

## Nomination of a Community Asset – The Windmill Public House

### 1. Background

- 1.1 On 30/6/21, Tonbridge and Malling Borough Council (“the Council”) received a nomination for a community asset from Burham Parish Council, in respect of The Windmill Public House, Burham (“the Property”).
- 1.2 The nomination describes the Property as follows: “Public house and outside garden area.”
- 1.3 The nomination states that the Property is currently being used a public house. The property is stated to be owned by Family Inns Ltd.
- 1.4 The nomination describes the community uses of the building as follows:

*“The Windmill Public House is the last traditional pub left in the village which once had 6 pubs. Not only is it a traditional pub, but also serves pub food including Sunday lunches. The community of Burham have lost so many public accessible venues for socialising. It is a community hub bringing people together and helping build community ties. The current occupiers took over the pub during the year before Covid restrictions came into force and made many improvements particularly to the outside area.*

*The Pub is a real community business embedded in the community, and as the only village pub left, is the heart of the village.*

*This building has historical value for Burham Village. It is part of the foundations of its size today. When the public house was built in 1847, it was already serving beverages and had a resident licensee “Jesse Brooker” aged 70 (licensee since 1821).*

*If the public house as it stands was built 6 years earlier, it would be a listed building. When the public house as it is now was built, it was due to the migrant cement workers arriving and used as a boarding house too. During this time, the village population was rising reaching 380 by 1847. By 1901 it had exceeded 1,725 more than today and was one of five public houses and/or boarding houses.*

*In 1861, the resident landlady “Ann Brooker” was refused her renewal due to be 80 years old. This was in the 1st session of the licencing council in*

Maidstone.

*Snodland Historical Society have found many historical references to this public house believing that the purchaser of Burham & Wouldham Cement/brick works stayed there, whilst the take-over to Snodland (Blue Circle) was being completed.”*

## **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 “voluntary or community body”. What constitutes such a body includes an “*unincorporated body... whose members include at least 21 individuals, and which does not distribute any surplus it makes to its members.*”<sup>1</sup>

### **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 in use as a public house, primarily as what might be described as a “locals’ pub” as it “*It is a community hub bringing people together and helping build community ties*”. The nomination suggests that the public house is used by the community for meeting and socialising, engendering a collective sense of wellbeing. Whilst there is no defined meaning for “social wellbeing” for the purposes of the ACV regime it could be considered to include such “*aspects of life as society collectively agrees are important for a person’s happiness, quality of life and welfare*”<sup>2</sup> or “*those economic, social or environmental things that people value in their life and contributes to them reaching their potential*”<sup>3</sup>

Activities such as social gatherings and meetings are clearly valuable to a person’s quality of life and therefore amount to a use which furthers social wellbeing of the local community.

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

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<sup>1</sup> Regulation 5, The Assets of Community Value (England) Regulations 2012

<sup>2</sup> Runnymede BC ACV procedure guide

<sup>3</sup> Shropshire CC ACV procedure guide

The nomination suggests that a planning application for the conversion of the public house to a private dwelling houses was withdrawn in April 2021 following over 100 objections submitted by local residents.

Were the Property to be put up for sale within the next 5 years (whether with or without the benefit of planning permission) 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.