

Delegated Decision

1st June 2021

Nomination of The Smiths Arms Public House as an Asset of Community Value

Report of: Corporate Property and Land

Susan Robinson, Head of Corporate Property and Land

Electoral division affected: Lumley

Purpose of the Report

1. To consider a nomination to list The Smiths Arms, Castle Dene as an Asset of Community Value.

Executive summary

2. A nomination was received from Friends of the Smiths to list The Smiths Arms Public House as an Asset of Community Value.
3. The Panel considered the nomination form and the additional supporting documents submitted by the nominee.
4. The decision of the Panel was that the application provided sufficient evidence of a use of the building that is not ancillary and furthers the social wellbeing or social interest of the local community and it is realistic to think that such a use can continue in the future.
5. Under the Council's Scheme of Delegations, the Head of Corporate Property and Land is authorised to make adjudications and decisions in relation to assets of community value in accordance with the Localism Act 2011.

Recommendation

6. It is recommended that list The Smiths Arms Public House is listed as an Asset of Community Value.

Background

7. The Localism Act 2011 and the Assets of Community Value (England) Regulations 2012 together embody the Community Right to Bid.
8. The legislation gives community organisations the opportunity to nominate assets they consider are of value to the community for inclusion on a list. If a listed asset comes up for sale, the community will be given the opportunity to raise finance and prepare a bid to buy that asset on the open market.
9. The legislation places a requirement on the Council to consider nominations, and if approved to include them on a list of Assets of Community Value. The Council is required to manage and to maintain the list in accordance with the requirements of the legislation. Those relevant to consideration of the nomination and inclusion on the list of Assets of Community Value are summarised here to provide the context for this report.
10. A nomination must be made by an eligible organisation, and evidence of eligibility that complies with the legislation must be provided. The organisation must have a local connection and can include neighbouring parish councils.
11. The use of the asset must meet certain requirements to qualify as an asset of community value. The main use of the asset must further (or has recently furthered) the social wellbeing or social interests of the community. It must be realistic that it will continue to do so in the future.
12. If the asset is properly nominated, is in the Council's area, meets the qualifying requirements and is not excluded under the list of excluded assets in the legislation, the Council must list it on a list of Assets of Community Value. All affected parties (and the parish council) will be informed. The Council must also place the asset on the local land charges register and, if the land is registered, apply for registration of a restriction against the title to the land at Land Registry.
13. Once an asset has been listed, it will remain so for five years. Nothing further will happen unless and until the owner decides to dispose of it. If the owner decides to dispose of the asset, the Council must be notified in writing which will trigger further actions in accordance with the requirements of the Localism Act 2011 and the Assets of Community Value (England) Regulations 2012.
14. The Council's Community Right to Bid Working Group ("the Panel") considers all nominations for assets of community value. The role of the Panel is to consider the nomination in the context of the legislative provisions and to provide an assessment to inform the decision made by the Head of Corporate Property and Land.

Nomination under consideration

15. The Council has received a nomination from the Friends of the Smiths to list The Smiths Arms Public House as an Asset of Community Value. The full extent of the asset and the site boundary is shown edged red on the attached plan.
16. The Panel met on 11th, 20th and 26th May 2021 and considered in detail whether the nomination meets the legislative requirements. These are specifically:

17. **The eligibility of the nominating organisation.** These requirements are defined in Section 892(b) of the Localism Act 2011 and Regulations 4 and 5 of the Assets of Community Value 2012 and reflect the type of organisation and its connection with the local area.
18. The Panel confirms that the nominating organisation is eligible to make the nomination.
19. **Detail of the asset, its owner and occupants.** The Assets of Community Value (England) Regulations 2012 (Regulation 6) set out the requirements for information about the asset to be provided in the nomination . These include a clear description and plan of the asset showing the full extent and boundaries, details of the owner and details of the current occupier(s). The Council also requires the nomination to include confirmation that the asset is not excluded from listing under the list of excluded assets in the legislation (ie it is not residential property, land licenced for use as a caravan site or operational land of statutory undertakers).
20. The Panel confirms that the requirements for information about the asset, its owner and occupier(s) have been met and that the asset is not excluded from listing.
21. **Whether the asset meets the definition of an asset of community value.** These requirements are set out within Section 88 of the Localism Act 2011.
22. Section 88(1) states that a building or other land is land of community value if in the opinion of the Council:
 - *An actual or current use of the building or other land that is not ancillary use furthers the social wellbeing or social interest of the local community, and*
 - *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.*
23. This definition creates a two-part test which considers the current and actual use of the nominated building and/or land.
24. Section 88(2) enables a forward-looking test which considers its future use, which states that a building or other land is land of community value if in the opinion of the Council:
 - *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 social interest of the local community, and*
 - *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 which would further (whether or not in the same way as before) the social wellbeing or social interests of the local community.*
25. The Council asks all nominees to submit full details and supporting evidence with its nomination to enable an informed decision to be made.
26. The Panel considered the nomination and supporting evidence and found that there is sufficient evidence of a use of the building that is not ancillary use furthers the social wellbeing or social interest of the local community, and 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.

27. The Panel considers that the nomination and supporting evidence from the Friends of the Smiths, provides sufficient evidence of community use and that the use of the asset furthers the social wellbeing and social interest of the local community.

