

CABINET

16 DECEMBER 2022

REPORT OF THE PORTFOLIO HOLDER FOR PARTNERSHIPS

A.7 DETERMINATION OF A NOMINATION TO REGISTER AN ASSET OF COMMUNITY VALUE: ST JOHN'S AMBULANCE HALL, 55 STATION ROAD, MANNINGTREE, ESSEX, CO11 1EB

PART 1 – KEY INFORMATION

PURPOSE OF THE REPORT

To determine whether the St Johns Ambulance Hall meets the criteria set out in the Localism Act 2011 (“the Act”) and the Assets of Community Value (England) Regulations 2012 (“the Regulations”) following its nomination as an Asset of Community Value by Manningtree Town Council. No other criteria are pertinent.

EXECUTIVE SUMMARY

A valid nomination to register an asset of community value has been received from Manningtree Town Council as shown identified in the plan included within Appendix A.

If a local authority receives a valid nomination, it must determine whether the land or building nominated meets the definition of an asset of community value as set out in Section 88 of the Localism Act 2011 and The Assets of Community Value Regulations 2012.

The Government’s non statutory guidance defines an asset of community value as: “Building or other land whose main (i.e. “non-ancillary”) use furthers the social wellbeing or social interests of the local community, or has recently done so and is likely to do so in the future”. The report provides an assessment of the nomination.

The Cabinet should consider the content of the nomination against the statutory criteria (and no other factors) and determine whether the asset should be included within the Council’s List of Assets of Community Value.

Taking the evidence provided into account it is recommended that the building nominated does meet the criteria set out Section 88 of the Localism Act 2011. Accordingly it is recommended that the criteria are met and that the building should be listed as an Asset of Community Value.

Cabinet adopted the formal procedure for administering Assets of Community Value in January 2015, when the legislation and the supporting procedures were new to local government. The Council has been operating within this procedure for 7 years and it is considered appropriate for a review to be undertaken, taking into account the experiences of past applications, case law around the subject matter, the strict criteria applied in making such determinations, number of successful community bids and reviews requested. Cabinet Members have previously expressed informal support for Officers to be provided with the appropriate delegations to enable applications to be

determined quicker within the strict legislative framework. However, the formal procedure will require amendment and due to the time passed since its adoption, a thorough review of operating procedures is suggested, including how reviews would be undertaken if the decisions were delayed to Officers.

RECOMMENDATION(S)

That Cabinet:

- (1) agrees that St John's Ambulance Hall, 55 Station Road, Manningtree CO11 1EB meets the definition of an Asset of Community Value as set out in Section 88 of the Localism Act 2011 and that the asset be added to the Council's list of Assets of Community Value; and**
- (2) requests that the formal procedure for administering Assets of Community Value, adopted by Cabinet in 2015, be reviewed to enable determinations to be made by Officers under delegated powers and the appropriate review mechanism proposed for consideration.**

REASON(S) FOR THE RECOMMENDATION(S)

- The site has for many years been used by the community. As well as serving the needs of St John's Ambulance, the building is regularly used by local groups over many years for meetings and other social events. These groups include:- Manningtree Museum, Photographic Club, the Town Council, First Responders, Manningtree & District Royal British Legion, Yarn & Thread (informal craft & social group), Stour Valley Men's Probus Club have used the facilities over a number of years.
- Officers consider the building to have been recently (between 18 and 24 months) used for community purposes. Although a fundraising group may not be off the ground it is reasonable to conclude that they plan to do it or that someone else might buy and run it for some community purpose. Government guidance indicates that authorities should lean towards the potential for some group to acquire properties even if one is not immediately in a position to do so.

ALTERNATIVE OPTIONS CONSIDERED

- Not adding the property to the list of Assets of Community Value – not recommended – the criteria are met.
- Adding the property to the list of Assets of Community Value –recommended – the criteria are met.

PART 2 – IMPLICATIONS OF THE DECISION

DELIVERING PRIORITIES

Assets of Community Value exist in a range of forms and functions. Individual properties may contribute in different ways across the spectrum of Council priorities.

A review of the procedure for administering Assets of Community Value demonstrates effective and positive governance ensuring procedures remain efficient and complying with best practice and guidance.

OUTCOME OF CONSULTATION AND ENGAGEMENT

The owners of the property have been informed of the application via a letter and they were also contacted by the auction company dealing with the sale of the property, which in turn out a hold on the property going to auction.

