

BY E-MAIL

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Our Ref 73969128.1\EW15\627077.07246

13 July 2016

Dear Sirs

UNIVERSITY ARMS, 197 BROOK HILL, SHEFFIELD ("PROPERTY") OBJECTION TO ASSET OF COMMUNITY VALUE NOMINATION

We are instructed by the University of Sheffield ("**University**") the freehold owner of the Property which is registered under Title Number SYK358153.

The University wishes to **object** to the nomination submitted to Sheffield City Council ("**Council**") by Sheffield & District CAMRA ("**Applicant**") to list the Property as an Asset of Community Value ("**ACV**") ("**Nomination**").

The Nomination fails to meet the legislative criteria set out in sub-section 88(1) and (2) of the Localism Act 2011 ("**Act**") and the Asset of Community Value (England) Regulations 2010 ("**Regulations**") for the reasons set out below.

1. PREVIOUS NOMINATION

- 1.1 The Applicant previously submitted a nomination to list the Property as an ACV in July 2015 ("**2015 Nomination**"). The University was informed in a letter dated 29 October 2015 that the 2015 Nomination had been unsuccessful and would be added to the Council's register of unsuccessful applications¹.
- 1.2 The Council's Nomination Assessment Form set out the details as to why the 2015 Nomination was refused. These included the following:
 - 1.2.1 the failure to demonstrate what the local community was or indeed if there even was a local community²;

¹ This records the date of the decision as 2 December 2015

² Paragraph C1 of the Council's Guidance and Evaluation Criteria

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1.2.2 no evidence was provided from any actual regular users of the pub³; and

1.2.3 no evidence was provided of the nature and extent of uses⁴.

1.3 The Nomination Assessment Form records the overall reason for refusing the listed as:

"There is insufficient evidence provided that the Property's actual and current use furthers the social wellbeing and interests of the local community sufficiently to satisfy the statutory tests set out in sections 88 a) to d) of the Act"

1.4 It is the University's submission that the Nomination fails to rectify the deficiencies in the 2015 Nomination which led to the above reasons for refusing the 2015 Nomination. Consequently the Nomination fails to meet the statutory tests set out in the Act and Regulations.

2. **SUBSTANTIVE DEFICIENCIES WITH THE NOMINATION**

2.1 The Nomination fails to satisfy sub-section 88(1) and (2) of the Act and Regulation 6(c) of the Regulations due to a number of substantive deficiencies.

2.2 A discussion of these deficiencies is set out below, with reference to the Council's own Assets of Community Value Nomination Guidance and Evaluation Criteria:

2.2.1 **Failure to demonstrate who the "Local Community" served by the asset is as defined by a geographical area - Paragraph C1 of the Council's Guidance and Evaluation Criteria**

The Nomination states that the Property is used by both students of the University and "those living in both the centre of Sheffield and in residential areas to the west of the city centre". There is no further explanation or description of the extent of the geographical area being referred to. Indeed the "residential areas to the west of the city centre" could refer to a number of areas. The lack of explanation means that it is impossible to say who the local community is or indeed if there even is a local community for the Property.

Furthermore we fail to see how the private wedding reception of the ex-Landlord and Landlady being held in the Property demonstrates who the local community is.

The Nomination is broadly in accordance with the 2015 Nomination which failed to demonstrate what the local community was or indeed if there even was a local community. Therefore due to a lack of additional detail provided in the Nomination it follows that the Nomination has again failed to demonstrate who the local community is.

2.2.2 **Failure to provide evidence of how well the Property is used - Paragraph C2 of the Council's Guidance and Evaluation Criteria**

The Nomination states that the Property is "well used by students and members of the wider community". Whilst it is acknowledged that the Property is used by students (as would be expected of a student pub) there is no evidence to support its use by the wider community. As far as we are

³ Paragraph C1 of the Council's Guidance and Evaluation Criteria

⁴ Paragraph C1 – C3 of the Council's Guidance and Evaluation Criteria



aware, no letters have been submitted in support of the Nomination and no evidence of the "local events" referred to have been provided.

