

Nomination of a Community Asset – Potterarti

1. Background

- 1.1 On 10 August 2021, Tonbridge and Malling Borough Council (“the Council”) received a nomination for a community asset from Plaxtol Parish Council, in respect of Potterarti (“the Property”).
- 1.2 The nomination describes the Property as follows: “A recently owned pottery studio for customers to create their own designs in pottery either in groups or individually.”
- 1.3 The nomination makes clear that the Property is in ongoing use, the landowner being The Allcorn Family, c/o Mr Tim Wells and the occupier being Mrs Clare Dewhirst.
- 1.4 The nomination describes the uses of the building as follows:

“The building has been one of the longest serving shops in Plaxtol to survive. For many years it was Butchers; it subsequently became a Botanist shop and is now a popular pottery studio. It is at the top of The Street, near Plaxtol Primary School and is used by school children parish residents”.

In addition, the nomination states:

“The parish would like the opportunity to run the Shop as a village asset should the current situation change”.

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 with a local connection.

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 uses to which the Property is put include a pottery studio, which is used by local school children and residents, groups, and individuals.

Such use appears to be a major function of the Property, and would 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 seems apparent that the current use is intended to continue, however the nomination also states “*The parish would like the opportunity to run the Shop as a village asset should the current situation change*”

4. Conclusion and Decision

- 4.1 The Council has received a valid community nomination for the Property.
- 4.2 The Property is at present in a use or uses which further the social wellbeing of the local community.
- 4.3 It is realistic to think that the Property will continue to 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.