the Act?

The nomination was made by Friends of Norton Bridge. Section 89 of the Localism Act allows community nominations to be made by “a voluntary or community body with a local connection”. The regulations define “a voluntary or community body” to include “an unincorporated body whose members include at least 21 individuals and which does not distribute any surplus it makes to its members”. In order to have a local connection, the body’s activities must be wholly or partly concerned with Stafford Borough or a neighbouring authority area and at least 21 of its members must be registered as local government electors in Stafford Borough or an adjoining area.

The nomination form submitted by the Nominator claims that they are an unincorporated body and includes a document with 91 signatories stating that they “support the application to list the Railway Inn at Norton Bridge as a community asset”. The Council has checked electoral records and established that at least 21 of the signatories are local government electors from the Borough. It is also clear from the form that the individuals expected their signatures to be used in support of listing the pub as a community asset. I would consider that this signifies that this group of people have come together for the purpose of nominating the pub as a community asset. The normal dictionary meaning of “body” is an “organised group of people with a common function”. I consider that this grouping of individuals constitute a body, that this body is unincorporated and that it contains at least 21 local members. I do not consider it is necessary to interrogate whether at least 21 of those individuals have joined as members of the Friends of Norton Bridge under the submitted constitution. There is no evidence to suggest that any surplus is distributed to members of the group. I therefore consider that the Nominator is qualified to make the nomination.

2. The correct statutory test

Section 88(1)(a) of the Act states that land is of community value if “an actual current usefurthers the social wellbeing or social interests of the local community”. Section 88(2)(a) states that land is of community value if “there is a time in the recent past when an actual use....furthered the social wellbeing or interests of the local community”.

It is acknowledged that the Councils decision notice only appears to refer to the s.88(1)(a) test regarding actual current use. It is also acknowledged that the reasons for the listing decision do not clarify which test was used. In their nomination form, the Nominator gives reasoning that infers a current use of the building. However, the Nominator also supplied a letter that clarifies that the pub has recently closed. The decision maker, therefore, had this fact before them. However, it is agreed that the Council should consider whether a community use has occurred in the recent past and that such consideration has not been made clear in its decision notice.

3. Insufficient evidence to show the property has/had a non-ancillary use that furthers social wellbeing or social interests of the local community

It is true that the information submitted by the Nominator amounts to bare statements that community use took place but doesn't provide much evidence, or detail, in support. The Nominator was given the opportunity to respond to the Owners submissions, but has not done so. In the absence of any conflicting information, I accept the Owners version of events, given by statement dated 12th October 2017. In light of this the following facts appear to exist:

- It is accepted that the pub closed in September 2016 and was therefore used as a public house in the recent past. The pub had previously been open since at least the 1980's.
- The use of the pub was well supported during the 1990's.
- Trade appeared to slow down around the year 2000 with following events occurring: Annual charity auction event and annual bonfire evening ceased after 1999. Four darts teams decreased to one in 2000. Two pool teams moved on in 2005/2007. A flash flood incident caused the pub to close for 5 months in 2007.

- Following re-opening: One darts team existing until 2013. Sunday evening pub quizzes took place between 2008-2011 and then again in 2014, but finished due to lack of support. The North Staffordshire BSA club met at the pub twice a month for some years until it closed.
- A local band practised at the pub for 18 months. Approximately, one wedding, 3 christenings and 4/5 funerals utilised the venue before it closed.

All of these uses would appear part of a normal pub use and are therefore non-ancillary.

The types of use which further social well-being or social interests are not fully defined in the legislation, although the Localism Act specifically states that social interests includes cultural, recreational and sporting interests. As a public house, the Railway Inn has acted as a place where the local community can meet and socialise for a number of years. In general terms, they appeared to do so in numbers until the mid-2000's. Even though these numbers appear to have dropped off, it is also apparent that social events continued to take place at the pub after that time. Certainly a darts team continued to operate from the premises until 2013 and quiz evenings were held up to 2014.

In order to qualify as a community asset, these uses must have occurred in the "recent past". The Act does not define recent past and this must be assessed based upon the facts of each particular case. It is clear that the pub was used by the community for many years before it closed (at least over 20 years). It appears that this use waned in the decade leading up to closure. Indeed there does not appear much evidence of any "organised" social use since 2014. That is not to say that informal use for social interaction has not still existed. After many years of community use it is difficult to consider that a drop in trade over the last few years should negate previous use, and activities from 2010 onwards would still seem to amount to this pub's recent past for the purposes of this review.

The Owner disputes whether any of these uses were by the local community. The Act does not define what is meant by "local community". It is therefore a question of fact in each case. I find nothing to suggest that the uses identified above were not used by the local community. The examples of use would suggest that users travelled to the pub from the local vicinity rather than further afield. I do not see a need to define the local community any more narrowly than that.

4. Is it realistic to think that there is a time in the next five years within which further community uses could occur?

The property still has planning permission for a public house, and it is therefore realistic to consider that it could continue to be put to similar use in planning terms. It would appear that many of the uses claimed by the Nominator declined some time before closure of the premises. The Owner asserts that this was due to lack of support for the pub. The Owner also asserts that it would cost around £63,000 to bring the pub back into use as a pub. In order to be of community value, the future use of the property would not need to be as a pub. However, no evidence has been put forward regarding the possibility of, or support for, any other viable use.

For the purposes of my decision, I only have to consider whether further community use of this property, within the next five years, is one realistic possibility. There may be other possibilities, and community use does not even need to be the most probable. On the other hand, the prospect of such use must not be fanciful.

There is no evidence disputing the financial costs of re-using this building for community purposes. These costs will likely prove prohibitive for some potential occupiers. This also has to be considered in light of the fact that community use of the building has diminished considerably over recent times and the nomination does not provide any evidence to show any realistic plans to re-open and increase use of the facility. In the absence of any further information I do not consider it realistic to think that there will be a time in the next five years when further community use could occur.

5. Listing of the field

At the back of the pub there is a sizeable field that has been included in the listing. The Nominator claimed that this field was used for many years as an area for community activities. However, no further detail is provided. The Owner disputes this and states that the last community event he can recall is a bonfire in 1999. He also states that the field has been used for grazing land for at least the last 10 years. It is possible to use the field separately from the public house and car park and I do not consider there sufficient information to support the listing of this field as a community asset.

Decision:

Although the nomination would have benefited from more detail regarding its recent community uses, I find that there is sufficient evidence to support a decision of recent community use at the property. However, the Owner has raised valid concerns regarding the prospect of any community use realistically occurring in the next five years. The Nominator has not put forward any evidence to dispel these concerns.

I therefore determine that the Railway Inn, and its adjacent field to the west, should be removed from the listing.

Signed: 

Tim Clegg, Chief Executive

Date: 02 November 2017