Officers have spoken with Councillor G Guglielmi, as the property is in his ward. Councillor Guglielmi advises that the property has not been used for approximately 18 to 24 months but before this it was indeed used by the community.

The Act and Regulations are intended to increase public engagement.

LEGAL REQUIREMENTS (including legislation & constitutional powers)

| | | | |
|---|----|---|---|
| Is the recommendation a Key Decision (see the criteria stated here) | No | If Yes, indicate which by which criteria it is a Key Decision | <input type="checkbox"/> Significant effect on two or more wards <input type="checkbox"/> Involves £100,000 expenditure/income <input type="checkbox"/> Is otherwise significant for the service budget |
| | | And when was the proposed decision published in the Notice of forthcoming decisions for the Council (must be 28 days at the latest prior to the meeting date) | |

If a local authority receives a valid nomination, it must determine whether the land or building nominated meets the definition of an asset of community value as set out in Section 88 of the Localism Act 2011:

- (1) 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.

Section 88(2) of the Act extends this definition to land which has furthered the social wellbeing or social interests of the local community in the recent past, and which it is realistic to consider will do so again during the next five years.

Under Schedule 2 of the Local Authorities (Functions and Responsibilities) Regulations 2000, as amended, the determination of an appeal against any

decision made by or on behalf of the authority can be made by the Executive or another Committee. It is considered that as Cabinet will be the decision maker of the outcome of the nomination, any review received should be considered and referred to the Community Leadership and Partnerships Overview and Scrutiny Committee, which already includes within its terms of reference review of Cabinet decisions.

The Monitoring Officer confirms they have been made aware of the above and any additional comments from them are below:

No additional comments to those set out in the report in relation to the current application. A review of the operating procedures for administering Assets of Community Value should be undertaken using experiences from past applications and case law on the subject matter and should be reflected in any revised procedures.

FINANCE AND OTHER RESOURCE IMPLICATIONS

There are circumstances where the Council may be required to pay compensation. It is hard to quantify this risk and it is therefore not proposed to make a specific allocation. The Advice Note issued by Department of Communities and Local Government (“DCLG”) states that if compensation exceeds £20,000 in any one financial year support can be requested through their burdens funding scheme.

In this case, the current owner has suspended a planned sale of the site and this may give rise to a compensation claim.

The Section 151 Officer confirms they have been made aware of the above and any additional comments from them are below:

No additional comments.

USE OF RESOURCES AND VALUE FOR MONEY

The following are submitted in respect of the indicated use of resources and value for money indicators:

| | |
|--|--|
| A) Financial sustainability: how the body plans and manages its resources to ensure it can continue to deliver its services; | The Council has an adopted Financial Strategy. |
| B) Governance: how the body ensures that it makes informed decisions and properly manages its risks,; and | The Council has an adopted procedure for considering nominations of assets of community value. |
| C) Improving economy, efficiency and effectiveness: how the body uses information about its costs and performance to improve the way it manages and delivers its services. | The Council has an adopted Financial Strategy. |

MILESTONES AND DELIVERY

If Cabinet determines to add the property to the list it will be added directly and will remain on the list for five years unless there is an appeal, review or relevant transaction.

The review of the procedures could be brought to Cabinet in February or March 2023.

ASSOCIATED RISKS AND MITIGATION

The property was used by St Johns Ambulance as a training centre, first responders as a training centre, Manningtree Town Council used to meet there and also the local photography group used the hall on a regular basis.

The Property was due to go to auction but this has been suspended and is waiting to hear the outcome of this nomination.

There is always some risk that the decision in relation to the nomination will be controversial whether it is listed or not.

The suspension of the planned sale by the current owners and a decision to add the property to the list of assets of community value may give rise to compensation requirements.

EQUALITY IMPLICATIONS

The nominating body lists a number of social and community activities that we likely on the whole to be progressive in terms of equality and diversity.

SOCIAL VALUE CONSIDERATIONS

Assets of Community Value exist in a range of forms and functions. Individual properties may contribute in different ways across the spectrum of implications.

IMPLICATIONS FOR THE COUNCIL'S AIM TO BE NET ZERO BY 2030

The proposed decision is neutral in relation to the Council's emissions ambitions.

OTHER RELEVANT CONSIDERATIONS OR IMPLICATIONS

Consideration has been given to the implications of the proposed decision in respect of the following and any significant issues are set out below.