It is noted that the Nomination provides website links to a number of news articles dated 15 and 16 October 2014 referring to a petition seeking to guarantee the future of the Property which was undertaken when the University consulted on its proposed Campus Masterplan ("Petition"). However, no reliance can be placed on the Petition to demonstrate how well the Property is used for the following reasons:

- (a) the Petition itself has not been provided;
- (b) the Petition was not undertaken in relation to the Nomination and was submitted to the University on 7 October 2014;
- (c) signatories were not indicating that they used the pub on a regular basis, or even at all, but were simply asking the University to guarantee its future;
- (d) no evidence has been provided to show that the signatories were from the local area and formed part of the local community;
- (e) the news articles refer to the fact that the Petition was submitted by students rather than the local community as a whole;
- (f) given that two academic years have now passed since the Petition was submitted to the University it is highly likely that many of the signatories have moved away from the addresses stated in the Petition.

2.2.3 Failure to demonstrate what the impact would be, should the usage cease – Paragraph C4 of the Council's Guidance and Evaluation Criteria

The Nomination states that the cessation of the Property's use as a pub would have "a huge impact on both the large student population and the wider community". The University has five bars / licenced areas in the general vicinity, and will be developing a further pub at the former Hendersons' site, opening in Autumn 2017. With such a large number of alternate facilities, this statement is at best exaggerated.

The Applicant has sought to rely on the University's summary of the Campus Masterplan consultation ("Summary"). Whilst it is acknowledged by the University that the potential removal of the Property was a concern raised during the consultation this does not provide evidence that all of the people that commented are users of the Property on a regular basis nor that they form part of the local community. Indeed the Summary does not provide the details of the people who commented on the proposals or where they are from. Therefore the Applicant has failed to demonstrate that a cohesive section of the community is centred around the Property.

Once again, no letters in support of the Nomination have been submitted and no evidence of the level of use of the Property has been provided.

The Nomination goes on to refer to the Property as having "considerable historic interest" due to its previous use as a staff club for the University. It is unclear what is meant by this and again, no evidence is provided to support



this. In any event, the historic context of the Property is not relevant to the consideration of whether it meets the statutory tests under the Act.

The Nomination also fails to consider the fact that the University is committed to serving its large student population which is why the Property is required in order to enhance its estate. However, the University has proposed the University has secured the nearby Henderson's building which it is converting into a pub. The new Henderson's pub has been received to much acclaim in Sheffield as it will secure the conversion of the empty factory into a pub and will retain the heritage of the existing building and the Henderson's brand.

2.2.4 Failure to demonstrate that the Property meets the social interests of the community as a whole – Paragraph C5 of the Council's Guidance and Evaluation Criteria

The Nomination states that the Property is currently used as a Public House which meets the social interests of the community through a range of activities.

The activities that are listed are generic and include "weekly quiz nights" and providing a meeting place for "local sports teams". No specific detail is provided regarding the events and participation levels of these activities by members of the local community as a whole.

The activities listed in the Nomination are essentially the same as those listed in the 2015 Nomination which failed to demonstrate that there were any actual regular users of the pub and the nature and extent of the uses. Therefore due to a lack of additional detail provided in the Nomination it follows that the Nomination has failed to demonstrate that the Property contributes to the social interests of the community as a whole.

It is acknowledged that there are instances where a public house can become an integral part of the community; possibly as a result of its location or the particular activities it hosts. However, no evidence has been provided to demonstrate this is the case in relation to the Property. A number of alternative pubs are located in very close proximity to the Property and the activities listed in the Nomination do not go beyond the ordinary ancillary functions of a commercially run pub.

In particular, the following activities which are listed on the Nomination form cannot reasonably be considered to contribute to the social wellbeing and/or interest of the community, in any meaningful way:

- (a) Hosting advertising for public events;
- (b) The fact that the pub has a food menu;
- (c) The fact that the pub provides free access to local newspapers;
- (d) good transport links being available to the pub; and
- (e) The fact that the pub is included in a number of tourist, national and local pub guides. Indeed this suggests that the pub is not used by the local community.



2.2.5 Failure to demonstrate how the Property is regarded by the community – Paragraph C6 of the Council's Guidance and evaluation criteria

Once again, the Applicant has failed to provide any evidence of support from the local community for the Nomination. The Nomination fails to provide any meaningful detail in addition to the information included in the 2015 Nomination. As stated above the Petition and Summary were undertaken in relation to the Campus Masterplan and not the Nomination itself. Furthermore neither sets out any details of the people who provided comments or signatures or where they were from.

