

CHAPTER 3, PART 5 OF THE LOCALISM ACT 2011
ASSETS OF COMMUNITY VALUE (ENGLAND) REGULATIONS 2012

NOMINATION OF BUILDING OR LAND TO BE INCLUDED IN
LIST OF ASSETS OF COMMUNITY VALUE

DELEGATED REPORT

Reference: PR86-006

Case Officer: Darren McBride

Site Address: The George Inn Public House (also known as The Barrow House), The Street, Egerton, Ashford, Kent TN27 9DJ

Title Number(s): K342007 (Freehold) and TT52336 (Leasehold)

Nominating Body: Egerton Parish Council

Nomination Validated: 28 October 2025

Deadline Date: 23 December 2025

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Introduction

Under the Localism Act 2011 ('the Act'), the Council must maintain a list of buildings or other land in its area that are of community value, known as its 'List of Assets of Community Value.'

There are some categories of assets that are excluded from listing, the principal one being a residential property. There is, however, an exception to this general exclusion where an asset which could otherwise be listed contains integral residential quarters, such as accommodation as part of a pub or a caretaker's flat.

Generally, buildings or land are of community value if, in the opinion of the Council:

- 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
- 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 community¹.

Buildings or land may also be of community value if in the opinion of the Council:

¹ Section 88(1) 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 social² interests of the local community, and
- 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 community³.

Buildings or land which are of community value may only be included in the 'List of Assets of Community Value' in response to a community nomination by certain specified bodies such as parish councils or voluntary or community organisations with a local connection.

A valid community nomination must contain certain information, including:

- a description of the nominated building or land including its proposed boundaries
- a statement of all the information which the nominator has with regard to the names of the current occupants of the land, and the names and current last-known addresses of all those holding a freehold or leasehold estate in the land
- the reasons for thinking that the Council should conclude that the building or land is of community value
- evidence that the nominator is eligible to make the community nomination

A valid community nomination must be determined within eight weeks. In this instance, the nomination was validated by the Council on 28 October 2025 and so should be determined by 23 December 2025.

If the Council accepts a valid nomination then it must be included in the 'List of Assets of Community Value.' If the Council does not accept that the asset nominated meets the statutory definition, or if it is one of the excluded categories, then the valid nomination must be placed on a 'List of Assets Nominated Unsuccessfully by Community Nomination.'

Procedure

Information about this community nomination has been sent to the following:

- Egerton Parish Council (Nominating Body)
- Freehold Owner(s)

² Note: the wording of this passage of the legislation is different to all the other passages in that it refers to furthering 'the social wellbeing or interest of the local community' rather than 'the social wellbeing or social interests of the local community.' However, in *St. Gabriel Properties Limited v London Borough of Lewisham and another (2015)*, Judge Warren held that the word 'social' should be read in here (para. 27).

³ Section 88(2) of the Act.

- Leasehold Owner(s)
- Cllr N Ovenden (Leader of the Council)
- Cllr L Wright (Cabinet Member for Communities, Health and Wellbeing)⁴
- Cllr K Brunger-Randall (Ward Member)

If the Solicitor to the Council and Monitoring Officer includes the asset in the Council's 'List of Assets of Community Value' then the owner has the right to request, within eight weeks from the date when written notice of listing is given, the Chief Executive to review the decision.

If the owner is not satisfied with the outcome of the internal listing review then they have the right to appeal to the General Regulatory Chamber of the First-Tier Tribunal against the review decision.

The property will remain listed during the review and appeal process.

Consequences of Listing

If an asset is listed nothing further happens unless and until the owner decides to dispose of it. If the owner does decide to dispose of the asset then, unless an exemption applies, the owner must first notify the Council in writing.

Interim Moratorium

There is then a six-week interim period from the point the owner notifies the Council. The Council must then inform the nominating community group who may then make a written request to be treated as a potential bidder. If they do not do so in this period then the owner is free to sell their asset at the end of the six-week period.

Full Moratorium

If a community interest group does make a request during this interim period, then a full six-month moratorium will operate. The community group does not need to provide any evidence of intention or financial resources to make such a bid.

During this full moratorium period the owner may continue to market the asset and negotiate sales, but they may not exchange contracts (or enter into a binding contract to do so later). There is one exception: the owner may sell to a community interest group during the moratorium period.

