

# DACORUM BOROUGH COUNCIL - LIST OF UNSUCCESSFUL COMMUNITY NOMINATIONS

Ref No	Asset Name	Address	Date of Nomination	Date of Rejection	Reasons why listing was Unsuccessful
1	Ballspond Farm	Chipperfield Road, Kings Langley, Herts, WD4 9JB	24/08/2013	16/10/2013	<p>Schedule 1 of the Assets of Community Value (England) Regulations 2012 prescribes that certain categories of land are not of community value (and therefore may not be listed). Section 1 (1) of Schedule 1 includes a residence together with land connected with that residence. Land is connected with a residence if -</p> <p>(a) The land, and the residence, are owned by a single owner, and</p> <p>(b) Every part of the land can be reached from the residence without having to cross land which is not owned by that single owner</p> <p>It appears to the Council that the Building in question is a residence together with land connected with that residence, which are all owned by one owner, namely Hertfordshire County Council. Therefore the Building cannot be listed as an asset of community value.</p>
2	Paddock to the rear of the Royal Oak, Bovingdon	Bovingdon Green, Bovingdon, Herts, HP3 0LZ	06/11/2013	27/11/2013	<p>For a nomination to be of Community Value there has to be either a current use of the land or one that occurred in the recent past which furthered the social wellbeing or social interests of the local community. There is no evidence submitted which suggests that there is a current community use of the land or one that has occurred in the recent past. The nomination presented is based on a possible future use of the Land, however, this does not meet the criteria in section 88 of the Localism Act and therefore the Land cannot be listed on the List of Community Assets.</p>

3	Boathouse	Castlewharf, Bridge Street, Berkhamsted, Herts, HP4 2EB	20/05/2014	09/07/2014	The nomination states that the boatyard offers services to residents interested in leisure boating and brings visitors that increase the local economy; however, the nomination response submitted on behalf of the Owners states that there has been no commercial use of the boatyard for at least 10 years. The nomination response annexed a Planning Inspectors decision dated 23 May 2008 (Ref APP/A1910/A/07/2045528 which supported the fact that the boatyard has not been in use where he refers to a previous Inspector's decision on the site and said at Paragraph 15 that: "However, he injects a proper note of realism in paragraph 17 that, due in part to the fragmentation of ownership, in addition to an increase in boat size, restarting a boat hire business and repair yard as operated from the 1970s through to the beginning of the 21st century, can no longer be considered viable".
4	Burns Drive Garages	Burns Drive, Woodhall Farm, Hemel Hempstead, Herts, HP2 7NP	30/06/2014	12/08/2014	The reason put forward by the Nominating Party for nominating this land appears to be that failure to permit parking on the land detrimentally impacts the social wellbeing and recreational interests of the residents of Burns Drive. However, based on the information submitted by the Nominating Party the Land has not been used for lawful parking since 2003 when the Owners started clamping vehicles and it therefore appears to the Council that the Land is not currently being used for any use which could further the social wellbeing or social interests of the local community and therefore section 88(1)(a) cannot apply because there is not an actual current use of the land for parking

5	Aldbury Stores	The Green, Aldbury, Herts, HP23 5RR	11/04/2018	16/05/2018	<p>The Council is satisfied that the Land does not appear within a description specified in Schedule 1 Assets of Community Value (England) Regulations 2012.</p> <p>The Council is also satisfied that the nomination is valid and that the Land is within the Local Authority's area. However, for a nomination to be of Community Value there has to be either a current use of the Land or one that occurred in the recent past which furthered the social wellbeing or social interests of the local community. It is not felt there is sufficient evidence to show that the primary current use of the land furthers the social well-being or social interests of the local community. The Nominating Body indicates that the shop serves all ages of shopper and is "a place of community where news, information and opinions are shared and discussed", that it sells a wide variety of products and that the nearest alternative shop is some 3 miles away and is of value to those who have no access to a car for everyday use. It is accepted that there is incidental, unorganised ancillary social engagement as a result of people attending the shop but it is not felt this is sufficient to meet the statutory test. The convenience of having a local shop is not the same as the shop furthering the social well-being or interests of the local community.</p> <p>Turning to whether the land has previously been used for the purposes of furthering the social well-being or interests of the local community in the "recent past" and it is realistic to think that it will be used for the same purpose again within the next five years – no specific further evidence has been submitted by the nominating body in this regard and as such there is nothing to suggest that this test is met either. As such, the application to register the Property is rejected.</p>
