

Decision Maker: Ian Maguire - Assistant Director of Planning and Economic Development (delegated decision)

Date of decision: January 2024

Subject: Nomination for the Manor House Pub, Drayton, to be placed on the Register of Assets of Community Value

Report by: Tom Bell - Principal Planning Officer

Wards affected: Drayton and Farlington / Cosham

Key decision: No

Full Council decision: No

1. Purpose of report

- 1.1 The Council received an Asset of Community Value ("ACV") nomination in relation to the Manor House Pub ("the Pub"), Drayton, on the 27th November 2023.
- 1.2 The application is determined against the Localism Act 2011, guidance set out in the Assets of community value: policy statement (2011) and the Council's Policy for Defining Social Interests / Well-being for determining ACV nominations.
- 1.3 The purpose of this report is to make a recommendation to the Assistant Director of Planning and Economic Development in respect of the determination of the nomination of the Pub as a building of community value, that is:
 - a) Where an actual use of the building or other land that is not an ancillary use furthers the social wellbeing or social interests of the local community (either at the time of the application or at a time within the recent past); and,
 - b) It is realistic to think that the use can continue (or that there is a time within the next five years that it would so resume).

2 Background

- 2.1 This application for entry onto the Council's list of Assets of Community Value has been submitted by the Manor House Committee ('MHC'), an organisation that meets the eligibility requirement to make a "community nomination", in this case being an unincorporated body whose members include at least 21 individuals,

- 2.2 and which does not distribute any surplus it makes to its members. The MHC has provided the Council confirmation that the nomination has been made as an unincorporated body with the 21 signatories.
- 2.3 The Pub is situated in Drayton and Farlington Ward (and borders Cosham Ward) within the Council's administrative area. The Pub is owned by Greene King, a national pub chain.
- 2.4 The Council acknowledges that the implications of a decision to place land or buildings on its list of assets of community value could represent an interference with the Owner's right to the enjoyment of property under Article 1 to the First Protocol of the European Convention on Human Rights, as incorporated into domestic law by the Human Rights Act 1998. To that end, the Council and indeed the statutory framework of the Localism Act 2011 (and secondary legislation) recognise that such interference must be balanced against the public interest, any interference must be proportionate, and that interference may warrant a claim for compensation by the Owner against the Council.

3 History of the Building

- 3.1 The Manor House is a large 1930s pub in a residential area on the corner of Court Land and Old Manor Way, Drayton. The Pub is a former Brickwood's/Whitbread house, now under ownership of Greene King. Its original two bar rooms have since been knocked through into one large room, though divided into two distinct areas, with the long bar counter facing the entrance. The Pub has a large car park to the front now in part used for electric vehicle charging. The Pub also has a large garden with benches and play equipment.

Pubs in Drayton and Cosham

- 3.2 There are three pubs in Cosham the Red Lion Hotel, The First Post (Wetherspoons) and The Postbridge (Greene King), in addition there is a bar called Dixies. The nearest of these to the Manor House (the First Post) is 1km walk away. The Sunshine Inn on Havant Road is 2.2km walk to the East. The Churchillian and George Pubs on Portsdown Hill are a 1.4km walk to the North (up a substantial hill). Within the last decade two other former pubs in the vicinity have changed in use, the New Inn on Havant Road (now an Indian restaurant) and the Salisbury on Lonsdale Avenue (now a convenience store).

4 Summary of the submission

- 4.1 The MHC submitted its application setting out a number of arguments in favour of the pub being listed as an ACV. The application included:
- A description of the MHC's formation as an unincorporated body.

- A list of 24 signatories with a local connection (of which the City Council has confirmed 22 are valid, meeting the 21-signatory requirement).
- A description of the property and its boundaries, including a land registry document, showing the boundary of the site as a supporting document.
- Confirmation of current occupiers and landowner.
- A statement setting out why the MHC thinks the application should be supported, focusing on the community role played by the pub, the history of the pub in the community, and the community events that have been held at the pub and the local groups that use the pub.
- Signed declaration.
- A copy of the University of Oxford Report for CAMRA 'Friends on Tap'

Summary of the owners' comments

- 4.2** Following the receipt of the Asset of Community Value application from the MHC the landowner, Greene King, was contacted by letter in line with the regulatory requirements. The letter asked for comment by the 1st of January. A letter was also left at the property and site notices put up in order to ensure notification. As of the 17th of January no response had been received from the landowner or tenant.

