

## **COMMUNITY RIGHT TO BID**

### **THE BROCKWEIR INN - BROCKWEIR**

#### **1. BACKGROUND AND REASONS FOR RECOMMENDATION**

- 1.1.** Section 88 of the Localism Act 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.** 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 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 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.

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. HEWELSFIELD & BROCKWEIR PARISH COUNCIL NOMINATION**

- 2.1. The property was originally listed as an asset of community value on the 12th May 2016. This was a listing for five years and Hewelsfield & Brockweir Parish Council have requested the property is relisted following this date. The nomination is attached at Annex A.
- 2.2. The Nominators believe that the Brockweir Inn is of community value because it is the only public house within the parish and provides a focal point for various activities.
- 2.3. When the Brockweir Inn was first listed as an Asset of Community Value in 2016, it was a popular public house serving the local community, visitors to a popular location in the Wye Valley and providing other community benefits including coffee mornings and games room for youngsters.
- 2.4. The Inn has been closed since April 2019 with the result that local clubs and societies have either ceased or have to travel to other venues. This has had a detrimental effect on the closeness of the community.
- 2.5. There is interest from the Parish Council and within the village itself to see the Brockweir Inn reopen as a Public House (See Annex B). The Parish Council are confident that they have more than one option to be able to bid for the property.
  - Procurement by the Parish Council
  - Procurement by the established CIC, in conjunction with the Parish Council and financed by public loans
  - Procurement by either of the above, with finance supported by a small number of local residents who have shown interest in supporting this project.
  - A combination of funding for the above.
- 2.6. The CIC for the village is already well established, operating the Mackenzie Hall and the Village Shop as well as other ventures. The village is also in the fortunate position of having a number of 'well-off' residents wishing to support the venture. They are also confident that concerns regarding the 'flood zone' and 'water handling unit' can either be corrected or will not be an issue if the property is retained as a public house.
- 2.7. The Parish Council are currently putting together their proposal to identify a 'preferred bidder', as part of the 6 week moratorium period following the owners intent to dispose.

## **3. OWNERS' RESPONSE**

- 3.1. The owner has been contacted and would prefer the site not to be listed. The property is currently closed whilst being refurbished. An intention to dispose of the property was given on the 22<sup>nd</sup> April 2021. The owner has detailed various issues concerning the viability of the property as a public house and these are shown in Annex C.
- 3.2. The property was transferred to the current owner in 2018 on the understanding that it would continue to trade as a public house. Since 2019, the property has been closed for substantial refurbishment. The current owner now wishes to dispose of the property and considers he should be allowed to do so without it being listed as a Community Asset. The reasons for this view are:

- the water handling unit (incorrectly installed) and potential flood zone makes the property unsuitable for his intentions of b&b accommodation – in terms of excessive costs to correct and being unlikely to comply with water standards
- he has spent a considerable amount of his own money on the property which he wishes to make back.
- the property is likely to become grade two listed which would make refurbishment costs even higher.
- he sees this refurbishment as the best way to preserve a ‘historic’ building in the village.

The refurbishment was to provide bed & accommodation with a scaled down pub/micro-brewery.

#### **4. ANALYSIS OF THE STATUTORY TEST**

**4.1.** The Brockweir Inn has been closed since 2019 whilst being refurbished. However, prior to that it was run as a public house. This means that there are two key elements which need to be met:

- an actual current use of the building or other land that is not an ancillary use 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 social interests 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.

**4.2.** Addressing the first part of the test, the Brockweir Inn has been closed since 2019. However, when it was listed as an asset of community value in 2016 it was operating as a public house serving the local community and visitors to the area.

**4.3.** It is clear that the first part of the test has been satisfied.

**4.4.** Turning to the second part of the test, the Parish Council believe there would be sufficient interest within the community for the building to reopen both as a Public House and to serve the local community hub.

#### **5. COMPENSATION**

**5.1.** 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 they incurred loss or expense in relation to the land which would be likely not to have been incurred if the land had not been listed.

**5.2.** The Council shall determine the amount payable to the claimant with two types of claim permitted:

**5.3.** A claim arising from any period of delay in entering into a binding agreement to sell the land which is wholly caused by relevant disposals of the land being prohibited after the Council receives a section 95(2) notice in relation to the land.

5.4. A claim for reasonable legal expenses incurred in a successful appeal to the First Tier Tribunal against the Council's decision to list the land, refuse to pay compensation, or with regard to the amount of compensation offered or paid.

**6. RECOMMENDATION**

6.1. The Council is required to list Community Assets, including Public Houses providing they have been, and will continue to be used for the benefit of the Community. The Parish Council are confident that the Brockweir Inn, if reopened, would become a popular community asset and there is interest within the Village to see this happen. The current owner may expect a higher price than the Parish Council or CIC would consider reasonable, however, if listed as an Asset of Community Value, the market value would be lower than if allowed to be developed for residential accommodation.

6.2. If the property was relisted, then it is realistic that the owner will appeal. In addition, if it was re-listed, the owner would not be forced to sell to the Parish or CIC and may allow the building to remain vacant. There may be similarities with the Rising Sun Woodcroft which has a listing and as a result has remained vacant for several years.

6.3. The Parish Council is currently preparing a business case to bid for the Brockweir Inn and to be run as a public house serving the Community (either by the Parish Council or the Community Interest Company). If the property was not relisted, it may prevent the Parish Council or CIC from having the opportunity to become the preferred bidder.

6.4. If the Parish Council or a Community Group are unable to bid for the property, the owner will be entitled to dispose of the property.

6.5. Having evaluated the nomination to have the property relisted and objections given by the current owner, it is recommended that the statutory test has been met and therefore The Brockweir Inn should be relisted 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	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.  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.
Financial Implications	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.
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