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6	The Village Store	Church Road, Potten End, Berkhamsted, HP4 2QY	01/05/2018	02/07/2018	<p>The Council is satisfied that the Land does not appear within a description specified in Schedule 1 Assets of Community Value (England) Regulations 2012.</p> <p>The Council is also satisfied that the nomination is valid and that the Land is within the Local Authority's area. However, for a nomination to be of Community Value there has to be either a current use of the Land or one that occurred in the recent past which furthered the social wellbeing or social interests of the local community. It is not felt there is sufficient evidence to show that the primary current use of the land furthers the social well-being or social interests of the local community.</p> <p>The Nominating Body indicates that the shop comprises "a much needed village shop which includes facilities to pick up parcels, laundry, phone top-ups, council tax/rent payments". It is accepted that there is/may be incidental, unorganised ancillary social engagement as a result of people attending the shop but it is not felt this is sufficient to meet the statutory test. The convenience of having a local shop is not the same as the shop furthering the social well-being or interests of the local community.</p> <p>Turning to whether the land has previously been used for the purposes of furthering the social well-being or interests of the local community in the "recent past" and it is realistic to think that it will be used for the same purpose again within the next five years - no specific further evidence has been submitted by the nominating body in this regard and as such there is nothing to suggest that this test is met either. As such, the application to register the Property is rejected.</p>
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7	St Bartholomew's Church	Hemp Lane, Wigginton, HP23 6HF	21/03/2019	24/04/2019	<p>The Council is satisfied that the Building does not appear within a description in Schedule 1 Assets of Community Value (England) Regulations 2012. The Council is also satisfied that the nomination is valid and that the Building is within the Local Authority's area. However, for a nomination to be of Community Value there has to be either a current use of the Building or one that occurred in the recent past which furthered the social wellbeing or social interests of the local community.</p> <p>The Council is mindful of the First Tier Tribunal decision reached in General Conference of the New Church v Bristol City Council (Localism Act 2011) [2015] UKFTT CR 2014 0013 (GRC) and agrees that the expression "social wellbeing and social interests of the community" in Section 88 does not "encompass religious observances in a church, mosque or synagogue etc" and that such a building would not in practice fall within Section 88 unless some other non-ancillary use was being made of it that did further the social wellbeing/social interests of the local community.</p> <p>It is not felt that sufficient evidence has been submitted to demonstrate that this statutory test has been met.</p> <p>The Nominating Body indicates that the church is a key asset for many people in the village, with 2 (sometimes 3) services each week. It refers to "strong connections" to the local school whose pupils regularly visit the church for the services. It also states that the cemetery is still used for burials.</p> <p>The evidence does not go beyond showing the "religious observances in a church" and as such does not satisfy the Section 88 criteria.</p> <p>The Nominating Body goes on to state that "a weekly cafe" is held in the church hall. A popular fair is held annually in the church grounds.</p> <p>On the bases of this alone, however, it was not felt that the evidence discloses that the other uses have a more than ancillary character and as</p>
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8	The Windmill Public House	The Common, Chipperfield, Kings Langley, WD4 9BU	05/11/2020	10/12/2020	<p>The Council is also satisfied that the nomination is valid and that the Property is within the Local Authority's area. However, for a nomination to be of Community Value there has to be either a current use of the Property or one that occurred in the recent past which furthered the social wellbeing or social interests of the local community which can be cultural, recreational or sporting interests. The Council noted that quiz nights take place at the Property raising funds for charities and that local clubs use the Property to meet. However no evidence was provided regarding the frequency of these events, which sectors of the local community attends them, or how the activities at the Property further the social wellbeing or social interests of the local community. The Council took the view that in order to justify a listing, there needs to be evidence that the Property acts as a hub or focal point for the local community groups.</p>