Protected Period

After the moratorium – either the interim or full period, as appropriate – the owner is free to sell to whomever they choose and at whatever price, and no further moratorium will apply for the remainder of a protected period lasting 18 months (running from the same start date of when the owner notified the Council of the intention to dispose of the asset).

Compensation

⁴ Note: Following a Cabinet reshuffle on 10 November 2025, Cllr K Giles was appointed as the 'Cabinet Member for Communities and Health.' Therefore, notice of this decision will be provided to Cllr Giles.

Private owners (not public bodies) may claim compensation for loss and expense incurred through the asset being listed. This may 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 First-Tier Tribunal. The assumption is that most claims will arise from a moratorium period being applied. However, the wording of the legislation does allow for claims for loss or expense arising simply as a result of the asset being listed.

The Council is responsible for administering the compensation scheme, including assessing and determining compensation awards.

As with the listing itself, an owner may request an internal review of the Council's compensation decision. If the owner remains unsatisfied then they may appeal to the General Regulatory Chamber of the First-Tier Tribunal against the review decision.

Assessment

The nominating body is 'a voluntary or community body' with 'a local connection,' as defined in Regulations 4 and 5 of the Assets of Community Value (England) Regulations 2012 ('the Regs').

The community nomination contains the information required by Regulation 6 of the Regs for it to be considered by the Council.

The community nomination form asked the nominating body to provide their reasons for thinking that the Council should conclude that the building/land is of community value. In this case, the nominating body has confirmed that the public house premises are currently closed and so the questions and answers state as follows:

Q1. If the land/buildings(s) main use in the recent past furthered the social wellbeing or social interests of the local community please confirm that use and explain how it did that (including dates for when this was)...

A1. 'The George is the only pub in the Parish and prior to closures [sic], it was an important centre and regular meeting place for our community. Clubs like the Folk Club, running club, and several others would love to return to it as a venue. One off events; Christmas fair, Quizzes, Band nights have been well supported and should be a basis for reopening. We are an active community missing a central point especially this year with the WW2 connections. The pub features WW2 airman's signatures[.] [I]t has been closed for almost two years.'

Q2. How do you anticipate that the land/building(s) will be returned to that use or put to some other main use which will further the social wellbeing or social interests of the local community and when do you consider this will happen?

A2. 'The pub was damaged in November 2023 by a storm and issues with planning and need for other repairs has kept it closed for too long. Work

progresses slowly and we would be delighted to see it finished and reopened as a pub as soon as possible.’

Generally, public houses are the type of buildings which the Community Right to Bid Scheme is designed to protect. However, the Council cannot list buildings or land on its own initiative – they must be nominated. Therefore, the onus is on the nominating body to give their reasons for thinking that the Council should conclude that the building/land is of community value.

There is little guidance on the criteria a local authority should consider when deciding whether an asset is of community value. When the Act was at the Bill stage, the Minister stated that:

“...We have suggested that one of the criteria for assessing what is an asset of community value could be evidence of the strength of community feeling about supporting the asset’s being maintained for community use”

In this case, the nominating body is a parish council and so, although there is no evidence of the strength of community feeling, it is reasonable to assume that the Parish Council is representing the views, or is expressing the general wishes, of a reasonable percentage of their local community.

In this case, the building has been the subject of two previous successful nominations – one in 2015 and one in 2020⁵. Regarding the 2020 nomination, the building was included in the Council’s List of Assets of Community Value until that entry expired on 23 November 2020. This latest nomination seeks to return the building to the List.

For a building or land to be included in the ‘List of Assets of Community Value’ its main use – not ‘an ancillary use’ – must further the social wellbeing or social interests of the local community.

Setting aside for one moment that this public house is currently closed, the nominating body claims that the public house:

- Was the only pub in the Parish
- Was an important centre and regular meeting place for the community
- Hosted clubs such as the Folk Club, running club etc. who would all love to return to the nominated premises
- Hosted one-off events, the Christmas fair, quizzes and band nights
- Was a central point serving an active community
- Featured WWII airmen’s signatures

Also, although not mentioned by the nominating body, it seems from the public house’s still-active website that food was also served.