Crime and Disorder

The nominating body lists a number of social and community activities that we likely on the whole to be progressive in terms of crime and disorder

Health Inequalities

The nominating body lists a number of social and community activities that we likely on the whole to be progressive in terms of health equalities.

Area or Ward affected

Lawford Manningtree and Mistley

PART 3 – SUPPORTING INFORMATION

BACKGROUND

The Act and Regulations, also collectively known and described as Community Right to Bid place a duty on local authorities in England and Wales to maintain

a list of land in their areas that is land of community value as nominated by the local community.

The local authority must consider only if the nominated asset meets the criteria set out in Section 88 Localism Act 2011 in that it is satisfied:

- (a) the actual use, not an ancillary one, that furthers social wellbeing or social interest of the local community; and
- (b) that there can continue to be a non-ancillary use, which will further the social well-being or social interests of the local community.

The Council must maintain:

- A list of assets that are held to be of community value; and
- A list of assets identified in unsuccessful nominations.

If land or buildings are placed on the list of assets of community value:

- They remain on the list for five years;
- They are subject to a local land charge;
- If the owner wishes to sell (some exemptions apply) the asset they must notify the Council;
- The Council must notify the nominator and publicise the potential sale;
- All community groups have a six week window to register their intent to bid for the asset;
- If no registration of intent is received the owner may then sell the asset as they see fit (subject to any normal legal processes);
- If intent is registered community groups are then allowed a further 20 weeks (strictly 6 months from the date of the owner's notice) to raise money, reach agreement or otherwise bid for the asset;
- The owner may sell to a community group at any time but is never obliged to do so;
- If no community bid is made or accepted within the six months the owner may then sell the asset as they see fit;
- No further bid or moratorium can be made for a period of 18 months from the owner's notice; and
- If the owner suffers financial loss as a result of the imposition of either moratorium the Council must compensate the owner.

The provisions of the community right to bid does not:

- Restrict who the owner of a listed asset can sell their property to, nor at what price;
- Confer a right of first refusal to community interest groups,
- Enable a community group to trigger disposal of a site;
- Place any restriction on what an owner can do with their property, once listed, if it remains in their ownership.

Only the owner of the land has the right to seek a review of the decision to include any land on the list in accordance with Section 92 of the Localism Act 2011. This must be done in writing within 8 weeks of the written notice of inclusion of the land in the list.

The table below, based on guidance produced by the Public Law Partnership sets out an overview of what the Act and Regulations intend to constitute as an Asset of Community Value”.

The Act intends to apply to Land and Buildings Where:

1. The main use of the land or building **furtheres the social wellbeing or social interests of the local community** at the present time AND it is realistic to think that this can continue into the near future (even if the type of social use or benefit might change), or;
2. The main use of the land or building **furthered the social wellbeing or social interests of the local community** in the recent past AND it is realistic to think that this could again happen **in the next five years** (even if the type of social use or benefit might change).

The Act does not intend to apply to land where:

1. The main use of the land or **building furthered the social wellbeing or social interest of the local community some years ago** but is not presently in use for a social purpose, or;
2. The land or building has **not recently been, and is not currently, in use for a primarily social purpose**, or;
3. The land or building has been **empty or derelict** for many years and remains so today.

In their Guidance Public Law Partnership provide some helpful interpretation of these terms:

“This could apply to a broader set of activities and not just cultural, recreational and sport interests as provided by the Act. Working with local communities it could include: any land or building where the main purpose is for the provision of public services for education, health and wellbeing or community safety e.g. nurseries, schools, children’s centres, health centres, surgeries, hospitals, day care centres, and residential care homes. Sport, recreation & culture e.g. parks and open green spaces, sports and leisure centres, libraries, theatres, museums and heritage sites, cinemas, swimming pools. Community services e.g. community centres, youth centres, and public toilets. Any economic use which also provides important local social benefits e.g. village shops, pubs, markets.

“What does it mean “realistic to think that this can continue into the near future”? For the use which is **currently ongoing**, the working assumption should be that the present use can continue into the future, unless the local authority is able to identify evidence that is unlikely to be the case. In other words where the asset is presently in social use there should be a **presumption of continued viability**, unless clear evidence suggests otherwise. For a **social use which has lapsed** and needs to be re-established the local authority will need to take a view on the realism of re-establishing this. A new approach can help to re-establish services that were previously not viable.

