

## Nomination of a Community Asset – The Swan on the Green Public House

### 1. Background

- 1.1 On 16/11/2021, Tonbridge and Malling Borough Council (“the Council”) received a nomination for a community asset from West Peckham Parish Council, in respect of The Swan on the Green Public House, West Peckham (“the Property”).
- 1.2 The nomination describes the Property as follows: “Public house sited on the village green. On no through road surrounded by houses and church.”
- 1.3 The nomination states that the Property is currently being used as a public house. The property is stated to be owned by Gimbal Trading Ltd and the occupier is Mr Adam Freeman.
- 1.4 The nomination describes the community uses of the building as follows:

“This is the local pub used regularly by many of the residents. It is used for social events such as quiz nights and music nights. It is the main venue for meeting other villagers. It is not just a pub but a good eatery as well. During 2020 the pub took orders for provisions as there is no shop in the village.”

In addition, it states

“Any newcomer to the village only needs to visit the pub and would soon meet other villagers. The pub also benefits from village events such as the annual fete and firework display. It should continue to be a focal point of village life as residents use it regularly”

### 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**

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

### 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 is “the local pub used regularly by many of the residents. It is used for social events such as quiz nights and music nights. It is the main venue for meeting other villagers”. 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?

It seems apparent that the current uses are intended to continue.

## **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.

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

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