Generally, a local meeting place of this type would be considered as furthering the social wellbeing or social interests of the local community and the main use of the building as a public house would in and of itself further the social

⁵ In 2020, the building was known as The Barrow House.

wellbeing or social interests of the local community. Also, the serving of food at the premises is likely to be viewed as non-ancillary to the main use.

In addition, the use of the pub for gatherings and entertainment – provided that those events were intrinsic to the main use of the building as a public house (for example, quiz nights, live music events, the meetings of local clubs etc.) – would also further the social wellbeing or social interests of the local community

In my view, the main use of the building as a public house would further the social wellbeing or social interests of the local community

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As mentioned above, the nominated premises are currently closed and so the Council must consider whether:

- (a) there is a time in the recent past when an actual use of the building/land that was not an ancillary use furthered the social wellbeing or social 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/land that would further (whether or not in the same way as before) the social wellbeing or social interests of the local community.

There is a time in the recent past when an actual use of the building/land that was not an ancillary use furthered the social wellbeing or social interests of the local community

There is no statutory definition of 'recent past.' The Department for Communities and Local Government's guidance⁶ provides the following comment on the meaning of 'recent past':

'With regard to "recent past", our current view is that we will leave it to the local authority to decide, since "recent" might be viewed differently in different circumstances. For example, "recent" might be taken as a longer period for instance for land which was formerly used by the public until the MoD took it over for live ammunition practice, than for a derelict building. Ten or even twenty years might be considered recent for the former but not for the latter.'

I understand that some authorities have treated the 'recent past' as being the five year period preceding the nomination but in *Scott v South Norfolk District Council (2014)*⁷, Judge Warren in the General Regulatory Chamber of the First-Tier Tribunal said that the phrase 'in the recent past' was deliberately loose in contrast to the five years in the second condition and that it was 'not the Tribunal's role to undermine that by giving the phrase a meaning which is certain.'

⁶ Assets of Community Value – Policy Statement (2011)

⁷ CR/2014/0007

In *Worthy Developments v Forest of Dean District Council* (2014)⁸, Judge Warren (again) stated that:

“It seems to me illogical to seize on the period of five years, as some suggest, when applying the past condition. This figure is chosen because it is the length of time specified by Parliament over which the future condition is to be assessed. It seems to me, however, that Parliament’s failure to specify the precise period of five years when defining the past condition, cannot be taken as intending that the more precise period used in the definition of the future condition should be imported”

In *Crostone v Amber Valley Borough Council* (2014)⁹, Judge Lane stated that:

“The ‘recent past’ is not defined in the Localism Act 2011 or any relevant subordinate legislation. What constitutes the ‘recent past’ will depend upon all the circumstances of a particular case. To that extent, the expression is a relative concept. In this regard, it is relevant that the Black Swan operated as a public house for almost 200 years, until its closure in 2012...”

Accordingly, although what constitutes the ‘recent past’ will depend on all the circumstances in a particular case, Judge Lane’s conclusion that ‘the expression is a relative concept’ suggests that the length of time that the building had been used as a public house is relevant (in *Crostone* it was nearly two hundred years).

Therefore, the implication seems to be that the longer the period of use furthering a community benefit the longer the period which will constitute the ‘recent past.’

In this case, according to the nominating party, the public house closed in November 2023 as a result of storm damage. Therefore, at the time of this nomination, the premises had been closed for less than two years. Also, it is claimed that, although repair works have been progressing slowly, the delay in re-opening has been caused by ‘issues with planning¹⁰ and [the] need for other repairs.’

According to the public house’s own website, the premises were built in 1576 and first granted a licence to sell ale in 1729¹¹. Accordingly, prior to its closure in November 2023, it seems that the building may have been used continuously as a public house for nearly 300 years. In my view, having regard to the relative concept of ‘recent past’ as outlined by Judge Lane in *Crostone* (above), November 2023 would be viewed as the ‘recent past’ when viewed in the context of nearly 300 years’ of continuous use prior to that date.

⁸ CR/2014/0005

⁹ CR/2014/0010

¹⁰ I note the grant of listed building consent dated 9 October 2024 (Ref: PA/2024/0896) for the: ‘Proposed repairs to roof, replacement of weatherboard cladding to include insulation, reduction in height and rebuilding of chimney and replacement of three windows to south east and south west elevations. (Retrospective) repairs to roof, new chimney pots and three replacement windows to south east and north east elevations’

¹¹ It was officially registered as ‘The George’ in 1743.

