

Notice under Section 91 of the Localism Act 2011

22nd July 2024

Entry of **Bowdens of Harptree, The High Street, West Harptree, Bristol BS40 6EA** into Bath & North East Somerset Council's List of Assets of Community Value

1. Background

On **28th May 2024**, Bath & North East Somerset Council received a nomination under Section 89 of the Localism Act 2011 ("the Act") to list **Bowdens of Harptree**, as an Asset of Community Value.

West Harptree Parish Council made the nomination. A map setting out the boundaries of the asset nominated to be listed ("The Asset") has been provided.

Under Section 87 of the Act the Council must maintain a list of assets of community value.

Section 88 of the Act states that

(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.

Under Section 89 of the Act, the Council can only enter assets into the list of Assets of Community Value in response to community nomination.

2. Decision-Making Process

The Council's Cabinet on 10th October 2012 resolved to agree that:

2.1 Decision-making in response to nominations for entry into the List of Assets of Community Value under the Localism Act 2011 be delegated to the Director for Partnerships and Corporate Services (and, in the event of this Director having a conflict of interest, to a director nominated by the Corporate Director), drawing on the decision-making guidance as set out in Appendix One (of the report)

2.2 The Director for Partnerships and Corporate Services be delegated decision-making with regard to updating this guidance, in consultation with the Council Leader, in response to experience of implementing the provisions, new regulations and emerging case law.

2.3 The internal review process in relation to listing be undertaken by a director not involved in the initial decision.

2.4 The Director for Property Services be delegated to make arrangements relating to the procedures following listing, including moratorium and compensation provisions, as set out in Appendix Two (of the report).

This decision has been taken because:

(1)

a) The Asset lies within the administrative boundaries of **Bath & North East Somerset Council and Mendip Ward**

b) **West Harptree Parish Council** is entitled under 89(2)b(iii) of the Act to make a community nomination in respect of the Asset

c) The nomination from **West Harptree Parish Council** includes the matters required under Regulation 6 of the Regulations

(d) The Asset does not fall within a description of land which may not be listed as specified in Schedule 1 of the Regulations

and

(2) In the opinion of the Authority,

(a) The actual current use of the Asset that is not an ancillary use furthers the social wellbeing and interests of the local community.

(b) Given that the Asset remains fit for purpose to further the social interest and social wellbeing of the local community, and considering also that there are examples of similar and comparable assets serving these interests, it is realistic to think that the current non-ancillary use of the Asset will continue to further (whether

or not in the same way as before) the social wellbeing or social interests of the local community.

The detailed assessment on which this decision is based, following the criteria adopted by the Council Cabinet on 10th October 2012, and fully considering information supplied by the nominee and other parties (including the owner), is set out in 4 below.

3. What Happens Next

The Asset will now be placed on the list of Assets of Community Value which the Council is required to maintain under Section 87 of the Act.

In accordance with Section 91 of the Localism Act the Council will send this notice to:

The owners and the occupiers of the property

and

West Harptree Parish Council

The information will also be published on the Council's website. The Asset will remain on the Council's List of Assets of Community Value for a period of five years from the date of this notice unless removed with effect from some earlier time in accordance with the provisions of the regulations.

The Localism Act 2011 requires that the Council draw particular attention to the following:

- (a) the consequences for the land and its owner of the land's inclusion in the list, and
- (b) the right to ask for review

The consequences for the land and its owner of the land's inclusion in the list

Inclusion of assets on the List of Assets of Community Value is a local land charge under the Local Land Charges Act 1975. The Council is required under Schedule 4 of the Regulations to apply to the Land Registry for a restriction to be added to the registered title of the land that "no transfer or lease is to be registered without a certificate signed by a conveyancer that the transfer or lease did not contravene Section 95(1) of the Localism Act 2011".

Under Section 95 of the Act an owner must notify the Council (at the following address: Director of Property Services, Lewis House, Manvers Street, Bath BA1 1JG) if they wish to enter into a relevant disposal (as defined in Section 96 of the Act) of that asset. Some types of disposal of listed assets are exempt and these are set out in full in Annex A of the document Community Right to Bid: Non-statutory advice note for local authorities. Annex A also identifies circumstances where, although there is no requirement in the legislation that the owner has to explain to the local authority that the disposal is exempt, it would be helpful for them to do so.