Furthermore, no evidence has been provided to demonstrate the level of use of the Property by the local community. It is therefore impossible to gauge how the Property is regarded by the community, based on the limited information submitted with the Nomination.

3. THE NOMINATION IS MISCONCEIVED

- 3.1 The Nomination is misconceived and has failed to understand the purpose of the legislation and the legal implications of successfully achieving the ACV Listing.
- 3.2 Entry D1 of the Nomination refers to potential development options that are under consideration by the University of Sheffield, alleging that one of which could result in the demolition of the Property. The implication appears to be that listing the Property as an ACV will prevent this. The Applicant appears to be under a misapprehension that the effect of the listing is to protect the current use of the Property. Further, the Applicant has not cited the fact that the University is currently converting the nearby Henderson's building into a pub.
- 3.3 The Applicant has referred to the view of the Government in entry A2 of the Nomination which states that Ministers have stated that pubs can play an important role in the local community. It is acknowledged by the University that public houses can become an important part of the local community however the fact remains that in order to be listed as an ACV the pub would be required to satisfy the statutory test set out in the Act. In this instance the Nomination has failed to satisfy the statutory test and therefore the Nomination must fail despite the view of the Government set out in the Nomination.
- 3.4 The Nomination fails to set out any proposal pursuant to which the Applicant would put forward a bid to buy the Property if it was for sale.
- 3.5 In summary, it is clear that the Nomination is an attempt to limit the University's ability to develop this part of its estate for the benefits of its staff and students.

4. CONCLUSION

- 4.1 For the reasons set out above, the Nomination:
 - 4.1.1 fails to demonstrate how the statutory requirements of sub-sections 88(1) and (2) of the Act and Regulation 6(c) of the Regulations are satisfied; and in any event
 - 4.1.2 does not satisfy the statutory requirements of sub-sections 88(1) and (2) of the Act.
- 4.2 The Nomination does not differ materially from the 2015 Nomination which was held not to meet the statutory criteria set out in the Act. The failure of the Applicant to



provide any further detail in order to satisfy the legislative criteria means that the Nomination must fail.

- 4.3 It is for the Applicant to demonstrate that the University Arms meets the criteria to be listed as an ACV under the Act and Regulations. For the reasons set out above the Applicant has clearly failed to demonstrate this.
- 4.4 The only proper course of action for the Council is to refuse the Nomination and add the Property to its list of unsuccessful nominations for a second time.

We would be grateful if you could please acknowledge receipt of this objection and ensure that it is taken into account in the determination of the Nomination.

Yours faithfully

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Pinsent Masons LLP

This letter is sent electronically and so is unsigned

24 Whitwell Lane, Stocksbridge, Sheffield S36 1GE

David Blackburn,
Legal Services,
Sheffield City Council



3rd.August 2016

Dear David,

Re: ACV Application – University Arms, Sheffield

We are writing on behalf of Sheffield and District CAMRA regarding the six-page document from Pinsent Masons LLP (PM) (acting on behalf of the University of Sheffield (UoS), dated 13/07/16) which you recently forwarded to ourselves: **< Wednesday, July 27, 2016 13:52 >**

On receipt of the email containing this document, we requested a meeting with Pinsent Masons. There has been no response to this request. Hence, we are sending a formal response, within seven days, as requested in the covering email from yourselves.

The Sheffield and District CAMRA Branch represents over 1500 Sheffield-based members. As a local branch led by volunteers, we are working to protect pubs in Sheffield by listing them as Assets of Community Value (ACV). The Branch also runs a highly successful annual beer festival, and has a local monthly magazine which is distributed nationally.

With pubs closing across the country at a rate of 21/week, it's clearly important to give licensees incentive to expand their business. Without ACV status pubs can be converted or demolished without planning permission. This is the clear motivation behind ACV applications submitted by Sheffield CAMRA.