5 Should the Pub be listed as an Asset of Community Value?

- 5.1** The main legislative tests the nomination must pass are set out in Section 88 of the Localism Act 2011. The Council has reviewed the evidence of the applicant MHC, and in light of the Council officer's visit to the site to erect signage, the Council forms the view that ss.88(1)-and (2) apply, because as the Pub has now closed to the public, it is necessary to consider s.88(2) in this case:

(1) For the purposes of this chapter but subject to regulations under subsection (3), a building or other land in a local authority's area is land of community value if in the opinion of the authority—

(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.

(2) For the purposes of this Chapter but subject to regulations under subsection (3), a building or other land in a local authority's area that is not land of community value as a result of subsection (1) is land of community value if in the opinion of the local authority—

(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.

5.2 Further guidance is set out in the Government's Assets of Community Value: Policy Statement (2011), which states that a building or other land should be considered an ACV if:

- its actual current use furthers the social wellbeing and interests of the local community, or a use in the recent past has done so; and
- that use is not an ancillary one; and
- for land in current community use it is realistic to think that there will continue to be a use which furthers social wellbeing and interests, or for land in community use in the recent past it is realistic to think that there will be community use within the next 5 years (in either case, whether or not that use is exactly the same as the present or past); and
- it does not fall within one of the exemptions.

5.3 The City Council's Policy for defining social interests / well-being states that, when assessing nominations for inclusion on the Register of Assets of Community Value the City Council will have regard to the following criteria:

1. The extent to which the approval of the nominated site would enhance the social interests and social wellbeing of the local community because in its absence the local community would be deprived of land or a building that is essential to the special character of the local area, and provides:

- i. a place to meet and socialise, or
- ii. a place to shop, or
- iii. a recreational, sporting or cultural facility.

2. The definition of the extent of the local community will depend on the nature of the use and each case will be considered on its merits, with particular reference to the character and heritage of the local area, its community cohesion and its sense of belonging.

3. The City Council will have regard to the realistic prospect of the continued or resumed use of the asset within the next five years, and in particular and where it is a matter relevant to that use, the commercial viability of the proposal (including the ability to raise funds) and the sustainability of that use.

5.4 This report considers the points set out in these guidance documents:

Was there a time in the recent past when the actual use of the Manor House Pub furthered the social wellbeing and interests of the local community?