A moratorium period is triggered by notification under Section 95 to allow a Community Interest Group to submit a written request to be treated as a potential bidder for the asset. The owner is advised to refer to Part 5 Chapter 3 of the Act and the Regulations in full and to seek legal advice if they wish to dispose of the asset. A disposal of listed land which contravenes the Regulations and Act will be ineffective.

The owner of the asset does not have to sell the asset to the Community Interest Group. There is also a 'protected period' (18 months from the time that the owner notified the local authority of their intention to dispose of the asset) and during this time there can be no further moratoriums on sale and the owner is free to dispose of the property as they see fit.

The right to ask for review.

Asset owners have the opportunity to request a review of the decision to enter an asset on the List of Assets of Community Value, within 8 weeks of listing. The internal review process in relation to listing will be undertaken by a director not involved in the initial decision.

Landowners wishing to request a review of the decision should do so in writing to the above address or to assets@bathnes.gov.uk by **16th September 2024**, setting out the grounds for review and whether they are requesting an oral hearing.

Private owners may claim compensation for loss and expense incurred through the asset being listed including 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. Regulation 14 of the Regulations contains more detail on this.

Part 5, Chapter 3 of the Localism Act 2011, and the Assets of Community Value (England) Regulations provide further detailed information.

4. Detailed Assessment of the Nomination of Bowdens of Harptree - The High Street, West Harptree, as an Asset of Community Value

Assets of Community Value Nomination – Assessment

DATE OF SUBMISSION:

28th May 2024

DATE DECISION TO BE MADE BY:

22nd July 2024

NOMINATED ASSET:

Bowdens of Harptree - The High Street, West Harptree, Bristol BS40 6EA

The boundary of the asset is set out in the boundary map is included.

NOMINATION SUBMITTED BY:

West Harptree Parish Council

STEP A: This section considers the eligibility of the nominating body to make a nomination and of the asset to be an Asset of Community Value. It does this through a series of YES/NO ANSWERS

A1. Is the nominating organisation an eligible body to nominate?

Evidence supplied by nominee:

West Harptree Parish Council is a valid body in accordance with Regulation 5(1)(c) of the Regulations and complies with section 89(2)(b)(iii) of the Act.

Feedback from other parties and other information gained in relation to this criterion:

None

Score (YES/NO) and any comments:

YES - The Council is satisfied that the nominating body is an eligible body to nominate.

A2. Does the nominating body have a local connection to the asset nominated?

Evidence supplied by nominee:

In accordance with Regulation 4 of the Assets of Community Value (England) Regulations 2012:

the nominating body's activities are wholly concerned with the Bath & North East Somerset area (specifically the nominated asset)

SPAR West Harptree (Bowden's Stores) is the only general store and Post Office which provides fresh food, general groceries, stationery, and gifts and for the small village of West Harptree (c. 500 residents), local community and passing trade /visitors to this ANOB (Area of Outstanding Natural Beauty) within The Mendips.

The submitted map shows that the Asset is sited wholly within the boundaries of Bath and North East Somerset.

Feedback from other parties and other information gained in relation to this criterion.

None

Score (YES/NO) and any comments:

YES- The Council is satisfied that the nominating organisation has a local connection to the nominated asset.

A3. Does the nomination include the required information about the asset?

- Description of the nominated land including its proposed boundaries
- Names of current occupants of the land
- Names and current or last-known addresses of all those holding a freehold or leasehold estate in the land.

Evidence supplied by nominee:

A plan of the nominated land including proposed boundaries.

The name and address of the current owners and occupants of the nominated asset have been provided.

Feedback from other parties and other information gained in relation to this criterion:

None

Score (YES/NO) and any comments:

YES- the Council is satisfied that the nomination has included the required information about the asset.

A4. Is the nominated asset outside of one of the categories that cannot be assets of community value (as set out in Schedule 1 of the Assets of Community Value (England) Regulations 2012):

- A residence together with land connected with that residence.
- Land in respect of which a site licence is required under Part 1 of the Caravan Sites and Control of Development Act 1960.
- Operational land as defined in section 263 of the Town and Country Planning Act 1990.

