



**First-tier Tribunal  
(General Regulatory Chamber)  
Community Right to Bid**

**Appeal Reference: CR.2016.0020**

**Heard at York House, Leeds, determined without a hearing  
22 March 2017**

**Before**

**JUDGE JACQUELINE FINDLAY**

**Between**

**LOUNGE INDIA RESTAURANT/JILU AHMED**

Appellant

**and**

**CENTRAL BEDFORDSHIRE COUNCIL**

Respondent

**and**

**SARAH CRAVEN ON BEHALF OF THE WRESTLERS GROUP**

Second Respondent

## **DECISION AND REASONS**

### **Introduction**

1. The Localism Act 2011 requires local authorities to keep a list of assets (meaning buildings or other land) which are of community value. Once an asset is placed on the list it will usually remain there for five years. The effect of listing is that, generally speaking, an owner

intending to sell the asset must give notice to the local authority. A community interest group then has six weeks in which to ask to be treated as a potential bidder. If it does so, the sale cannot take place for six months. The theory is that this period, known as “the moratorium”, will allow the community group to come up with an alternative proposal – although, at the end of the moratorium, it is entirely up to the owner whether a sale goes through, to whom and for how much. There arrangements for the local authority to to pay compensation to an owner who loses money in consequence of the asset being listed.

## **The Legislation**

Section 88(1) and (2) of the 2011 Act provides as follows:-

“88 Land of community value

- (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 o 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 the 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 91) 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.

Section 89 explains the procedure for listing:-

“89. Procedure for including land in list

- (1) Land in a local authority’s area which is of community value may be included by a local authority in its list of assets of community value only -
  - (a) in response to a community nomination, or
  - (b) where permitted by regulations made by the appropriate authority.
- (2) For the purposes of the Chapter 2 “community nomination,” in relation to a local authority, means a nomination which –
  - (a) Nominates land in the local authority’s area for inclusion in the local authority’s list of assets of community value, and
  - (b) Is made –
- (3) By a person that is a voluntary or community body with a local connection.
- ....
- (4) The appropriate authority may by regulations make provision as to –
  - (a) The meaning in subsection (2)(b)(iii) of “voluntary or community body;”

- (b) The conditions that have to be met for a person to have a local connection for the purposes of subsection (2)(b)(iii);
- (c) The contents of community nomination;  
....”

The regulations in question are the Assets of Community Value (England) Regulations 2012 (SI2012/2421). Regulation 5 provides as follows:-

“Voluntary or community bodies

1. For the purposes of section 89(2)(b)(iii) of the Act, but subject to paragraph 2, ‘a voluntary or community body’ means –  
.....  
(c) An unincorporated body –  
(i) whose members include at least 21 individuals, and  
(ii) which does not distribute any surplus it makes to its members”.

## **The appeal**

2. The appeal concerns a public house known as the Wrestlers Public House, 126 Church Street, Langford (“The Wrestlers”). The Wrestlers has been trading as a public house since 1760 and some rebuilding work took place in 1920. The Wrestlers comprises a detached two storey dwelling of brick construction with painted elevations under a pitched tiled roof. There is a single storey side and rear extensions under pitched tiled and flat roofs. There is a car park to the front and side of the property providing parking for approximately 15 cars. There is a closed lawned rear trade garden. The Wrestlers ceased trading and closed in approximately August 2015 and was purchased by Mr Ahmed on behalf of the appellant in September 2015.
3. A planning application was granted on 2 April 2015 to erect 10 dwellings with access parking, associated landscaping and public open space.
4. On 12 June 2016 the first respondent received a nomination under the 2011 Act for The Wrestlers to be listed as an Asset of Community Value (“ACV”). The nominator was The Wrestlers Group. The first respondent ascertained that this was a locally based unincorporated community group with at least 21 members eligible to vote in the local area.
5. On 1 August 2016 The Wrestlers was listed pursuant to section 87 of 2011 Act. The appellant requested a review of the decision by the first respondent on 16 August 2016. The review took place on 6 September 2016. The outcome decision of the first respondent was that The Wrestlers should remain listed.
6. The appellant appealed to the First-tier Tribunal. The parties are content that the appeal should be determined without a hearing. In all the circumstances, I consider that it is fair and just to do so. In determining the appeal, I have had

regards to all the evidence and submissions set out in the appeal bundle prepared by the first respondent. The fact that I do not refer specifically in this decision to any particular submission or document is not to be taken as indicating that I have not had regard to the same.