Cabinet adopted the formal procedures for administering Assets of Community Value at its meeting in January 2015, which was based on Cabinet determining all applications, whether the criteria under the Act was met or not. This approach was adopted at the time, because the legislation and its process was new to local government.

CURRENT POSTION

The Nomination Form has been submitted by Manningtree Town Council (attached at Appendix A), and contains at B4 and B5 reasons why the nominators consider that the building is of community value and how the land could be acquired and used in the future.

The nomination states that the building is regularly used by local groups and has done over many years for meetings and other social events.

In accordance with the Regulations the landowner has been notified. The owners of the property have not been in touch with Tendring District Council at the time of writing this report.

At the time of the nomination being received by the Council, the property was due to be auctioned (by Savills) the same week. This was stopped by the owners of the property and they were made aware of the application by the auction company. The owners will wait for the outcome of this report to make a decision on what they will be doing with the property.

It is recommended that the building does meet the criteria set out in Section 88 (2) (a) of the Act:

“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.”

The Nomination request is being sought with the stated intention of continuing the main use which furthers the social wellbeing or interests of the local community.

Taking the above into account it is recommended that the matter for consideration is whether the building nominated does meet the criteria set out in Section 88 (2) (b) of the Localism Act 2011, specifically:

“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.”

At the time of writing this report the Town Council stated that it is considering setting up a “Save St Johns Hall” community group, At the time of writing Officers have not confirmed the state of progress of this.

BACKGROUND PAPERS AND PUBLISHED REFERENCE MATERIAL

Non-statutory advice note for local authorities produced by DCLG Community Right to Bid – October 2012

APPENDICES

Appendix A – Nomination Form (Redacted)

| REPORT CONTACT OFFICER(S) | |
|----------------------------------|---|
| Name | Kirstin Foley |
| Job Title | Economic Growth Officer |
| Email/Telephone | 01255 686149 kfoley@tendringdc.gov.uk |

A.7 Appendix A

LOCALISM ACT 2011

THE COMMUNITY RIGHT TO BID

NOMINATION FORM

A: You and your organisation

| |
|---|
| Your Name |
| Your Organisation (full official name) Manningtree Town Council |
| Your position in the organisation Town Clerk and Responsible Financial Officer |
| Organisation address (including postcode) Manningtree Town Council PO Box 12651 Manningtree Essex CO11 9AR |
| Daytime telephone no. |
| Email address clerk@manningtreetowncouncil.org.uk |
| How and when can we contact you? Anytime via email |

*other correspondence address or preferred way or time for us to contact you

Type of organisation

| Description | Put a cross X against all those that apply | Registration number of charity and/or company (if applicable) |
|---------------------|---|---|
| Neighbourhood forum | | |
| Parish Council | X | |

If your organisation is an unincorporated body, a company limited by guarantee, or an industrial and provident society, its rules must provide that surplus funds are not distributed to members, but are applied wholly or partly for the benefit of the local area (ie. within the administrative area of Tendring or a neighbouring local authority). If relevant, please confirm that this is the case, and specifically which area this applies to.

A7 More about your organisation

What are the main aims and activities of your organisation?

Town councils make all kinds of decisions on issues that effect the local community. Probably the most common is planning, but Manningtree Town Council are passionate about our local community, crime prevention, community projects such as the beach toy library, the recent platinum jubilee party and the preservation of the Towns history and heritage.

A8 Your organisation's rules

| Please send us a copy of the relevant type of document for your organisation, and put a cross in the next column to indicate which one this is | |
|---|---|
| Memorandum and Articles of Association (for a company) | |
| Trust Deed (for a trust) | |
| Constitution and/or rules (for other organisations) | X |

Part B: About the land or building(s) you are nominating

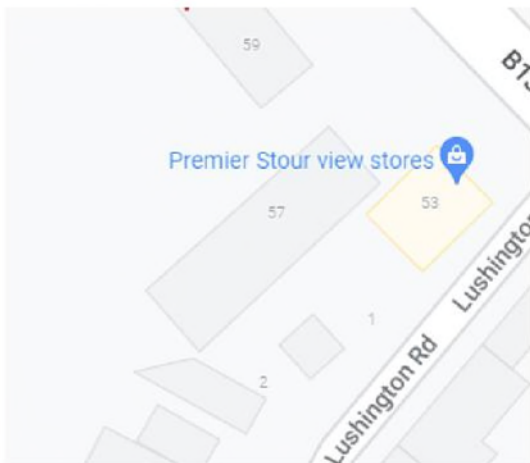
B1 Description and address

| |
|---|
| What it is (eg. pub, local shop) St John's Ambulance Headquarters |
| Name of premises (eg. Royal Oak / Littletown stores) St John's Ambulance hall, Manningtree |
| Address including postcode (if known) 55 Station Road, Manningtree CO11 1EB |

