

Scarborough Borough Council

Re: Community nomination in respect of:-

The Ivanhoe, Scalby Mills Road, Scarborough, YO12 6RW
(hereinafter referred to as 'the Property')

Notice under section 91 of the Localism Act 2011

1. The Nomination

On 21 January 2019 Scarborough Borough Council received a nomination under section 89 of the Localism Act 2011 ('the Act') to list the Property as an asset of community value. The nomination was made by The Ivanhoe Community care of Mr Malcolm Wigglesworth, 66 Hillcrest Avenue, Scarborough, North Yorkshire. The full information required to determine the nomination was received from The Ivanhoe Community on 21 January 2019.

A copy of the nomination, including a plan showing the boundaries of the Property edged red, is attached at Appendix 1.

2. The Law and Statutory Guidance

Under section 87 of the Act the Council must maintain a list of assets of community value in its area. A building or other land is of community value if in the Council's opinion there is a time in the recent past when an actual use of the building or land, that is not ancillary use, furthered the social wellbeing or social interests of the local community and it is realistic to think that there is a time in the next 5 years when there could be non-ancillary use of the building or land, that would further (whether or not in the same way) the social wellbeing or social interests of the local community.

Under section 89 the Council can only include land in its list of assets of community value in response to a community nomination or where permitted by regulations. A community nomination in England can only be made by either a parish council in respect of land within its area or by a person that is a voluntary or community body with a local connection. Where a valid community nomination is made the Council must consider it and must accept the nomination if the land is within its area and is of community value.

3. Decision and Reasons

The Council accepts the nomination by The Ivanhoe Community and includes the Property in its list of assets of community value.

- (a) The Property lies with the administrative area of Scarborough Borough Council
- (b) The Ivanhoe Community is eligible under section 89(2) b) (i) to make a community nomination in respect of the Property
- (c) The community nomination made by The Ivanhoe Community includes the matters required under regulation 6 of the Assets of Community Value (England) Regulations 2012
- (d) The Property does not fall within a description of land which may not be listed as specified in Schedule 1 of the Assets of Community Value (England) Regulations 2012 (the Regulations)
- (e) The Property has been used by community groups by sports clubs, quizzes, charity fundraising, live music and to host a children's play bus. The Council considers that the current use of the Property as a public house is not an ancillary use, that this use furthers the social wellbeing and social interests of the local community and that the Property is of community value.
- (f) The Council also considers it is realistic to think that there can continue to be non-ancillary use of the Property which will further (whether or not in the same way) the social wellbeing and social interests of the local community.

4. Next Steps

The Property will be included in the list of assets of community value maintained by the Council under section 87 of the Act.

In accordance with section 91 of the Act the Council will send this notice to:-

- (a) the owner of the Property
- (b) the occupier of the Property if the occupier is not the owner
- (c) the Ivanhoe Community as the nominee body

5. Consequences of Listing

The Property will remain on the list of assets of community value for a period of 5 years from the date of this notice unless removed with effect from some earlier time in accordance with the provision of the Regulations.

Inclusion of the Property in the list of community assets 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 Property 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 by writing to the Legal Services Manager at Scarborough Borough Council, Town Hall, St Nicholas Street, Scarborough YO11 2HG if they wish to enter into a relevant disposal of the Property. Relevant disposal is defined in section 96 and (subject to exemptions in section 95(5) and Schedule 3 of the Regulations) means, a freehold disposal or the grant or assignment of a qualifying leasehold interest, with vacant possession.

A moratorium period is triggered by notification under section 95 to allow any community interest group to submit a written request to be treated as a potential bidder for the Property. Owners are 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 Property. **A disposal of listed land which contravenes the requirements of Act and Regulations will be ineffective.**

6. Right of Review

In accordance with section 92 of the Act the owner of the Property is entitled to request a review of this decision. This review will be carried out by a Director of the Council. A request must be made in writing and received by the Council within 56 days of the date of this notice or such longer period as the Council may agree in writing. Please ensure that the request explains on what grounds the decision should be reviewed, with reference to the appropriate parts of the legislation to support such grounds.

If a request is made, the Council will complete the review within 56 days of receiving the request or such longer period as is agreed with the owner in writing. A request must be addressed to the Legal Services Manager, Town Hall, St Nicholas Street, Scarborough YO11 2HG.

7. Right to Compensation

In accordance with paragraph 14 of the Regulations an owner or former owner of the Property is entitled to claim compensation from the Council of such amount as the Council may determine, where they have incurred loss or expense in relation to the Property which would be likely not to have been incurred if the Property had not been listed.

A claim for compensation must be made in writing within 91 days of the date the loss or expense is incurred or (as the case may be) finishes being incurred; must state the amount of compensation sought for each part of the claim and be accompanied by supporting evidence for each part of the claim.

If a claim is made, the Council will consider the claim as expeditiously as possible. A request must be addressed to the Legal Services Manager at Scarborough Borough Council, Town Hall, St Nicholas Street, Scarborough, YO11 2HG.

8. Additional Help

Further information about assets of community value is available from the website <http://mycommunityrights.org.uk/community-right-to-bid/> If you need any additional support in relation disposal of the Property, the right of review or right to compensation you are advised to seek independent legal advice.

Signed:



Rebecca Jackson
Legal Services Manager

Dated: 15 February 2019