Therefore, as I have already concluded that the actual main use of the building prior to its closure would have furthered the social wellbeing or social interests of the local community, then it follows that in my view there was a time in the recent past when an actual main use of the building that was not an ancillary use did further the social wellbeing or social interests of the local community.

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/land that would further (whether or not in the same way as before) the social wellbeing or social interests of the local community

The central government guidance is silent on the question of whether there is a realistic prospect that there could again be a community use of nominated building/land. The case law suggests that the test does not require the likely future use of the building/land to be determined but rather to determine whether future community use is a realistic prospect¹².

Regarding future viability, the central government guidance is again silent. In *Worthy* (mentioned above), the Court considered detailed financial appraisals which indicated that it would not be economically viable for the public house in question to return to community use. However, Judge Warren stated that:

“...It is important, however, not to confuse commercial viability with what altruism and community effort can achieve. The calculations advanced by Worthy Developments Ltd do not, in my judgment, ...demonstrate that the committee’s plans are not realistic. Although there was some discussion of the figures at the hearing, it does not seem to me necessary to go into further detail on this point. The legislation does not require a detailed business case at this stage” [emphasis in original]

Other cases appear to support this stance¹³ and so it does not seem to me to be necessary for the Council to consider the viability of some future community use of the building. The test seems to be simply whether 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 that would further the social wellbeing or social interests of the local community.

Although viability has not been mentioned, the use would not need to be as a public house and it would not even necessarily need to be economically viable in the sense that it would have to make a profit for its operator. This is because it could be run as a not-for-profit co-operative by local community volunteers as either a public house or for some other non-ancillary community use.

In this case, the nominating body has not really explained why they consider that it is realistic to think that there is a time in the next five years when there could be non-ancillary use of the premises that would further (whether or not in the same way as before) the social wellbeing or social interests of the local

¹² See again: *Worthy Developments v Forest of Dean District Council* (2014)(para. 19)

¹³ See for example: *Gibson v Babergh District Council* (2015)(CR/2014/0019); *Sawtel v Mid-Devon District Council* (2014)(CR/2014/0008); *St. Gabriel’s* (above) etc.

community. However, given that the premises are merely closed for repairs following storm damage and work is progressing (albeit slowly) then it seems likely that there is an intention to re-open.

Furthermore, I note the application for listed building consent referred to at footnote (10)(above). Regarding the 'proposed restoration works,' the Design and Access Statement accompanying the application states (in the 'Conclusion' at paragraph 10.0, page 39) that:

'...The scheme positively meets the Ashford Borough Heritage Strategy, and due to the recognised heritage value of the George Inn as High in communal and evidential significance, it is considered that every effort should be made to sustain existing historic pubs.'

This suggests a clear intention to continue/recommence the use of the premises as a public house.

On balance, in my view, it is realistic to consider that the building could re-open in the next five years as a public house or for some other non-ancillary community use.

Conclusions

For the reasons set out above there is, in my view, a time in the recent past when an actual use of the building/land that was not an ancillary use furthered the social wellbeing or social interests of the local community; and it is, in my view, realistic to think that there is a time in the next five years when there could be a non-ancillary use of the building/land that would further (whether or not in the same way as before) the social wellbeing or social interests of the local community.

I have taken into consideration the potentially adverse impact that listing could have on the owner(s) of the building/land (as summarised above under the sub-heading *Consequences of Listing*) but the internal listing review and appeal processes do allow the owner(s) the opportunity to challenge the decision to list.

Accordingly, in my view, this building/land should be included in the Council's 'List of Assets of Community Value.'

Recommendation

That the Solicitor to the Council and Monitoring Officer accept the nomination for this building/land to be included in the Council's 'List of Assets of Community Value'.

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AUTHORITY

In accordance with the functions delegated to me, I hereby accept the nomination for this building/land to be included in the Council's 'List of Assets of Community Value', for the reasons set out above.

A handwritten signature in black ink, appearing to read 'J. Martin', is written over a dotted line.

.....
Solicitor to the Council and Monitoring Officer

Date:11/12/2025.....