B2 Sketch plan

Please include (here or on a separate sheet) a sketch plan of the land. This should show:-

- The boundaries of the land that you are nominating
- The approximate size and position of any building(s) on the land.
- Any roads bordering the site.



As you can see it is the building marked number 57 on both pictures, the front of the

building is on station road.

B3 Owners and others with an interest in the building or land

You should supply the following information, if possible. If any information is not known to you, please say so.

| | Name(s) | Address(es) |
|---|---------------------|--------------------|
| Names of all current occupants of the land | St John's Ambulance | Same as B1. |
| Names and current or last known addresses of all those owning the freehold of the land (ie. owner, head landlord, head lessor) | | |
| Names and current or last known addresses of all those having a leasehold interest in the land (ie. tenant, intermediate landlord, intermediate lessor) | | |

B4 Why you think the building or land is of community value

Note that the following are not able to be assets of community value:-

- *A building wholly used as a residence, together with land “connected with” that residence. This means adjoining land in the same ownership. Land is treated as adjoining if it is separated only by a road, railway, river or canal.*
- *A caravan site.*
- *Operational land. This is generally land belonging to the former utilities and other statutory operators.*

Does it currently further the social wellbeing or social interests* of the local community, or has it done so in the recent past? If so, how?

The site has for many years been used by the community.

The land was donated by a local business with a stipulation that it should only be used for a communal benefit.

The original hut on the plot was replaced by the current building after many years of fund raising by local volunteers and supporters, using a number means and events. Having raised the funds the local community has always regarded this as a local asset.

The land and buildings were since the donation, owned and run by a local Voluntary organization with ongoing fund raising being done to keep the asset going.

As a location for the St John’s Ambulance brigade it has clearly served the health and wellbeing needs of the local community. The Ambulance stationed there attended many community events and tended to the people’s health care. The site has been used to train both members of St John’s and other locals in first aid techniques.

As well as serving the needs of St John’s Ambulance, the building is primarily a Hall, with toilet and Kitchen facilities which have been regularly used by local groups over many years for meetings and other social events. These groups include:- Manningtree Museum, Photographic club, the Town Council, First Responders, Manningtree & District Royal British Legion, Yarn & Thread (informal craft & social group), Stour Valley Men’s Probus club to name but a few who have used the facilities over many years.

Could it in future further the social wellbeing or social interests* of the local community? If so, how? (This could be different from its current or past use.)

At the moment the Town Council do not have a physical premises in the Town and this could become one for them. At the moment the Council do get asked for requests of places that can be hired out for all kinds of groups and there is a lack of spaces available for this – but this could become one of them. It would also be able to continue being used by the current social groups that are now having to find new homes for their groups that run from there. **These could be cultural, recreational and/or sporting interests, so please say which one(s) apply.*

B5 How could the building or land be acquired and used in future?

If it is listed as an asset of community value, community interest groups (not just limited to your organisation) will get the opportunity to bid for it if it comes up for sale. Please set out how you think such a group could fund the purchase of the building or land, and how they could run it for the benefit of the community.

The Town Council are considering setting up a "Save St Johns Hall" community group – there has been lots of members of the public who have contacted the Town Council regarding this sale and feel it would be better served as a place for the community and continuing to be owned by the community of Manningtree.

We will also be looking into funding grants and fund raising to see how much money could be raised if the property does continue to be sold.

Section C: Submitting this nomination

C1 What to include

- The rules of your organisation (question A8).
- Your sketch plan (question B2).

C2 Signature

By signing your name here (if submitting by post) or typing it (if submitting by email) you are confirming that the contents of this form are correct, to the best of your knowledge.

Signature

| |
|---|
|  |
|---|

C3 Where to send this form

You can submit this nomination:-

- **By post to: Kirstin Foley** Tendring District Council, Town Hall, Station Road, Clacton on Sea, Essex, CO15 1SE
- **By email to:** kfoley@tendringdc.gov.uk