Evidence supplied by nominee:

Nomination and supporting evidence sufficiently demonstrates that the asset is outside of the categories of assets within Schedule 1 of the Regulations

Feedback from other parties and other information gained in relation to this criterion:

None

Score (YES/NO) and any comments.

YES- the Council is satisfied that the nomination is outside of one of the categories that cannot be assets of community value.

If YES to all of Part A, move on to Step B. If NO to one or more parts, please inform the nominator that the nomination is ineligible. Place nomination on list of unsuccessful nominations.

STEP B: This section considers the current or recent usage of the asset. It does this through a YES/NO answer and an identification as to whether the use is current or in the “recent past.”

B1. Is the current or recent usage which is the subject of the nomination an actual and non-ancillary usage?

NOTE 1: A working definition of “recent past” is “within the past three years”.

NOTE 2: A working definition of “non-ancillary” is that the usage is not providing necessary support (e.g. cleaning) to the primary activities carried out in the asset, but is itself a primary, additional, or complementary use.

Evidence supplied by nominee:

The nomination form states - Bowdens of Harptree - has been in operating since 1861 under multiple ownerships and since 1964 by the Bowden Family. The building itself dates back to prior 1830.

Feedback from other parties and other information gained in relation to this criterion:

None

Score (YES/NO) and any comments.

YES- the current usage which is the subject of the nomination is an actual and non-ancillary usage.

If the current or recent usage that is the subject of the nomination is actual and non-ancillary, go to Step C. If not, place on the list of unsuccessful nominations.

STEP C: This section considers whether the use furthers (for current uses) or furthered (for uses in the recent past) the social interests or social wellbeing of the local community. It does this through a series of questions scored on the basis of evidence.

C1. Who benefits from the use?

- Does it meet the social interests of the community as a whole and not simply the users/customers of the specific service?
- Who will lose if the usage ceases?

Evidence supplied by nominee:

The shop serves the community providing postal services, fresh bakery items, fresh baked pasties, and a variety of fresh sandwiches.

Bowdens of Harptree offers an excellent variety of delicatessen foods, frozen foods, and general grocery items. It also has an off-license and there is a wide selection of wines, beers, and spirits. Local cider and mixers are also sold.

The store is open:

Monday – Saturday 7:00am – 7:00pm

Sunday 8:00am – 4:00pm

Bank and Public Holidays 8:00am – 4:00pm

For Postal services, located inside Bowdens of Harptree. A mailbox is located outside the shop with a pick-up usually twice a day during the week and once on Saturday. The shop provides package handling and packing supplies.

Services include:

- **Post Office Card Account**
- **Cash deposits and withdrawals with a ‘chip and pin’ card.**
- **Postal orders**
- **Money grams**
- **Electronic bill payments**
- **E top-up**
- **Pre-order of travel money and Euro Currency.**

The post office is open:

Monday – Friday 14:00 – 17:00

Closed Saturday and Sunday

Importantly and in addition to the ‘above’ mentioned points, the shop provides full/ part time employment for staff.

Evidence gained from other relevant sources (owner, Ward member, Parish Council, B&NES Council)

None

Enter score out of 25 and rationale.

20/25

C2. Is any aspect of the usage actively discouraged by the Council's Policy and Budget Framework?

Evidence supplied by nominee:

There is no evidence that the usage is actively discouraged by the Council's Policy and Budget framework, and it is not contrary to existing planning policies.

Evidence gained from other relevant sources (owner, Ward member, Parish Council, B&NES Council):

None

Enter score out of 25 and rationale.

25/25 - No active discouragement by the Council's Policy and Budget Framework has been identified.

C3. Why is the usage seen as having social value in the context of the community on whose behalf the nomination is being made?

Evidence supplied by nominee:

Many local residents rely on having a local shop and convenient 'everyday' services that they can visit. Either as their main store or as a 'top-up' shop.

The products sold also support local producers and farmers – For example: the selling of locally sourced products and freshly made cakes and preserves.

Evidence gained from other relevant sources (owner, Ward member, Parish Council, B&NES Council)

The Chew Valley Neighbourhood Plan contains information which defines priorities that show the importance for the consideration towards assessable local services and rural transport issues in the local area.

