

Nomination of a Community Asset – Rotary House, Norman Road, West Malling

1. Background

1.1 On 8th May 2020, Tonbridge and Malling Borough Council (“the Council”) received a nomination for a community asset from West Malling Parish Council, in respect of Rotary House, Norman Road, West Malling (“the Property”).

1.2 The nomination describes the Property as follows: *“Shell of building is a second hand portakabin, with a brick shell added defines on the south and western side by a metal park fence. Six parking spaces lie between the building and the entrance road. It comprises two main lounges, kitchen, toilets, and a number of smaller rooms previously used for offices and specialist personal services e.g bathing, hairdressing. It lies to the north of Norman Road and the eastern boundary is formed by the entrance road to West Malling CoE Primary School. The Cricket Ground surrounds the western and northern boundaries.”*

1.3 The nomination states that the Property has been vacant, and closed since May 2019. The landowner is Kent County Council.

1.4 The nomination describes the uses of the building (prior to its closure) as follows:

“The former use of the asset was as the community centre of Age Concern Malling. When fully accredited, a wide range of services for the elderly were provided, including the following: Day Care for Elderly people with a wide range of activities during the day until around 3.30pm. including activities to foster good health and well- being, combat loneliness and delay dementia. Bathing, chiropody, hairdressing, Hi Kent hearing aid battery replacement and repairs service, Dementia Day Care, book swaps. Visits and day trips of various kinds were arranged for clients. Local Social events were normally celebrated at the centre with parties and fund raising activities including town festivals and sporting events, Jubilee and Royal Weddings Six minibuses brought clients to and from the centre. A large fully equipped kitchen provided around 40 freshly cooked meals every day including Sundays. Many families in the community used the services for themselves or their elderly relatives. The Centre also provided office accommodation for Age Concern Malling where administrative and training activities took place.”

1.5 The nomination states that West Malling Parish Council have previously expressed interest in the building to the landowner, should it become

vacant. The Parish Council say that they would seek to provide “as many of the services previously provided to the elderly as possible.” They have also indicated that they would be willing to commission services from Age UK to be provided from the Property were they to purchase it.

2. Legal Framework

2.1 Section 90 of the Localism Act 2011 (“the Act”) states:

“90 Procedure on community nominations

- (1) This section applies if a local authority receives a community nomination.*
- (2) The authority must consider the nomination.*
- (3) The authority must accept the nomination if the land nominated—*
 - (a) is in the authority's area, and*
 - (b) is of community value.*
- (4) If the authority is required by subsection (3) to accept the nomination, the authority must cause the land to be included in the authority's list of assets of community value.*
- (5) The nomination is unsuccessful if subsection (3) does not require the authority to accept the nomination.*
- (6) If the nomination is unsuccessful, the authority must give, to the person who made the nomination, the authority's written reasons for its decision that the land could not be included in its list of assets of community value.”*

2.2 By s.88 of the Act, land is of “community value” if:

“in the opinion of the [Council]—

(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, 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.

...

[or]

in the opinion of the [Council]—

- (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 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.”*

2.3 Land may only be listed in response to a community nomination (or in other prescribed circumstances which are not applicable here). A “community nomination” includes a nomination by a Parish Council.

3. Assessment of Nomination

Is it a “community nomination”?

The nomination has been made by a Parish Council in respect of land within its area, which meets the requirements of s.89(2) of the Act for a community nomination.

Is there an “actual current use” or “time in the recent past” where the land was in community use

The Property is currently vacant, so there was no actual current use at the time of the nomination. The nomination states that the property closed around May 2019. Whilst there is no statutory definition or guidance regarding what constitutes the “recent past”. The Tribunal judgements concerning what might constitute the “recent past” for these purposes suggests that it is a matter of fact and degree in every case, having regard to matters such as how long the property had been in community use prior to the use ceasing. It seems reasonable in the circumstances to consider a period of approximately one year to be in the “recent past”.

The uses to which the Property were put prior to closure include activities which promote health and wellbeing for the local elderly population, including being a location where elderly residents could visit and engage in social activities. Such uses could reasonably be considered to be non-ancillary and activities which promote social interests and/or social wellbeing of the local community.

Is there a realistic prospect in the next 5 years of a community use?

It is unclear whether the Property is currently for sale by the Landowner, or the Landowner’s intentions generally, regarding the Property. It is apparent from the Parish Council’s nomination that they would seek to use the Property for uses which would further the social interests or social wellbeing of the local community, were they to be able to purchase the property.

The Parish Council has previously expressed an interest in the Property, however, it is not stated what the outcomes of any discussions were. The Landowner is a County Council and therefore bound (upon a sale) to seek to achieve best value

for the Property. However, such consideration may include social value – for example of having the Property put to a use which furthers community interests.

Were the Property to be put up for sale within the next 5 years it seems reasonable to consider that the Property could be brought back into a use or uses which further the social wellbeing or social interests of the local community.

4. Conclusion and Decision

- 4.1 The Council has received a valid community nomination for the Property.
- 4.2 The Property was, in the recent past, in a use or uses which furthered the social wellbeing of the local community.
- 4.3 It is realistic to think that the Property could be put to such uses within the next 5 years.
- 4.4 The Property is in the Council's area, and is of community value. The Property should therefore be included in the Council's list of assets of community value.