

Eden District Council

Executive

25 February 2020

Nomination as an Asset of Community Value – Crown Inn, Morland

Portfolio:	Resources
Report from:	Director of Corporate Services
Wards:	Morland
OPEN PUBLIC ITEM	

1 Purpose

- 1.1 To consider the nomination of the Crown Inn, Morland as an Asset of Community Value under the Localism Act 2011

2 Recommendation

It is recommended that the nomination of the Crown Inn, Morland as an asset of community value be accepted.

3 Report Details

- 3.1 A nomination has been received from Morland Parish Council for the Crown Inn, Morland to be listed as being of community value. The application was dated and received on 30 September 2019. Clarification on the exact boundary of the area to be nominated was sought from the Parish Council and confirmation in relation to this was received from the Parish Council on 4 December 2019. A copy of the nomination form is attached at Appendix A of this report. The matter could not be progressed until this confirmation was received.
- 3.2 The nominated land is the Crown Inn, Morland. The building is described as being located in the heritage centre of the village. A copy of the plan to which the nomination refers is attached at Appendix B.
- 3.3 Under the Localism Act 2011 ("the Act") and The Assets of Community Value (England) Regulations 2012 made thereunder, the Council has a duty to maintain a list of land in its area which is of community value, and also a list of unsuccessful nominations of such land. There is a summary of the statutory provisions setting out the procedure and criteria for the nomination of land appended to this report as Appendix C.
- 3.4 The Act goes further to state that a nomination must include certain prescribed information in order to be considered by the local authority. The nomination must include a description of the land, names of occupiers and owners of the land, the nominator's reasons for thinking that the land is of community value and evidence that the nominator is eligible to make a nomination.

- 3.5 The nomination of land as an asset of community value can be made by numerous different parties. In this case it has been made by the Parish Council under s89(2)(b)(i) of the Act. The application is valid for the purposes of this nomination and thus the District Council must consider the application.
- 3.6 Land which is of 'community value' is defined in section 88 of the Act. Briefly, its principal use must, in the District Council's opinion, 'further the social wellbeing or social interests of the local community' and 'it must be realistic to think' that such a use 'can continue' in the future.
- 3.7 Under the Act 'Social interests' can include cultural interests, recreational interests or sporting interests.
- 3.8 The Parish Council sets out the reasons why they believe that the nominated land should be viewed as being of community value. The full statement is set out in the nomination form in Appendix A. The statement sets out that:
- the Crown Inn is the only public house in Morland;
 - it is the venue for many of the village groups; and
 - it provides opportunities for the community to come together by hosting events.
- 3.9 A number of statements in support of the nomination have been provided by the Parish Council and these are attached as Appendix D.
- 3.10 It is clear that the nominated land is used for recreational purposes. The nominated land furthers the social interests of the community, therefore it is of community value. This is the only public house within Morland and it brings a significant social benefit to the local community. It is therefore considered that the nomination should be accepted.

4 Policy Framework

- 4.1 The Council has four corporate priorities which are:
- Sustainable;
 - Healthy, safe and secure;
 - Connected; and
 - Creative
- 4.2 This report meets healthy, safe and secure corporate priority

5 Consultation

- 5.1 Consultation has been conducted in accordance with the statutory requirements of the Localism Act 2011. The Executive will be updated at the meeting in respect of any comments received as a result of the consultation process.
- 5.2 The local ward member has provided a statement in support of the nomination. This is included in Appendix D.

6 Implications

6.1 Financial and Resources

- 6.1.1 Any decision to reduce or increase resources or alternatively increase income must be made within the context of the Council's stated priorities, as set out in its Council Plan 2019-23 as agreed at Council on 7 November 2019.
- 6.1.2 There are no proposals in this report that would reduce or increase resources, save as referred to in paragraph 6.2.3 below.

6.2 Legal

- 6.2.1 The legislation provides an appeal mechanism for owners whose land is listed to a First Tier Tribunal, but contains no separate provision for disappointed applicants or nominating groups. However interested parties could seek permission for a judicial review by the High Court of the Council's decision on various grounds, such as illegality, irrationality or procedural impropriety.
- 6.2.2 The Regulations provide that an owner or former owner of listed land is entitled to compensation from the Council if, at a time when the person was the owner of the land and the land was listed, they did incur loss or expense which would likely not have been incurred if the land had not been listed. This situation may potentially arise if the nominated land were to be sold and the value of the land was affected by the moratorium period. It is the owner's responsibility to provide evidence of the extra costs incurred and must be made within 13 weeks of the costs being incurred.
- 6.2.3 The DCLG Community Right to Bid Guidance (October 2012) states that the government will meet the cost of compensation payments of over £20,000 in a financial year. This could occur through a local authority paying out over £20,000 in one financial year either on one large claim or as a combined total on a number of smaller claims. The Council would have to write to the Community Assets Team at the Ministry of Housing, Communities and Local Government with a request for financial support providing evidence of the compensation costs incurred.
- 6.2.4 The Council is generally required to determine the nomination within eight weeks of receipt. This nomination would therefore have been scheduled for determination before 29 January 2020. However, on this particular occasion, further clarification was required before the decision could be reached. The determination period therefore commenced in early December 2019 and this is the first Executive which the matter could be presented to for decision.

6.3 Human Resources

- 6.3.1 There are no Human Resources implications arising out of the proposal.

6.4 Statutory Considerations

Consideration:	Details of any implications and proposed measures to address:
Equality and Diversity	There are not considered to be any equality or diversity implications relevant to the subject matter and the Council's responsibilities nor are there any rurality implications

Health, Social Environmental and Economic Impact	The report takes into account the social interests and wellbeing of the community. There are not considered to be any adverse impacts under this heading.
Crime and Disorder	The Council is aware that adequate amenity provision and the social interests and wellbeing of the community are all matters that are likely to help reduce crime and disorder.
Children and Safeguarding	The Council is aware that adequate amenity provision and the social interests and wellbeing of the community are all matters that are likely to help promote the welfare of children.

6.5 Risk Management

Risk	Consequence	Controls Required
Members' attention has been drawn above in paragraphs 6.2 and Appendix C to the risk of its decision being challenged.	Legal challenge and compensation claims	<p>The Council cannot be sure of the likelihood of any such challenge, which will depend partly on the resources available to those aggrieved. Legal and financial risks are closely linked, as is any impact on the Council's reputation. They are largely dictated by the provisions of the legislation and the Council's duties as explained.</p> <p>Compensation claims potential is explained at paragraph 6.2.3 above.</p> <p>Regardless of the risks the Council must proceed to make a decision in accordance with its statutory duty.</p>

7 Other Options Considered

- 7.1 None as the statutory criteria are considered to be met. The Council has a statutory duty to make a decision on the nomination.

8 Reasons for the Decision/Recommendation

- 8.1 To carry out the Council's statutory duty as the determining authority under the provisions of the Localism Act 2011.
- 8.2 To carry out the Council's duties in conserving the local environment and protecting the wellbeing of the local community of all ages.

Tracking Information

Governance Check	Date Considered
Chief Finance Officer (or Deputy)	17 February 2020
Monitoring Officer (or Deputy)	5 February 2020
Relevant Director	

Background Papers:

Appendices:

Appendix A - Nomination Form

Appendix B - Plan

Appendix C - Statement of Statutory Provisions

Appendix D – Statements in support of the nomination

Contact Officer:

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