<http://www.cvnp.co.uk>

- Page 3 – “maintain and enhance good quality, accessible facilities, including community, leisure, and recreational facilities, such as local pubs and shops, thus, ensuring that the diverse economic and social vitality is sustained and enhanced. This must be in keeping with the character and distinctiveness of the seven parishes.”
- Page 47 – “Pubs, restaurants, cafes, and shops are an important aspect of village life and a significant employment sector in the Plan Area. Residents value these facilities and have indicated a desire to ensure they are retained wherever possible.”
- Page 52 – “Due to the lack of regular public transport, residents use cars to get to work and to visit commercial areas, local businesses and for retail shopping etc.”

Enter score out of 25 and rationale.

20/25

C4. How strongly does the local community feel about the usage as furthering their social interests?

Evidence provided by nominee.

Not only is the shop of value to those living within the West Harptree community. Customers come from all over the valley to make use of the services provided, which lie in the heart of a rural village community. The nearest alternative, being c.4 miles away. Locals within the village of West Harptree can access the store easily by foot.

A shop at the centre of the village and within the heart of the community would be an asset of true Community Value. This recognition would help to further strengthen its importance as an important and pivotal destination for purchasing (and selling) groceries and postal services within the village.

Evidence gained from other relevant sources (owner, Ward member, Parish Council, B&NES Council)

The Chew Valley Neighbourhood Plan Page 47 - “The household survey showed how important local facilities were to residents* and how much they are used on a frequent basis. Without these facilities in the local area residents would have to travel significant distances. The GP / Health Centre and Post Office are more likely to be important for elderly or retired residents who make up almost half of the survey respondents.”

Enter score out of 25 and rationale.

20/25

Total score:

85/100

If STEP C meets a minimum scoring of 55%, go to Step D

STEP D: This section considers whether 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.

For assets such as this where the actual non-ancillary usage is a current one (see Step B above), 88(1) (b) of the Localism Act requires the Council to consider whether in the opinion of the local authority it is realistic to think that there can continue to be non-ancillary use of the building or other land that will further (whether or not in the same way) the social wellbeing or social interests of the local community.

D1. Has the building/land-take/space/legal requirement for this usage changed significantly since its initial use so that the asset is not fit for purpose?

Evidence supplied by nominee:

None

Feedback from other parties and other information gained in relation to this criterion:

None

Score (YES/NO) and rationale.

NO- the asset is considered to be fit for purpose.

If No to D1, place on register of Assets of Community Value, and do not go to D2. If yes to D1, go to D2.

D2. Could the asset be made fit for purpose practically and within reasonable resource requirements and within timescales?

Evidence supplied by nominee:

Not applicable

Feedback from other parties and other information gained in relation to this criteria.

Not applicable

Score (YES/NO) and Rationale:

Not scored as NO answer to D1 above

If yes to D2, place on register of Assets of Community Value. If no to D2, place on list of unsuccessful nominations.

RECOMMENDATION:

THAT THIS ASSET BE PLACED ON THE ASSETS OF COMMUNITY VALUE

REASON FOR DECISION

(1)

a) The Asset lies within the administrative boundaries of Bath & North East Somerset and Mendip Ward.

b) West Harptree Parish Council is entitled under 89(2)b)(iii) of the Act to make a community nomination in respect of the Asset

c) The nomination from West Harptree Parish Council includes the matters required under regulation 6 of the Regulations

(d) The Asset does not fall within a description of land which may not be listed as specified in Schedule 1 of the Regulations

And

(2) in the opinion of the authority,

(a) The current and recent use of the Asset that is not an ancillary use furthers the social wellbeing and interests of the local community

(b) Given that the Asset remains fit for purpose to further the social interest and social wellbeing of the local community and considering that there are examples of similar and comparable assets serving these uses, it is realistic to think that the current non-ancillary use of the Asset will continue to further (whether or not in the same way as before) the social wellbeing or social interests of the local community.

Decision Taken by



**Cherry Bennett
Director of People & Policy
Bath & North East Somerset Council**

Date

22nd July 2024

Asset Location Map



0 2 4 6 8 12 16 20m

Map scale 1:625

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