

North Yorkshire Council

26 July 2024

Assessment of Assets of Community Value Nomination *The Half Moon, Barton NYACV0047*

Report of Rachel Joyce, Assistant Chief Executive Local Engagement

1.0 PURPOSE OF REPORT

- 1.1 To determine whether The Half Moon Public House, Barton should be placed on the Council's List of Assets of Community Value (ACVs)

2.0 SUMMARY

- 2.1 The Half Moon Inn is the last remaining pub in Barton, a village in the north of the former Richmondshire District. Barton Parish Council nominated the premises and conducted a survey of residents to assess the local appetite to retain the pub in the village.
- 2.2 The freehold of the pub is being marketed for sale by Fleurets a specialist agent.
- 2.3 Parish Councillors hand delivered a survey (Save the Half Moon) to approximately 350 households in the village. The response rate was approximately 32%.
- 2.4 Solicitors acting on behalf of the owners, Punch Taverns, submitted a letter to the Council suggesting that the nomination 'ought to be unsuccessful' on the grounds that insufficient evidence of the premises fulfilling community value criteria and, that the Nominator failed to show that it is realistic to think that the Property will either continue to or in the future be used in a way engaging the community value criteria.

3.0 BACKGROUND

- 3.1 [The Localism Act 2011](#) requires the Council to consider all valid nominations for properties and/or land to be placed on the List of Assets of Community Value. This is also known as the 'community right to bid'. Land or property considered of community value can be nominated by a voluntary or community body that complies with [regulation 5](#)

When a listed asset comes up for sale a community interest group can trigger a delay (moratorium) in any sale process. The purpose is to create a "window of opportunity" to secure funding and bid for the property on the open market. The owner is not obliged to accept a bid from a community interest group and can sell to whomever they choose

The Assets of Community Value (England) Regulations 2012 provide a mechanism for the owner of land listed as an ACV to request an internal review and also appeal to the first-tier tribunal against the listing. Although first-tier tribunal decisions are not binding precedents any appeal decisions provide judicial guidance to the operation of the legislation. The guidance provided by these decisions is becoming increasingly useful to local authorities in the assessment of Assets of Community Value nominations

Private owners may claim compensation from the Council for loss and expenses incurred through their property being listed. More details are provided in the 2012 Regulations

This report ensures that the Council considers the nomination for The Half Moon, Barton as required by the Act.

4.0 **DETAILED PRESENTATION OF THE SUBSTANTIVE ISSUE**

Description of asset

- 4.1 The Half Moon in Barton is described in the Nomination as *'the last pub in the village'* serving as a gathering place and in doing so, fostering social connections and a sense of community. The Half Moon's own website describes the premises as a 'traditional village pub'.

Nomination

- 4.2 Barton Parish Council nominated the premises and conducted a survey of residents to assess the local appetite to retain the pub in the village.

Comments received

- 4.3 Solicitors acting on behalf of the owners, Punch Taverns, have objected to the potential listing on the ACV register on the grounds that insufficient evidence of the premises fulfilling community value criteria and, that the Nominator failed to show that it is realistic to think that the Property will either continue to or in the future be used in a way engaging the community value criteria. (Copy of the letter at Appendix I)

Assessment

- 4.4 The Nominator provided the results of a survey of 350 households in the village (copy at Appendix II). There were 112 survey responses (80 paper, 32 online) representing approximately 32% of households which is a significant response rate to a local survey. Of those responses 85 used the pub for general socialising, 64 used it for community events such as the Leek Show and annual Duck Race and 10 cited it as used for business meetings. The Parish Council informed the Council that the Half Moon Leek Club has used the pub as its 'HQ' for over 30 years and have a plaque in the premises with a record of winners. The leek club also raises funds for local causes such as village hall and church repairs and, fireworks display.
- 4.5 It is apparent that the current use of the premises is as a pub and residents use it for socialising (40 respondents use it at least once a week). There is a community hall in the village but the venue is designed for activities and gatherings which are entirely different to socialising in the pub with other members of the community and carrying on those activities which traditionally have only been done with the pub as their 'focus', such as the Half Moon Leek Club. In addition, other 'community' related activities have spawned from the core gathering of users of the pub. For example, fundraising by the Leek Club has helped repair the village hall, church and chapel, and aided the school and local playing field.
- 4.6 The current owner of the premises is actively marketing the freehold of the Half Moon through Fleurets, an agent specialising in disposals of leisure premises. The council received a letter from Freeths solicitors acting on behalf of the owner suggesting that the nomination *'ought to be unsuccessful'*. The letter does not refute any of the ways in which the Half Moon is used by the community but states that there is insufficient evidence of community uses which fulfil the requirements of the Localism Act.

- 4.7 The objection is on two grounds. Firstly, *the Nominator's failure to establish that the Property has actually been used in a way engaging the community value criteria* and, secondly, *the Nominator's failure to show that it is realistic to think that the Property will either continue to or in the future be used in a way engaging the community value criteria.*
- 4.8 The Nominator has provided the results of the community survey about how the pub is used and by how many residents. The evidence presented provides a portrait of the pub as the 'village local' rather than as a destination-type food and drink premises which adds weight to the argument to view the nomination positively. However, the Nomination Form and supporting evidence lacks explicit description of how and when residents use the premises and the activities related to those uses.
- 4.9 The community may consider forming a group to purchase and operate the premises should this be the only option available to save the pub for the village. The nominator has provided some late evidence that the pub was taken on a short-term lease by three local people to secure its continued use as the owner had closed it temporarily while it was for sale. This does demonstrate that there is a 'will' within the community to retain the facility within the village however, the owner has not had an opportunity to make comment about this particular situation.