- 5.5 The Pub was closed in late November 2023. However, the former use of the building provided a clear community benefit. It is well established that public houses are capable of providing community benefit. *Hawthorne Leisure Acquisitions Ltd v Northumberland County Council [2015] UKFTT* suggested that the use of a pub "encourages friendships, conversation and the mixing of classes and generations". This is borne out at the Manor House which the MCH's application states provided for a wide cross section of the community with facilities including; a beer garden well used by families; children's menu and play area; specific affordable food options for pensioners; a quiz night and poker night weekly; is dog friendly and puts on additional events including seasonal events (Christmas etc), charity events (McMillan, Rowan's Hospice etc).
- 5.6 The application suggests that the pub provided a community and social facility for local residents and community groups. In the statement of reasons submitted by the MCH several community groups were specifically mentioned including a local Sunday league team, a local scout group, geocachers, coffee mornings and school PTA, all within the Drayton and Cosham area of the city, where it is the only pub in the immediate vicinity.
- 5.7 The pub is also suggested to have had a strong sporting role in the city, with the MCH's application stating: *The Manor House immediately formed strong links with Portsmouth Football Club. John Pink (landowner) and John Brickwood (Brewery who owned the pub from 1940-1971) were two of the six men who founded PFC. The relationship was so strong, the FA Cup trophy was hidden in the pub during the war (WW2) by the Landlord Ted Short.* In addition, the pub has further links to local and national football with former landlords having played for England FC, Portsmouth FC, and Southampton FC. Even accounting for any potential exaggeration, and the direct relevance of these matters to community benefit, it is clear that the Pub holds a special place in local sporting and cultural legend, and this should not be overlooked in consideration of the value the community puts upon it and would likely apply to future community uses.
- 5.8 The Pub is located within the residential backstreets of Drayton. The Pub represents an alternative offer from the pubs in Cosham Centre, which represent a destination food and beverage offer different to the offer of a local community pub, and which lack the range of offer to the community that the Manor House provides (such as play equipment, electric vehicle charging). With the closure of the New Inn and Salisbury pubs there is not any alternate provision of this kind within this part of Cosham / Drayton, with the Sunshine Inn on the Havant Road at 2.2km away, being too distant to consider a reasonable alternative for much of the community.
- 5.9 With regard to the Council's 'Policy for defining social interests / well-being', it is considered that the Pub would enhance the social, cultural and sporting interests and wellbeing of the local community because in its absence the local community would be deprived of land or a building that makes a unique contribution to the special character of the local area. This is because the building's historic use is strongly communal since its inception as public house in the 1930's. Further, the

Pub provides: "i. a place to meet and socialise," in the context of customers and local residents as well as its use by community groups, and is "iii. ...recreational" as a pub.

Is the Pub ancillary to another use?

- 5.10 No. The application illustrates, and the Council understands that, the Pub is the primary use of the building (there appears to be ancillary residential accommodation for use by the Pub's tenants at first floor level).

Is it realistic to think that there is a time in the next five years when the Pub could further the social wellbeing and interests of the local community?

- 5.11 The pub has been in operation since the 1930's and has been most recently operated by Greene King. Greene King shut the pub in November 2023 as part of closures nationwide. This does not however necessarily mean that running a pub in this location and building is unviable, and there is no evidence before the Council at this time positively contending that continued public house use would be unrealistic. There has been significant community support for the retention of the pub and there is no reason to believe that it could not be operated as a going concern with the right approach. These conclusions are in accordance with the Council's Policy for defining social interests / 'well-being', which requires the Council to consider "in particular and where it is a matter relevant to that use, the commercial viability of the proposal and the sustainability of that use". As of the 18th of January 2024 the pub had been advertised online by the property agent Savills for let or sale as a public house. This implies that the agent / owner think that the use of the Manor House as a Pub is a reasonable prospect going forward.
- 5.12 There has been significant public support for the ACV application with nearly 150 letters of support to the Council for the Manor House to become an Asset of Community Value, despite the application not being subject to public consultation by the Council. This should not be dismissed as an insignificant proportion of the community. In addition, two objections to the ACV were received from local residents concerning noise and alleged drug use related to the premises. Taking the unsolicited public representations overall, this is not considered to detract from the community value of the Pub: occasional noise is to be expected from public houses and any allegation of drug use, if proven to the appropriate standard, should be addressed through the licensing regime and ultimately the police.
- 5.13 No exemptions barring the land from inclusion on the list of ACVs have been brought to the Council's attention.

6 Recommendations

- 6.1 The Assistant Director is recommended to ACCEPT the Nomination on the grounds that:

Having regard to the application, the unsolicited correspondence from residents, relevant national policy and the Council's Policy for Defining Social Interests/ Well-being, the use of the Manor House Pub furthers the social well-being or interest of the local community, is not an ancillary use, and has shown that it will be able to continue to operate into the future.

Having regard to the European Convention on Human Rights and the Human Rights Act 1998, the public interest in placing the Manor House Pub on the list of assets of community value in accordance with the tests of the Localism Act 2011 outweighs the possible interference with the Owner's property rights, which can be considered mitigated by the opportunity for compensation in appropriate cases.

The recommendations set out above were approved by



Signed by:

17.01.24

Ian Maguire - Assistant Director of Planning and Economic Development