Assets of Community Value (ACV) were introduced as part of the 2011 Localism Act to empower communities to protect assets that matter to them – including public houses. The Government's intention is clear that Local Authorities should add assets to the list of successful nominations should the asset further (or has recently furthered) the community's social wellbeing or social interests (which include cultural, sporting or recreational interests) and is likely to do so in the future. There are now over 1800 pubs listed across England as ACVs - and Local Authorities across the country are continuing to back this campaign. For example, recently, Southampton City Council launched an initiative to protect pubs in the Borough. Ideally, we would like Sheffield City Council (SCC) to take a similar approach: <http://www.dailyecho.co.uk/news/14643157.How-you-can-help-save-your-local-pub-from-closure/>

In our opinion, and that of our colleagues at CAMRA HQ in St.Albans, this application clearly reaches the statutory test outlined by the Government. Advice from CAMRA, nationally, was followed throughout the nomination process. The application was compared to successful ACV applications from other parts of the country. It is felt that the detail included was more than adequate to guarantee an ACV listing.

We were surprised to receive your email as we believe that ACV status is something of which any pub would be proud, especially as the University and ourselves do seem to have many common aims and ideas. See for example, two recently published research documents:

1. 'Sheffield Beer Report'

http://www.shef.ac.uk/polopoly_fs/1.569579!/file/Sheffield-BEER-report.pdf and

2. 'Pubs and Places: The Social Value of Community Pubs' in which the IPPR commissioned colleagues at Sheffield University:

http://www.ippr.org/files/images/media/files/publication/2012/01/pubs-and-places_2nd-ed_Jan2012_8519.pdf?noredirect=1

CAMRA sees ACV status as a clear badge of honour for both owners and licensees. It is a clear indication that their pub matters to the community. ACV status has had a positive impact on other licensees in the area. For example, the Three Tuns: the licensee was involved in the application as they clearly saw it as an opportunity to engage with members of the community and promote their business.

CAMRA has also worked with Nick Clegg MP on this issue, and has raised concerns that SCC are not always acting within the guidance and are placing unnecessary boundaries in the way of community groups looking to protect valued assets.



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www.camra.org.uk/listyourlocal

We are also surprised that the University deems it appropriate to effectively spend student tuition fees on legal representation regarding an ACV application. We would be interested to hear why a Sheffield-based company was not utilised. Pinsent Masons LLP is an international company who rank among the top 100 law firms in the world by turnover. They have over 400 partners, a legal team of around 1,500 and more than 2,500 staff.

A number of items suggested by the letter from Pinsent Masons which could be used to support the ACV application are not required - such as providing surveys on how many people use the pub, and testimonials from local people. In our opinion, these comments are deliberately added in order to confuse the situation.

Pinsent Masons have, in their assertions, failed to appreciate a number of critical factors in the application of the law and in the consideration of applications to register ACVs.

For example, in placing so much reliance on the decision that SCC made in our previous application, they have failed to understand that interpretation of the law evolves. A number of applications that SCC refused have since been granted, for example: the Bath Hotel, the Sheffield Tap and the Three Tuns. Although the nominator's reasons may be similar, the lens through which those reasons are viewed has changed. Pinsent Masons have also failed to consider the benchmarks that other successful ACV applications have set and, against which, this application will need to be measured.

To respond to a number of specific points in the Pinsent Masons letter:

2.2.1 The Regulations do not mention the word 'local.' They say that the community nomination must include, inter alia, *"the nominator's reasons for thinking that the responsible authority should conclude that the land is of community value"*. It's only the (non-statutory) guidance which mentions local. The guidance itself doesn't define local and it could be argued that the whole of Sheffield is local to the pub nominated. This point has previously been agreed by SCC.

A clear example of this is SCC's refined definition of what a community can consist of. In relation to the ACV decision on the Castle Inn, Bradway, the Cabinet Member for Community Services and Libraries stated:

"On the evidence provided the Property is popular with the people of Bradway and neighbouring communities, but also attracts a wider community.... It is reasonable to consider local.... To encompass not only the local.... community of Bradway but also a large area that could conceivably encompass all of Sheffield itself."

Similarly, SCC's report into the ACV application for the Sheffield Tap recognised that the use of an asset by neighbouring groups and to an extent rail travellers collectively identifies a *"local community"*.

nb. We mentioned the wedding reception in order to underline the point that the pub has a 'community.' It is unusual for a licensee to return to a pub they have left, especially in order to hold a function. This act illustrates that the pub has a community, one which supported the ex-licensees.

2.2.2 The pub is used by the wider community. Its long-term inclusion in the CAMRA National Good Beer Guide is not only an indicator of quality, but also ensures that the pub is one of the many destinations for 'Beer Tourism' in Sheffield. Inclusion guarantees visits from a wider community, one which geographically, extends well beyond the city boundary. We expect this listing to continue into the forthcoming 2017 edition.