9	The George and Dragon Public House	87 High Street, Berkhamsted, HP4 3QL	05/11/2020	10/12/2020	<p>The Council is also satisfied that the nomination is valid and that the Property is within the Local Authority's area. However, for a nomination to be of Community Value there has to be either a current use of the Property or one that occurred in the recent past which furthered the social wellbeing or social interests of the local community which can be cultural, recreational or sporting interests. The Council noted that quiz nights and live events take place at the Property. However no evidence was provided regarding the frequency of these events, which sectors of the local community attended them, or how the activities at the Property further the social wellbeing or social interests of the local community. The Council also noted that weekly Women's Institute meetings took place at the Property when not in lockdown. Again, no information was provided to demonstrate how these meetings benefit the local community or how this was a non-ancillary use of the Property.</p>

10	The Paddock Public House	Tower Hill, Chipperfield, WD4 9LJ	10/11/2020	10/12/2020	<p>The Council is also satisfied that the nomination is valid and that the Property is within the Local Authority's area. However, for a nomination to be of Community Value there has to be either a current use of the Property or one that occurred in the recent past which furthered the social wellbeing or social interests of the local community which can be cultural, recreational or sporting interests. The Council noted that quiz nights take place at the Property and that these were popular after the first lockdown as the community felt part of a group. However no evidence was provided regarding the frequency of the quiz nights, which sectors of the local community attended them, or how the activities at the Property would further the social wellbeing or social interests of the local community in the longer term, postlockdown.</p>
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11	The Crystal Palace	Station Road, Berkhamsted, HP4 2EZ	27/11/2020	18/01/2021	<p>The Council is also satisfied that the nomination is valid and that the Property is within the Local Authority's area. However, for a nomination to be of Community Value there has to be either a current use of the Property or one that occurred in the recent past which furthered the social wellbeing or social interests of the local community which can be cultural, recreational or sporting interests. The Council noted that the Property had not been operated as a pub since March 2020 and therefore section 88(1) of the Localism Act is not satisfied as there is no actual or current use as a pub. The Council then considered if there had been a use which furthered the wellbeing of the local community in the recent past to satisfy section 88(2)(a). When determining what is the 'recent past' the Council determined that for this nomination this is to be in the last five years, due to the long standing history as a pub. The Panel considered the 20 facts put forward by the Nominator. The Council determined that the TripAdvisor reviews did not evidence any use in the recent past which furthered the social well-being or interests of the local community. It could not be established if all of the reviews were submitted by residents of the local community. Furthermore, many of the reviews pre-date November 2015 and are therefore not in the 'recent past'. Added to this, the majority of the reviews focused on the standard of the food and décor and did not evidence any events which took place regularly enough or were just as important as the main use as a pub to be considered as non-ancillary uses. The Council viewed these events as additional features of the pub. The Council also took the view that the long standing history, location (including proximity to the canal and station), visual amenity and objections to the current planning application are not relevant factors when considering the use of the Property within section 88(2). Notwithstanding the nomination failing to meet section 88(2) (a), the Council did consider if section 88(2) (b) would be satisfied. The Council took into consideration</p>
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				<p>that a planning application was pending and that further to an expert's report, it would not be financially viable to continue to use the Property as a pub owing to the state of repair, amount of capital investment required and general decline in alcohol consumption. Any alternative use would require substantial investment to bring the Property up to a decent standard. The Council considered the Nominator's proposals to repair the Property at a lower cost to be less reliable as these were not substantiated by an alternative expert. The Nominator's proposals included buying the freehold using donations but did not include proposals of how the leasehold interest would be dealt with. The Nominator did not confirm the level of funding that would be available to purchase the Property. The Council was mindful of the recent First Tier Tribunal decision in <i>Carsberg and M &amp; A Knightsbridge Properties Limited –v- East