DECISION MADE UNDER DELEGATED POWERS TO OFFICERS

CHECKLIST

a) Name of officer(s) taking decision:
   Harjit Hunjan, Business and Community Partnerships Manager

b) Date of decision: 4th May 2017

c) Wards affected: Clewer North

d) Part II

e) Please provide a summary of the decision:

Approve the nomination by Clewer Group of the Swan, Public House, Mill Lane, Clewer as an Asset of Community Value under the Localism Act 2012 and Assets of Community Value (England) Regulations 2012.

f) Please summarise the relevant factors taken into account:

Please refer to the attached report at Appendix 1 which sets out all the criteria.

g) Please indicate the following:

   i. Consultation carried out:

      Lead Members, Ward Councillors, Freeholder, Nominating Group.

   ii. Financial implications:

      The financial implications are costs arising from a possible compensation claim and any legal action taken (which can not be quantified at this stage).

   iii. Legal implications:

      Legal advice has been incorporated in the body of the report.

   iv. Planning implications:

      A decision to list the building or not will not affect its planning status. Any change of use would require planning permission.

      However nomination of a drinking establishment as an Asset of Community Value in itself imposes some limitations on permitted development rights.

   v. Sustainable Development Implications: None
vi. Contribution to the Council's Strategies

The Community Right to Bid is consistent with the Council's commitment to place Residents first and work for safer and stronger communities.

vii. Crime and Disorder Reduction Implications: None

viii. Human Rights and Equality Act Implications: None

ix. Background Papers:

Localism Act 2011
Assets of Community Value (England) Regulations 2012

DATE: 4 May 2018

X SIGNATURE: ......
APPENDIX ONE

Royal Borough of Windsor and Maidenhead

Community Right to Bid

NOMINATION OF SWAN, CLEWER

1. A nomination must include the following information for the local authority to consider:

I. A description of the nominated land including its proposed boundaries. These boundaries do not have to be the same as ownership boundaries, for instance as shown on the Land Registry plan if the land is registered; nor is it necessary for all parts of the nominated site to be in the same ownership.

The property is clearly identified. A clear plan of the site was attached with the nomination.

II. Any information the nominator has about the freeholders, leaseholders and current occupants of the site.

The application correctly states that Wellington Pub Company are the freeholders. Officers informed them of the nomination and have been in correspondence through their solicitors Gosschalls.

There are no leaseholders or current occupants identified. The building is currently vacant and has been offered for sale by the owners Wellington Pub Company.

III. The reasons for nominating the asset, explaining why the nominator believes the asset meets the definition in the Act.

The Clewer Group have stated the reasons why they think the asset meets the definition in the Act. These are summarised below.
IV. The nominator’s eligibility to make the nomination.

The nomination stated that the Clewer Group was formed in 1973 to support the residents and to protect and enhance the environment of Clewer, within the Royal Borough of Windsor and Maidenhead and it is ‘open to all residents of Clewer Village and Clewer, most of whom are on the register of electors of the Royal Borough of Windsor & Maidenhead’. It is an unincorporated group with a local interest and does not distribute a surplus.

The nomination was accompanied by 115 signatures in support of the nomination. The signatures were collected at a specific meeting to discuss the future of the pub. Signatures were checked against the electoral register by the electoral registration team who confirm that at least 21 signatories are eligible to vote in local elections.

The owners’ solicitors have questioned whether the group constitutes an ‘unincorporated group’ in the meaning of the legislation and is eligible to make the nomination.

They say that: the nomination must include evidence that the nominator is eligible to make the nomination, no evidence has been provided that that the group have expressly agreed to be bound by any rules or constitution and consequently the submission is in effect a petition, the group has failed to provide any evidence that they carry out activities or hold any meetings.

The authority’s solicitors have advised.

“The Assets of Community Value (England) Regulations 2012 (‘the Regulations’) Regulation 5 provides a definition of ‘a voluntary or community body’; in the circumstances, the Group would be purporting to be ‘an unincorporated body’. The requirements to be met to qualify as such a body are found in Regulation 5(c) which states that the body must ‘include at least 21 individuals’ and that it ‘does not distribute any surplus it makes to its members’.