## **Discussion**

7. The Wrestlers has not been run as a public house since August 2015. However, it has been run as a public house since the 18<sup>th</sup> Century.
8. In support of the appeal it is submitted that The Wrestlers is not the only public house or similar facility in the vicinity and there is at least one other public house. The listing should only apply if The Wrestlers was the last pub in the particular location. The appellant submits in support of the appeal that he is in the process of refurbishing the building but that this will take time, he has an established track record as a restaurateur. If the building is listed as an ACV it will reduce the value and make the raising of funds to refurbish the property more difficult.
9. Mr Hill, Chartered Surveyor, in his report prepared on behalf of the appellant (pages 27 to 31) states at paragraph 3.4 "a significant factor in this appeal against the registration is that unlike a number of villages which have no other facilities other than their local pubs where the community gather, this is a village well served with facilities and points of contact throughout its vast length. It is not a case where when the Wrestlers closed the village is left with no pub and just a residential development without a heartbeat; life will simply go on without any material impact on village life."
10. The appellant submits in support of his appeal that "the group have not established that the Wrestlers is of "great importance to them" and has not provided solid evidence of the Wrestlers being able to "contribute to the development of vibrant and active communities".
11. The respondent submits that the listing was correctly made and urges me to confirm the decision.

## **Findings of Fact**

12. Until August 2015 the Wrestlers was used for many community activities. It was used as a public house every day; it was used by the cricket club and dominoes league. It was used for quiz nights. It housed an "activity wall" which provided a space to advertise help and services. It hosted meetings to arrange sponsored walks, race nights and other charitable events. The Wrestlers hosted open mic night every 6 weeks. The arrangement was that the Wrestlers provided the PA system and a drum kit and invited musical contributions. The Wrestlers was used by the Langford cricket club for committee meetings and as a social centre connected with matches, and administration and throughout the year. The

Wrestlers was used as a meeting place by the Women's Institute. I find that a significant number of the users of the Wrestlers are people from the locality.

13. I find that the provisions of section 88(2)(a) and (b) are satisfied. There is a time within the recent past when an actual use of the Wrestlers that was not an ancillary use further the social wellbeing or interest of the local community. I find it is realistic to think that there is a time within the next five years when there could be non-ancillary use of the Wrestlers that could further the social wellbeing or social interest of the local community.
14. On the basis of the evidence it is clear that the Wrestlers was used in the recent past be it all times before August 2015 as a public house which furthered the social wellbeing and interest of the local community.
15. "Social Wellbeing" and Local Community" are undefined in the 2011 Act. It is clear from the above findings that the local community in the recent past used the Wrestlers for social and recreational purposes and that the use was not an ancillary use.
16. In relation to the grounds of appeal at paragraph 9 above it is not necessary that the Wrestlers is of "great importance" to the locality or the second respondent nor is it necessary to show that the Wrestlers in the future would be able to contribute to the development of "vibrant and active communities".
17. It is not necessary to show that all the members of the Wrestlers group have entered the Wrestlers or used the facilities.
18. It is not necessary for the second respondent to show that they have made "any serious overtures to the present owners regarding its future."
19. It is not relevant that the Wrestlers is not the last remaining pub in the village.
20. I find that the Wrestlers is not the only public house in Langford and that The Plough in Langford is located about 0.4 miles away. The total number of public houses in an area is not a relevant criteria. It is not necessary for the wrestlers to be unique or special. The question to be decided is whether the use of the asset furthers the social wellbeing or social interests of the local community.
21. The legislation does not require that the parish council or the Wrestlers group have to make offers to the appellant to purchase the Wrestlers. There is no requirement to put forward a business plan for future community use or to have approached the owner about a business plan.
22. In relation to the ground of appeal that the value of the Wrestlers will be reduced by the listing under regulation 14A assets of Community Value (England) Regulations 2012 an owner of listed land is entitled to compensation from the

local authority where the circumstances within regulation 14(2) apply. Those are that the person making the claim has, at a time when he was the owner, "incurred loss or expense in relation to the land which would be likely not to have been incurred if the land had not been listed". Regulation 14(3) lists certain types of claim which are specifically said to meet the requirements of regulation 14(2), without prejudice to other types of claim which may be made.

23. Parliament has accordingly, legislated to make provision for certain financial loss, which arises as a result of a listing. In so far as loss may arise which is not within the compensation scheme, parliament must be assumed to require such a loss to fall on the owner of the listed assets.
24. Accordingly, any reduction of value of the Wrestlers is not a relevant factor.
25. It is not fatal that the second respondent has not put forward a firm business plan for the future. However, it is clear there is strong support for the Wrestlers continuing to be a public house and possibly a coffee house during the day. There has been much use of the Wrestlers in the past for community activities and there is no reason to suppose that the community will not support the Wrestlers that this use can continue.

## **Decision**

26. The Wrestlers meets the requirements of section 88(2) of the 2011 Act. There was a time in the recent past when Wrestlers was used to further the social wellbeing or interest of the local community and it is realistic to think that this use can continue.
27. Accordingly, the appeal is dismissed.

Signed: J R Findlay

Judge of the First-tier Tribunal  
Date: 22 March 2017