

Notice under Section 91 of the Localism Act 2011

3rd September 2020

Entry of **Victoria Hotel, Millmead Road, Bath BA2 3JW** into Bath & North East Somerset Council's List of Assets of Community Value

1. Background

On **16th July 2020**, Bath & North East Somerset Council received a nomination under Section 89 of the Localism Act 2011 ("the Act") to list **Victoria Hotel, Millmead Road, Bath BA2 3JW**, as an Asset of Community Value.

Victoria Community Group 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 Westmoreland Ward**

b) **Victoria Community Group** is entitled under 89(2)b)(iii) of the Act to make a community nomination in respect of the Asset

c) The nomination from **Victoria Community Group** 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

Victoria Community Group

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 **29th October 2020**, 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 Victoria Hotel, Millmead Road, Bath BA2 3JW, as an Asset of Community Value

Assets of Community Value Nomination – Assessment

DATE OF SUBMISSION:

16th July 2020

DATE DECISION TO BE MADE BY:

3rd September 2020

NOMINATED ASSET:

Victoria Hotel, Millmead Road, Bath BA2 3JW

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

NOMINATION SUBMITTED BY:

Victoria Community Group

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:

Victoria Community Group 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.

Victoria Community Group constitution and membership list have been provided.

An officer of the Council has accessed the current electoral register for Bath & North East Somerset and has confirmed that all 22 signatories of Victoria Community Group are listed on the register as of 16 July 2020.

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

Ward Councillor June Player has worked alongside Victoria Community Group in preparation of the nomination.

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)

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 building was purpose built as a hotel in 1897. It is understood to have been in continuous use as a hotel or public house since then and until its abrupt and unannounced closure in October 2018.

The property was sold to its present owner in January 2019 and has since been the subject of two applications for change of use, both of which were withdrawn.

The main non-ancillary uses of the building are planning use-classes A4 (Drinking Establishment) and A3 (Restaurant / Cafe). These primary functions are reflected in the three-ground floor public rooms and supporting kitchen and store areas. The building also features an enclosed beer garden and extensive further outdoor space to the south with gated access to provide private off-street car parking.

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 building is currently vacant and has been closed since 2018. Until the present ownership, and since 1897, the Victoria Hotel has always operated as an A4 drinking establishment, with a vibrant and community-focused past. The pub was well used by all age groups and provided a neighbourhood venue where students mixed with permanent residents. Under its last landlord, from 2017, it did not enjoy the same level of regular custom. Many locals believe this may have been due to a change in management approach, resulting in many of the sports activities being stopped, and other groups feeling less welcome.

In its modern history, the pub has played host to wide range of local clubs and groups. The variety of groups who met regularly at the Victoria, show that the pub has been able to attract visitors outside of its usual patronage; not just local drinkers, but other members of the community who found it a useful meeting place for their needs. The large and flexible space offered by the pub also meant it could comfortably accommodate several groups at one time.

Local groups and clubs who met regularly at the Victoria included:

Pre-School Committees for Oldfield Park Pre-School and Stepping Stones Pre-School.

The pub's own Sunday League football team, Livingstone Villa FC

Regular local league matches were held here for skittles (9 teams), darts (2 teams), pool (2 teams), and cribbage (2 teams).

A Golf Society

Victoria Park Bowls Club

The Sundowners MCC (local motorbike enthusiasts)

Two pigeon racing clubs

The Bath and Wiltshire Manchester City

Supporters Club (previous landlord recalls a celebratory event at the pub when they were able to host the Cup for one evening)

Local Neighbourhood Watch

The Westmoreland Residents' Action Group (WRAG), chaired by councillor June Player

**The pub was well used for local events, especially for fund-raising (see C3).
The historic skittle alley on**

**the top floor would often double up as an event space when not in use for
skittle leagues and could be hired for birthday parties and other events.**

**The pub is quite unusual for having a garden and is one of very few local
venues with outdoor space. In previous years, the garden was a focal point in
summer, when it was popular with local residents for a regular family barbecue
on Sundays.**

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

**A number of articles had appeared in the local media that relate to the closure
of the public house.**

<https://www.somersetlive.co.uk/whats-on/food-drink/mystery-surrounds-closure-bath-pub-2141533>

[https://www.bathecho.co.uk/news/politics/bid-launched-list-pub-community-asset-conversion-hmo-](https://www.bathecho.co.uk/news/politics/bid-launched-list-pub-community-asset-conversion-hmo-89692/)

89692/

<https://www.somersetlive.co.uk/news/somerset-news/backlash-over-plan-turn-old-3993367>

<https://pubheritage.camra.org.uk/pubs/8168>

Enter score out of 25 and rationale.

10/25

The application offers a strong range of organisations that have in the past been based on The Victoria Public House. Many of the groups listed are users or customers who come from the local community.