Northamptonshire Council CR.2020.0004 and CR.2020.0005</i>), in which it was stated that in order to determine what is a realistic future use, a detailed business case is not required but a sensible and practical idea of how and what can be achieved needs to be demonstrated. The Council noted that there was no evidence to suggest that there was sufficient demand for the ten income streams proposed by the Nominator (including bar, restaurant and café) or that these uses would further the well-being of the local community which would make this proposal a realistic prospect or a financially viable one and therefore it is fanciful and speculative. Furthermore the commercial letting of the Upper Floor does not further the social well being of the local community. Accordingly, the application to register the Property is</p>
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12	Berkhamsted Football Club	Lower Kings Road, Berkhamsted, HP4 2AL	18/06/2021	13/09/2021	<p>The Council is satisfied that the Property does not appear within a description in Schedule 1 Assets of Community Value (England) Regulations 2012, land which is not of community value.</p> <p>The Council noted that the Property has primarily been used as a football club and therefore section 88(1) of the Localism Act is satisfied. The Council considered the Clubhouse activities as ancillary to the main use as a football club and therefore not relevant uses when considering the application.</p> <p>The Council then considered if there had been a use which furthered the wellbeing of the local community in the recent past to satisfy section 88(2) (a). There is no statutory definition of “local community” which can vary from asset to asset depending on the particular facts of each application. The Panel determined that for a football club, the local community would be residents living in the vicinity of the Property and that usage should act as a hub or focal point for a significant proportion of an identifiable community.</p> <p>Having taken into account the above criteria for “local community”, the Panel considered the eligibility criteria for joining the five teams which are based on age group and ability. The eligibility requirement does not include having a local connection. Further no evidence was provided to show that the spectators of the matches are primarily from a large part of the local community. Therefore the Panel determined that section 88(2)(a) of the Localism Act 2011 is not satisfied.</p> <p>Notwithstanding the nomination failing to meet section 88(2)(a), the Council did consider if section 88(2)(b) would be satisfied. The Council took into consideration that the current Occupier’s lease is due to expire in 2023 and that this is not protected by security provisions under the Landlord and Tenant Act 1954. The Council also considered the representations made by the Freehold Owner which confirms the intention to sell the Property for future development and also noted that at the current time there is no planning application pending or planning permission for the site to be used for an alternative use. On balance of these facts, the Panel determined that it is not realistic to think that the Property could be used in a way that would further the social well-being or social interests of the local community in the next five years.</p> <p>Accordingly, the application to register the Property is rejected.</p>
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13	Valiant Trooper	Trooper Road, Aldbury, Tring, HP23	07/10/2021	09/10/2021	<p>The Council is satisfied that the Property does not appear within a description in Schedule 1 Assets of Community Value (England) Regulations 2012, land which is not of community value. The Council is also satisfied that the nomination is valid and that the Property is within the Local Authority's area. However, for a nomination to be of Community Value there has to be either a current use of the Property or one that occurred in the recent past which furthered the social wellbeing or social interests of the local community which can be cultural, recreational or sporting interests. The Council noted that the Property was closed for business and was not being operated as a pub and therefore section 88(1) of the Localism Act is not satisfied as there is no actual or current use as a pub. The Council then considered if there had been a use which furthered the wellbeing of the local community in the recent past to satisfy section 88(2)(a). When determining what is the 'recent past' the Council determined that for this nomination, the period to be considered is in the last five years, due to the long standing history as a pub. The Panel considered the evidence and representations put forward by the Nominating Body and Aldbury Parish Council. The Council was mindful of previous appeal decisions where it was determined that pubs do not automatically qualify as an asset of community value, namely the Upper Tribunal decision reached in <i>Admiral Taverns Limited v Cheshire West and Chester Council</i> [2018] UKUT 15 (AAC) and <i>Patel v London Borough of Hackney and another</i> [2013] UKFTT CR/2013/0005 (GRC). There are no classes of properties designated by statute as assets of community value as this can differ from place to place.</p>