Main implications

28. If the nomination is successful, the asset will be included on the Council's list of Assets of Community Value.
29. If the nomination is not successful, the asset will be included on the Council's list of unsuccessful nominations.
30. If a nomination is successful or unsuccessful, the Council will give written notice to the landowner, the occupier, the relevant parish council and the nominating organisation. If unsuccessful, the Council must inform the nominating organisation of the reasons for the decision.
31. If the nomination is successful, the Council must place the asset on the local land charges register and, if the land is registered, apply for registration of a restriction against the title to the land at Land Registry.

Conclusion

32. The Panel concluded on 26th May 2021 that the nomination should be accepted.

Appendix 1: Implications

Legal Implications:

The decision to list Smiths Arms Public House will be published on the Council's website, as required by the legislation.

The asset must be placed on the local land charges register and, if the land is registered, the Council must apply for registration of a restriction against the title to the land at Land Registry.

The owner of the listed asset can ask the Council for a review within 8 weeks of being notified of the decision.

Finance

The legislative provisions provide the Local Authority meets the costs of administering the scheme.

Consultation

The Local Members were consulted.

Equality and Diversity / Public Sector Equality Duty

None.

Climate Change

None

Human Rights

None.

Crime and Disorder

None.

Staffing

None.

Accommodation

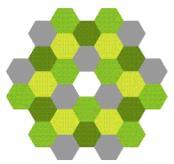
None.

Risk

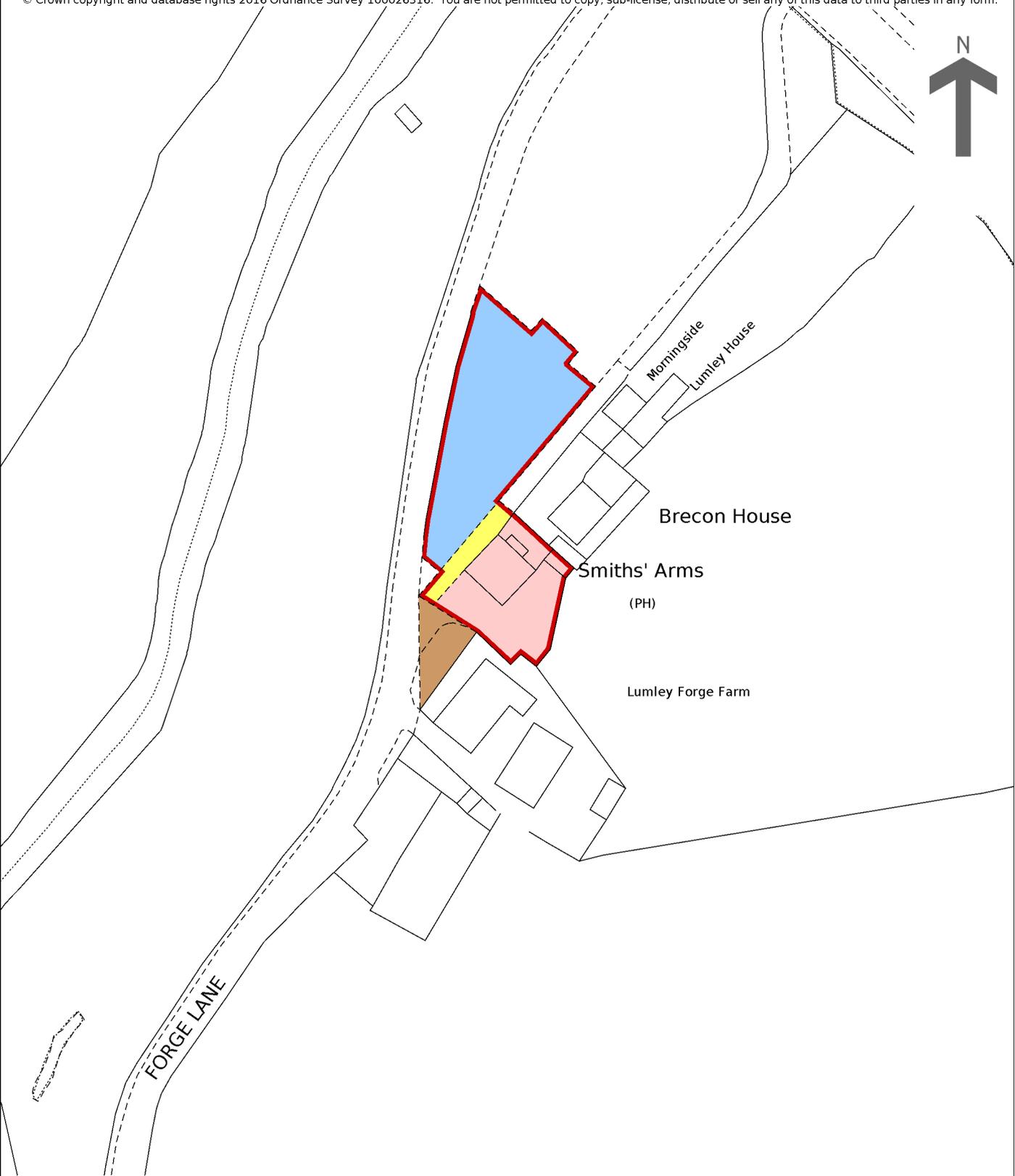
None.

Procurement

None.



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