

COMMUNITY RIGHT TO BID

THE RISING SUN, BREAM

1. BACKGROUND AND REASONS FOR RECOMMENDATION

1.1. The Community Right to Bid provides communities with an opportunity to ensure that buildings and amenities of community value remain in public use. The power was conceived for use in relation to assets such as the local pub, village shop, community centre, library building, etc. The aim of the Act is to help the community keep assets in community use and it should not be seen as a tool to block and/or delay developments.

1.2. The list of assets of community value is maintained by the Council and land may be entered onto the list in response to community nominations. The Council is obliged to place nominations on the list if it is within the Council's area and if it is, in the opinion of the Council, of community value. The Council must determine nominations within 8 weeks.

1.3. The legislation provides two possible constructions of community value:
either:

(a) the land and buildings have an actual current use that is more than ancillary and furthers the social wellbeing or interests of the local community and it is realistic to think that there can continue to be a more than ancillary use that furthers the social wellbeing or interests of the local community, be this in the same or another way.

or:

(b) the land or buildings were in the recent past used (and that use was more than ancillary) to further the social wellbeing or interests of the local community and it is realistic to think that there is a time in the next 5 years when the land and buildings could be put to a more than ancillary use that would further the social wellbeing or interests of the local community, be this in the same or another way.

In this context 'social interests' includes cultural, recreational and sporting interests.

1.4. To meet the test applicants should be able to demonstrate the community use by way of examples, e.g. shopping, sports, community clubs etc. They should also be able to identify how the community use would continue in the future e.g. will the asset continue to be a pub or will be it developed into a pub with a shop and library element.

- 1.5. If the Head of Paid Service determines that the nominated land or buildings should be entered onto the community assets register, the owner of the land or buildings will be notified and a statutory procedure will apply before the owner is able to make a 'relevant disposal' of the land. A relevant disposal includes a sale of the freehold or in certain circumstances, the grant of a lease. The owner is required to notify the Council of their intention to make a relevant disposal; there will then be a 6 week interim moratorium in which community interest groups can request to be treated as a potential bidder for the asset. If such a request is received, there will be a 6 month moratorium to allow the group to raise funds.
- 1.6. If the Head of Paid Service decides that the community value test has not been met, the nomination must be rejected and the land will be entered onto the list of unsuccessful community nominations. Land will remain so listed for 5 years.

2. WEST DEAN PARISH COUNCIL NOMINATION

- 2.1. West Dean Parish Council's nomination is attached at Annex A.
- 2.2. The applicant states that the Rising Sun is now the only pub in the village of Bream and the loss of this amenity would be a great blow to the village character.
- 2.3. The property is at the centre of the village, located close to the important Cenotaph and conveniently sited for the use of all residents and visitors.
- 2.4. With regard to future use of the pub the parish council have expressed a desire to retain the provision of a public house.

3. OWNERS' RESPONSE

- 3.1. The owner has been contacted and submitted a response objecting to the nomination (Annex B).
- 3.2. The owner states that as the owner and occupier, they should have the ultimate input into what becomes of the pub in terms of the use to which any ancillary buildings are put.
- 3.3. The nomination is being made at a time when there is an ongoing planning application regarding the change of use of a currently disused section of the building for retail use. If successful, it would safeguard the longer term future of the pub by making it a more viable business.

The owner claims that the pub is only used by a small proportion of the village (3%) which is not high enough to render it as a particularly valuable community asset.

4. ANALYSIS OF THE STATUTORY TEST

- 4.1. The pub is open and actively operating as a public house. Therefore the relevant test to be considered is as set out in paragraph 1.3 (a) above. This means that there are two key elements which need to be met:
 - The land and buildings have an actual current use that is more than ancillary and furthers the social wellbeing or interests of the local community; and
 - It is realistic that a use (whether the same as the existing use or otherwise) that furthers the social wellbeing or interests of the local community can continue.

- 4.2. Addressing the first part of the test it is clear that the pub is operational and Council can be satisfied that an actual use exists. This satisfied part 1 of the test.
- 4.3. Turning to the second part of the test the Parish Council have identified their intention to ensure that it remains as a village asset. On this basis the second part of the test is also satisfied.

5. COMPENSATION

Private owners of land are able to claim compensation for any loss or expense that they would not have incurred, but for the listing of the land. In most cases where the land is in private ownership, they would be entitled to claim compensation from the Council if the land was listed.

6. RECOMMENDATION

- 6.1. It is recommended that the statutory test is met and therefore the Rising Sun, Bream should be listed on the Register of Community Assets.

7. ALTERNATIVE OPTIONS

None- The Council has a duty to determine the nomination by reference to the statutory test of Community Value.

