Notice of Decision under Section 91 of the Localism Act 2011

1. Community Nomination

A nomination was received on 18th March 2020 under Section 89 of the Localism Act 2013 (the Act) from Wilbarston Parish Council for the listing of The Fox Inn, 2 Church Street, Wilbarston, Market Harborough, Leicestershire, LE16 8QT as an asset of community value. In compliance with Regulation 6 of the Assets of Community Value (England) Regulations 2012 (the Regulations) the nomination included the following information:

a) A description of the land nominated to be listed as an Asset of Community Value as set out in the attached plans - provided as Appendix 1.

b) The nomination was made by Wilbarston Parish Council and therefore qualifies under the provisions of The Act to makes nominations

c) The reasons for thinking that the Council should conclude that the is of community value including:

i) The Fox Inn, Wilbarston has served the community for decades
ii) It has been host to a variety of social events
iii) It has provided a social hub for the community


The provision relating to Assets of Community Value are set out in Part 5 Chapter 3 of the Localism Act 2011 and the Assets of Community Value Regulations 2012. The Department of Communities and Local Government has also produced a Non-Statutory advice note to assist local authorities to implement the scheme.

Under the legislation the Council is required to maintain a list of land in its area that is of community value. A building or land is of community value if in the opinion of the Council its main use furthers the social well-being or social interests of the local community, or has recently done so and is likely to do so in the future.
A Parish council, a voluntary or community body with a local connection to the land may nominate an asset for listing. The Regulations define voluntary and community bodies which include, for the purposes of this application, a company limited by guarantee and a charity. There must also be a local connection which requires the body’s activities to be wholly or partly concerned with the local authority’s area or (where relevant) a neighbouring authority’s area and any profits made wholly or partly applied within those local authority areas.

The Council must consider and accept the community nomination if the land is in the Council’s area and is of community value.

3. Decision

The Council accepts the nomination by Wilbarston Parish Council of that part of The Fox Inn, 2 Church Street, Wilbarston, Market Harborough, LE16 8QT as shown edged in red on the plan at Appendix 2 on to the Council’s list of assets of community value. The area edged blue, on the plan at Appendix 2, which formed part of the nomination is excluded.

4. Reasons

The reasons for the decision are as follows:

a) The land comprising The Fox Inn, Wilbarston, Market Harborough, LE16 8QT is within the Council’s area
b) Wilbarston Parish Council is eligible to make a community nomination under S89 (2)(b)i of the Act and Regulations 4 and 5 of the Regulations.
c) The nomination included the matter required under Regulation 6.
d) The land outlined red on the plan at Appendix 2 does not fall within the categories which cannot be listed as described in Schedule 1 of the Regulations.
e) The area outlined blue on the plan at Appendix 2 falls within Schedule 1 of the Regulations and, therefore, may not be listed. Schedule 1 excludes residential land and buildings from listing as an asset of community value. The land and building edged blue on the plan at Appendix 2 is used for letting to paying occupants as Bed and Breakfast accommodation. This use qualifies as residential use under Regulation and is, therefore, excluded from the listing as an asset of community value.
f) In the opinion of the Council there is use of the land and buildings, shown edged red on the plan at Appendix 1, as a Public House, and has been for some time in the past, that was not an ancillary use, and has furthered the social well-being or social interests of the local community and is therefore of community value.
g) It is also realistic to think that the non-ancillary use of the land and buildings could in the next five years (whether or not in the same way as before) further the social wellbeing and social interests of the community.
5. Consequences for the land and the owner of the lands inclusion in the list.

The land will be included on the Council’s list of Assets of Community Value and will remain on the list for five years unless removed earlier in accordance with the Regulations.

The listing will be registered as a local land charge.

Under Section 95 of the Act the owner must notify Kettering Borough Council in writing to the Head of Community Services at The Municipal Offices, Bowling Green Road Kettering, NN15 7QX if at anytime the owner wishes to enter into a relevant disposal of the land or buildings. A relevant disposal means a transfer of the freehold or grant or assignment of a qualifying lease which gives vacant possession of the buildings and other land listed as a community asset.

An initial moratorium of six weeks will be triggered to allow a community group to submit a written request to be treated as a potential bidder. The moratorium period runs from the date the Council receives notification under Section 95 of the owners intention to sell the listed asset.

Owners are advised to seek legal advice if they wish to dispose of the land. A disposal of the land which contravenes the Act and Regulations will be ineffective.

6. Right of Review

The owner of the land may request a review of this decision under S92 of the Act. The review will be carried out by a Deputy Chief Executive of the Council. The request for a review must be made in writing within eight weeks beginning on the day on which written notice was given to the owner or longer if the Council agrees. The property will remain listed while the review is carried out. Please provide details of the grounds for the request for a review.

7. Right to Compensation

Private owners may claim compensation for loss and expense incurred through the asset being listed or previously listed. The Regulations specifically provide that this will include a claim arising from a period of delay in entering into a binding agreement to sell which is wholly caused by the interim or full moratorium period; or for legal expenses incurred in a successful appeal to the Tribunal.

The time limit for making a compensation claim is specified in Schedule 2 to the Regulations as whichever is earlier of 13 weeks from the end of the interim or full moratorium period (as appropriate) or from the date when the land ceases to be listed.

Claims must be made in writing, state the amount of compensation sought and provide supporting evidence. The burden of proving the claim falls on the owner. Owners should seek their own legal advice.
Signed

Dated 15/07/2020

Bhupinder Gill
Chief Legal Officer
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APPENDIX 2

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