The objections raised on the basis of the October 2014 petition are perverse. It is irrelevant that the petition was not undertaken in relation to this application. The response to a perceived threat to the University Arms is clear evidence that there is strong community affection. Pinsent Masons have provided no evidence that in the relatively short time since the petition the community response would be any different and their assertion that it is highly likely many of the signatories have moved away, is mere speculation. Similarly, the assertion that signatories were not regular users of the pub or were not from the local community is also speculative and irrelevant. Indeed, in the successful ACV application for the Castle Inn at Bolsterstone (April 2014), specific reference is made to the strength of feeling demonstrated when the pub closed in April 2013 and 39 people went to a meeting at a day's notice to discuss the future of the pub. The University Arms petition was signed by almost 2000 people, in response to a potential threat.

Responses to the University masterplan illustrate the key role that the Arms plays in the life of the University and again illustrate the importance which is felt by many users. The University Arms is clearly valued by CAMRA, university students and the general public.

2.2.3 We have mentioned the historic connotations of the building. For a number of years it was the Sheffield University Staff Club. Hence, many discussions among academics would have taken place within its walls. It should easily be possible for the University to document, and mark, some of the many historic happenings.

For example, we would hope to see a blue plaque similar to the one at the Eagle in Cambridge; *'For decades the Eagle was the local pub for scientists from the nearby Cavendish Laboratory. It was here on February 28th 1953 that Francis Crick and James Watson first announced their discovery of how DNA carries genetic information. Unveiled by James Watson 25th April 2003.'*

We would be very surprised if similar events had not taken place in the Staff Club. We hope that the University would wish to mark such events in a similar fashion. Such an undertaking could only strengthen the community awareness of the building.

2.2.4 We disagree with this point. For example, the hosting of advertising for public events aids community cohesion. Hence, this acts towards ensuring that the pub is an asset of community value.

3.1 We disagree with this point. We believe it is the University which has misunderstood the legislation. The pub clearly furthers the social interests and social well-being of the local community and therefore falls squarely within the definition of an asset of community value as defined in Section 88 of the Localism Act

3.2 An ACV listing does not prevent demolition. We have not suggested that this is the case. However, one of the development options which has been under consideration by the University includes the demolition of the University Arms.

The legislation is also clear that an ACV application relates solely to the property being nominated - whether there are other pubs nearby is irrelevant. The fact that the University is currently converting the nearby Henderson's building is irrelevant. The implication that doing so somehow offsets any risk to the University Arms, simply betrays a fundamental misunderstanding of the concept of community. The idea that a community can simply be moved from one location to another, without there being some change or damage to that community is preposterous.

3.3 We disagree with this point. We believe that our application clearly meets the minimum requirements of the Act.

3.4 An ACV application is not required to consider possible future purchase of the property. The purpose of the application is to list the University Arms as an ACV. The nomination and right to bid processes are separate and there is no obligation for a group nominating a pub to purchase it in the future. Councils should not be requesting a business plan or any other form of commitment from local groups at the nomination stage. With this comment, Pinsent Masons have also revealed their worrying lack of understanding of the relevant act and regulations.

3.5 We disagree with this point. The reason for the nomination is clearly explained, above. We also reject the accusation that the application is an attempt to limit the University's ability to develop this part of its estate. Sheffield and District CAMRA are simply acknowledging that the University Arms is deserving of recognition as having community value, in the same way that we have recognised the community value of a number of other pubs across Sheffield. Also, Pinsent Masons can't have it both ways – in paragraph 3.2 they state that there is a misapprehension that the effect of listing would prevent demolition of the property.

We anticipate that the University Arms will achieve ACV status in the near future,

Please do not hesitate to contact us if you require further information,

Thank you,

Dave Pickersgill

Pub Heritage Officer, on behalf of Sheffield and District CAMRA

(This letter is sent electronically and so is physically unsigned)

This attachment and associated email is copied to:

- 1) Committee, Sheffield and District CAMRA
- 2) Paul Ainsworth, Chair, CAMRA Key Campaign 2 (Pub Protection) Working Group
Chair, CAMRA Pub Heritage Working Group
- 3) Faye Grima, Campaigns Officer, CAMRA, 230 Hatfield Rd, St Albans AL1 4LW

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