There are groups such as the residents action group and schools who represent the wider community who are missing the availability of this asset being available to them.

The Public House has now been closed for nearly two years and many of three organisations using the location will have now found other locations to operate out of. There is no evidence that they will return.

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:

The Victoria has provided a strategically important focal point for the local residents, and a community 'common house' for all comers in western Oldfield Park, South Twerton and beyond. Local people have voiced strong feelings about the loss of the pub since 2018. Many felt pride in their local pub and a sense of community came as a result of the broad range of clubs and groups who met there.

"Having lived in the same road as the Vic for fifty years I remember many good times there. Here's hoping it will be available for our community once again." - local resident.

"I sincerely believe that we should not lose this wonderful local resource." - local resident.

The pub was also frequently used as a venue for local charity fundraising events. South Twerton School (now Oldfield Park Junior School) used the pub space to host quiz nights and raffles.

"The school PTA has used The Vic as a regular meeting place in the past. It is in a great location for local parents to meet and is equidistant between Oldfield Infants' and Junior schools. If The Vic were to reopen as a meeting space and cafe, the school would certainly be interested in using the space again. We are also always looking for venues for meetings for PTA and Governors, together with coffee mornings and fundraising events." - Chair of Governors, Oldfield Park Infants School, and PTA member, Oldfield Park Juniors School

The Victoria also hosted a weekly meat draw, which raised thousands of pounds over several years for local causes. Recipients of the proceeds included the two local pre-schools, after-school clubs, and Bath City Farm.

"We always held our monthly committee meetings and AGM meetings in the skittle alley upstairs. We continued to use the pub until it closed. The pre-school also benefited from the meat draw, which was held until as recently as 2017, with donations of around £500." - Oldfield Park Pre-School Leader, 2002-present

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

Enter score out of 25 and rationale.

20/25

The information provided within the application shows that the community have great fondness and good memories from how this public house has operated in the past.

The testimonies provided shows that if the public house were to reopen there is a strong level of social value that would be retained.

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

Evidence provided by nominee.

The local community have expressed their thoughts on the community value of the pub through a number of ways and have shown a lot of support for our plans to make this application. We have been careful to listen to all feedback.

Over recent months we have gathered data through a petition, questionnaires, emails and via a Facebook group, the Victoria Community Group, which currently has 177 members. Our online petition in support of this ACV application, gained 282 signatures (see annex two) during a period of lockdown due to CV19.

The hoped-for future of the Victoria, if ACV is enabled, is a community hub for local residents to meet, work, and relax together. It would be a focal point for the western corner of Oldfield Park and would enable different groups and individuals to come together in one meeting place. The community response to this proposal has been overwhelmingly positive.

The Victoria Community Group has now formed a committee of local residents who are looking at how best to use the space for community purposes, in ways consistent with the original purpose of the building and its current use, as well as this ACV nomination.

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

Local ward member for Westmoreland, notes the Victoria's important community role in the following statement in support of this application:

"I am very much in support of the Victoria Community Group's application to list the Victoria Hotel Public House in Millmead Rd Bath as an Asset of Community Value (ACV) to safeguard it as a Community Hub for future use. Our Ward of Westmoreland is in great need of such a facility and until about the last 2 years this building offered many varied and highly valued social activities which both enhanced the lives for many residents as well as promoted a good community feel. A most important facility that is really needed and which would be ideal in this location, in addition to the many various club and team events that used to take place here, is a Meeting Room that is accessible for all. I did for some time hold meetings for Ward residents (Westmoreland Residents' Action Group - WRAG) which were extremely useful and important both from an information point-of-view and for meeting-up with other neighbours and friends. These WRAG meetings were on various topics of interest and concern with invited speakers. Unfortunately, though the lack of accessibility for all meant I had to find alternative venues but as is known, continuity and familiarity is an important factor for people and encourages them to attend what is being offered, so a permanent venue would be the ideal, which now seems a real possibility. Our community which is densely populated desperately needs to have a community asset that provides a good variety of different community activities for the benefit of all. I very much hope this application is successful."

Enter score out of 25 and rationale.

15/25

The application has been submitted at a time when covid-19 had impacted on communities. In Bath there is currently a need for additional space for activities from universities and other groups that need to be able to operate within the social distancing rules.

The Victoria Community Group put across in their application the desire to work with the current owner to look at ways to reopen this space that they feel is valuable to their community.

Total score:

70/100

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 Westmoreland Ward.

b) Victoria Community Group is entitled under 89(2)b)(iii) of the Act to make a community nomination in respect of the Asset

c) The nomination from Victoria Community Group 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

D. Trethewey

**David Trethewey
Director Partnerships and Corporate Services
Bath & North East Somerset Council**

Date

3rd September 2020

Asset Location Map

**SITE LOCATION PLAN
AREA 2 HA
SCALE 1:1250 on A4
CENTRE COORDINATES: 373412, 164388**