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The Council determined that the activities listed in the supplementary information submitted by the Nominating Body did not evidence any use in the recent past which furthered the social well-being or interests of the local community which were not just incidental to the use as a pub. Activities such as being a meeting point for various cycling and walking groups, Bridge Club, beer festivals, barbeques, comedy nights and dominoes competitions did not evidence events which took place regularly enough or were just as important as the main use as a pub to be considered as non-ancillary uses. The Council considered that these events took place at the pub as a convenience rather than a necessity. No information was provided as to why these events could not take place at the local village hall or at the other neighbouring pub or what the impact has been to the local community while the pub has been shut. The Council also took the view that the long standing history of the pub, informal atmosphere and parking facilities are not relevant factors when considering the use of the Property within section 88(2). These are additional features of the pub. Notwithstanding the nomination failing to meet section 88(2)(a), the Council did consider if section 88(2)(b) would be satisfied. The Council took into consideration the Freehold owner's representation that the owner has no intention to operate the property as a pub and, it would not be financially viable to continue to use the Property as a pub owing to the state of repair, amount of capital investment required and competition from the close proximity of another pub and food establishments in nearby villages.

The Council was mindful of the recent First Tier Tribunal decision in *Carsberg and M & A Knightsbridge Properties Limited –v- East Northamptonshire Council CR.2020.0004 and CR.2020.0005*), in which it was determined that in order to determine what is a realistic future use, a detailed business case is not required but a sensible and practical idea of how and what can be achieved needs to be demonstrated. The Council noted that no evidence was put forward by the Nominating Body as to how the property could be a viable business as a pub in the future.

Accordingly, the application to register the Property is rejected.

14	Bridgewater Arms Hotel	Little Gaddesden, Berkhamsted, HP	20/05/2021	10/11/2021	<p>The Council is satisfied that the Property does not appear within a description in Schedule 1 Assets of Community Value (England) Regulations 2012, land which is not of community value. The Council is also satisfied that the nomination is valid and that the Property is within the Local Authority's area. However, for a nomination to be of Community Value there has to be either a current use of the Property or one that occurred in the recent past which furthered the social wellbeing or social interests of the local community which can be cultural, recreational or sporting interests. The Council noted that the Property was operating as a pub. The Council then considered if there was an actual current use which furthers the wellbeing of the local community in the recent past to satisfy section 88(1)(a). The Panel considered the evidence and representations put forward by the Nominating Body. No representations were received from the freehold owner. The Council was mindful of previous appeal decisions where it was determined that pubs do not automatically qualify as an asset of community value, namely the Upper Tribunal decision reached in <i>Admiral Taverns Limited v Cheshire West and Chester Council</i> [2018] UKUT 15 (AAC) and <i>Patel v London Borough of Hackney and another</i> [2013] UKFTT CR/2013/0005 (GRC)</p> <p>There are no classes of properties designated by statute as assets of community value as this can differ from place to place. The Council determined that the activities listed in the application and further supplementary information submitted by the Nominating Body did not evidence an actual current use, which furthers the social well-being or interests of the local community, which were not just incidental to the use as a pub. Activities such as quiz nights, Royal British Legion meetings and Village Produce Association meetings did not evidence events which took place regularly enough or were just as important as the main use as a pub to be considered as non-ancillary uses. The Council considered that these events took place at the pub as a convenience rather than a necessity. No information was provided as to why these events could not take place at the local village hall and noted that the main activities of the Village Produce Association are gardening which take place outside of the Property. The Council also took the view that the housing of the village defibrillator at the Property, meal deals and drama club performances are additional features of the pub but not relevant uses under section 88(1)(a).</p> <p>Accordingly, the application to register the Property is rejected.</p>
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