Legal implications	<p>It is a requirement under the Localism Act 2011 for the Council to have in place a Register of Assets of Community Value and determine nominations to include land on this Register.</p> <p>Should the nominated land be included on the Register of Community Assets, before the owner is able to make a disposal of the land a statutory procedure will apply. This procedure allows community interest groups to notify the owner that they wish to be treated as a potential bidder for the community asset. Following which there is a 6 month moratorium period to allow the group time to raise funds.</p>
Financial Implications	<p>Private owners of land are able to claim compensation for any loss or expense that they would not have incurred, but for the listing of the land. As this land is in private ownership the right to compensation would apply.</p>

WEST DEAN PARISH COUNCIL

Dave Kent
Clerk
admin@westdeanpc.org.uk
www.westdeanpc.org.uk

Parish Office
West Dean Community Centre
High Street, Bream
Lydney
GL15 6JW
01594 564484

31st October 2017

Nigel Gibbons
Forest of Dean District Council
Council Offices
High Street
Coleford GL16 8HG

Dear Nigel

ASSET OF COMMUNITY VALUE

1. Introduction

Under Part 3, Chapter 5 of the Localism Act 2011, West Dean Parish Council wishes to register the Rising Sun Inn, High Street, Bream, GL14 6JF as an Asset of Community Value. A plan of the site is attached to this application.

2. Entitlement to Nominate Land as of Community Value

The Parish Council asserts that it is a public authority which may register land in the parish as an asset of community value.

3. Statement of Community Value

There is a requirement to demonstrate that the current or recent use of the land furthers the social wellbeing or social interests of the local community.

The Rising Sun is now the only pub in the village of Bream, following the closure of the Keys and the Winding Wheel. The loss of this amenity would be a great blow to the village character. It is at the centre of the village, with extensive views of the Forest, and is very close to the important Cenotaph which is the venue for one of the biggest Remembrance parades in the Forest of Dean. It has a distinctive appearance, and is conveniently sited for the use of all residents and visitors.

West Dean Parish Council strongly believes that this iconic village amenity should be protected for the future benefit of residents and visitors.

4. Site Ownership

It is believed that the Globe Inn is owned by the current pub managers, Mr and Mrs Coates.

Sincerely

Dave Kent, CiLCA
Clerk, West Dean Parish Council
West Dean Centre
Bream
Lydney
GL15 6JW
1594 84

Response from Owner/Licensee – The Rising Sun Bream

I am writing this email to protest most strongly against the above-mentioned application to have the Rising Sun Bream listed as an Asset of Community Value (ACV), for the reasons I have listed below.

1 - as a matter of principle, I feel most strongly that as the owner and occupier of both the land and the business, I should have the ultimate input into what becomes of the property and the pub in terms of the use to which any ancillary buildings are put, given that I have the most clear understanding of my own business and what is required to maximise its viability and in turn the longer-term future of said business.

2 - I find the timing of this application by members of the West Dean Parish Council highly coincidental, coming as it does at a time when I have a planning application ongoing with the Forest of Dean District Council regarding the change of use of a currently disused section of the building for retail use. I find their application to be at best misguided (not to mention short sighted), and at worst downright malicious and completely thoughtless - this planning application has been made in regard to a part of the property that currently plays no part in the day to day running of the pub business and is, at the moment, costing us (the owners) a significant amount of money each month in terms of mortgage, council tax etc. Aside from the fact that an ACV order does not preclude the change of use of ancillary property to the core business, our intention in making the planning application was to render our entire property effectively mortgage-free by generating an income from that section of the property by means of a long term lease to a third party - thereby minimising our monthly expenditure and thus safeguarding the longer term future of the pub itself by making it a more viable business (this would also have made it a more attractive proposition to a prospective purchaser should we at any time in the future decide to move on and sell the pub as a going concern).

Therefore, in applying to have my property listed as an ACV. the applicants are not only seeking to prevent me changing the use of any part of my property (for whatever their reasons), they are also effectively putting in motion a chain of events which could ultimately bring about the very situation they say they wish to avoid - ie the possible closure of the last pub in Bream - due to non-viability of the business.

3 - Furthermore, the people whose names are attached to his application are, in the main, not actually resident in the village of Bream, and, to the last person, they are not regular customers in this pub - therefore I would question not only their knowledge of the running of this business, and whether or not it will continue to be viable without any form of diversification of the use of the ancillary property, but also the validity of their opinions on the value of this pub within the local community, as well as their true motivation in seeking to 'protect' an asset that none of them ever use. I would estimate (generously) that, given that Bream's current population stands at approximately 4,000 people, we see less than 3% of the village residents on a regular basis - and, in my opinion, that does not constitute a high enough proportion of the village to render my pub a particularly valuable community asset.

I sincerely hope that you will take these points into consideration before you arrive at your ultimate decision in regard to this application, as I really feel that they are valid opinions that have not been raised with you previously. I look forward to hearing from you in the near future with your thoughts on this - please do not hesitate to contact me by return of mail should you need any further background on the business and the associated circumstances which seem to have prompted this application from the parish council.