Localism Act 2011 Section 88 if current use:

- (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 local community,

Evidence

- 4.10 As described in above, evidence provided by the nominator attempts to demonstrate that the existing use of the building provides for the social wellbeing and interest of the community. The use of the pub by residents of the parish serves as a place to meet and socialise whilst evidence which teases out that it is also a focal point for wider community-based activities is not sufficiently explicit. Anecdotally, some residents say that these community activities wouldn't happen if the pub were to be lost and not only would fundraising diminish but the social contact point for those residents would also be lost.

Conclusion

- 4.11 However, the evidence presented does not adequately demonstrate that the current use of the building provides for the social wellbeing and social interests of the community as required by the Localism Act.

and;

- (b) 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.

Evidence

- 4.12 If the Half Moon is operating as a village pub, and if sold as a pub then the non-ancillary use would continue to further the social wellbeing or social interests of the local community.

Conclusion

4.13 However, the evidence presented does not adequately demonstrate that the current use of the building provides for the social wellbeing and social interests of the community as required by the Localism Act.

Localism Act 2011 Section 88 (2) If there is no current use:

(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

4.14 The premises are used as a public house.

(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 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.

4.15 The premises are used as a public house and if sold as a public house, there is no reason to assume that the social wellbeing interest could not continue.

5.0 CONSULTATION UNDERTAKEN AND RESPONSES

- Planning – no planning issues relevant at this time
- Ward Member – no comments submitted
- Parish Council – support for the Nomination
- Owner – solicitors letter submitted
- Occupier – no comments submitted

6.0 CONTRIBUTION TO COUNCIL PRIORITIES

6.1 Assets of Community Value crosscut the themes within the Council Plan 2023 – 2027 including Place and Environment, Economy, Health and Wellbeing, and People.

7.0 ALTERNATIVE OPTIONS CONSIDERED

7.1 None. Not to consider the nomination for the Half Moon in Barton would not fulfil the Council's responsibilities required by the Localism Act 2011 and The Assets of Community Value (England) Regulations 2012.

8.0 IMPACT ON OTHER SERVICES/ORGANISATIONS

8.1 If successful the fact that land/property is listed as an Asset of community Value may be taken into account as a material consideration for any future planning application.

9.0 FINANCIAL IMPLICATIONS

9.1 If the decision is to list the property the owner can make a claim for compensation for which the Council is liable.

10.0 LEGAL IMPLICATIONS

10.1 If the property/land is listed the council is required to apply to the Land Registry for entry of a restriction on the Land Register. This restriction will be in a form of wording in Schedule 4 to the Rules, as Form QQ. This is "No transfer or lease is to be registered without a certificate signed by a conveyancer that the transfer or lease did not contravene section 95(1) of the Localism Act 2011". An owner of previously unregistered listed land, who applies to the Land Registry for first registration (or a mortgagee who applies for first registration on behalf of the owner), is required at the same time to apply for a restriction against their own title. The local

authority is also required to apply to the Land Registry for cancellation of the restriction when it removes an asset from its list.

- 10.2 If the property/land is listed and the owner/leaseholder wishes to dispose of it, he must notify the council. Once this has taken place an interim moratorium period (6 weeks) will apply where disposal of the property may not take place (except if sold to a community interest group which can take place at any time). If, before the end of the interim moratorium period the council receives a written request from a community interest group to be treated as a potential bidder then a full moratorium period applies. Disposal may then not take place within 6 months from the date the Council receives notification from the owner (except if sold to a community interest group).
- 10.3 When a listed asset is disposed of, and a new owner applies to the Land Registry to register change of ownership of a listed asset, they will therefore need to provide the Land Registry with a certificate from a conveyancer that the disposal (and any previous disposals if this is the first registration) did not contravene section 95(1) of the Localism Act (the moratorium requirements).

11.0 EQUALITIES IMPLICATIONS

- 11.1 Consideration has been given to make the decisions fairly and take into account the 'protected characteristics' of age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

12.0 CLIMATE CHANGE IMPLICATIONS

- None

13.0 PERFORMANCE IMPLICATIONS

- None

14.0 POLICY IMPLICATIONS

- None

15.0 RISK MANAGEMENT IMPLICATIONS

- None

16.0 HUMAN RESOURCES IMPLICATIONS

- None

17.0 ICT IMPLICATIONS

- None

18.0 COMMUNITY SAFETY IMPLICATIONS

- None

19.0 CONCLUSIONS

- The nomination has not provided sufficient evidence to meet the tests of listing under the Localism Act.
- All parties will be advised of the outcome of the decision, and the Council's reasoning for it.
- The owner will be informed of the decision review process and the nominating group will be advised that there is no provision within The Regulations (The Asset of Community Value (England) Regulations 2012) for them to seek a review of the Council's decision.

20.0 REASONS FOR RECOMMENDATIONS

20.1 The evidence does not demonstrate that the nomination for The Half Moon, Barton meets the definition of community value as detailed in the Localism Act 2011.

21.0 RECOMMENDATION(S)

It is recommended that the Assistant Chief Executive Local Engagement:

- (i) Determines that the nomination for The Half Moon, Barton is unsuccessful and does not meet the definition of community value as detailed in the Localism Act 2011
- (ii) It should be placed on the North Yorkshire Council Assets of Community Value List of unsuccessful Nominations

APPENDICES:

- Appendix I: Freeths Solicitors Letter
- Appendix II: Save the Half Moon Community Survey Results

BACKGROUND DOCUMENTS:

- None

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Presenter of Report – *As above*