Regulation 6(d) provides that the nominator must offer evidence that they are eligible to make a community nomination. Gosschalks state that where a group or body making the nomination has failed to provide appropriate evidence to show their eligibility to make the nomination, then the nomination cannot be valid. Crucially, however, neither the Act nor the Regulations suggest what such evidence may be.

Furthermore, section 4 of the DCLG guidance ‘Community Right to Bid: Non-Statutory advice note for local authorities’ confirms: ‘Nominations can be accepted from any unincorporated group with a membership of at least 21 local people who appear on the electoral roll within the local authority, or a neighbouring authority. This will for instance enable nomination by a local group formed to try to save an asset, but which has not yet reached the stage of acquiring a formal charitable or corporate structure’.
The guidance, therefore, indicates that, prior to submitting a nomination form, the nominating group does not have to be a formal body. The main concern raised by Gosschalks is in relation to the signatures provided in support of the nomination by the Group and purport that this is insufficient and that it is merely a petition. They state that no evidence has been provided to show that the ‘members’ of the Group are bound by any rules or constitution and that they have all agreed to be bound by them.

Neither the Act nor the Regulations specifically require evidence of rules or a constitution, neither does the DCLG guidance suggest that this is necessary. It is for the local authority to decide if the evidence provided is sufficient, though of course, the more evidence provided by any nominating group would undoubtedly increase their chances of a decision being made in their favour.

Case law on this issue does provide some assistance and in the case of Hawthorn Leisure Acquisitions v Chiltern District Council [2016] the judge was of the opinion that the group making the nomination were eligible to do so in spite of the fact that there was no formal constitution or even name for the group. Furthermore, in St Gabriel Properties Ltd v London Borough of Lewisham CAMRA – South East London branch [2014] Judge Warren asserted that an ‘unincorporated body’ is a broad term which covers many different types of community groups and that there was no requirement in her opinion for an unincorporated body within Reg 5(1)(c) to even have a written constitution.

The 2015 case of Mendoza v Camden LBC case highlighted that just because a nominating group did not have a list of identifiable members this did not prevent the group from being an unincorporated body under the Act. Judge Warren affirmed that unincorporated groups and unincorporated associations cannot be seen as the same in the context of the Act and that an unincorporated group could simply be 21 local people coming together for a common interest. The only requirements, in Judge Warren’s opinion, are for 21 local people to sign up and that any surplus made by the group is used in accordance with the Act and the Regulations.

In the appeal case of Mendoza v Camden LBC [2016] Judge Lane considered previous cases such as Conservative and Unionist Central Office v Burrell (Inspector of Taxes) [1982] in which, as Gosschalks confirm, Lawton LJ gave a definition of an ‘unincorporated body’ which included having mutual undertakings to perform mutual duties and obligations and that ‘the bond of union between members of an unincorporated association has to be contractual’. However, Judge Lane concluded in the Mendoza case that ‘there is no sound reason for transporting into the 2012 Regulations the requirement for there to be an unincorporated association, of the kind, described by Lawton LJ in the Burrell case’.

Judge Lane went on to confirm in the appeal case for Mendoza that the Concise Oxford English Dictionary definition of a ‘body’ is ‘3. An organised group of people with a common function’ and while such a common function
may arise from a contractual relationship, Jude Lane concluded that it can 'arise less formally, as a result of a number of individuals coming together to further a matter of common interest'. He further concluded that the membership of the Group was 'sufficiently ascertainable to meet the requirements of the legislation' due to the nomination in that case clearly being made by 21 identified individuals who had organised themselves into a group with a common purpose, to save the ACV in question; he also deemed them to fulfil the 'local' residents requirement under legislation. The case of Marshall and Others v Arun District Council [2017] does conclude that in those circumstances the conditions were not met to classify the group as an 'unincorporated body'; Judge Bird, however, does go on to say in paragraph 31 'I should add that nothing in my conclusions on the facts of this case detracts from the conclusions of earlier Tribunals that there can be a degree of informality in the setting up and administration of unincorporated bodies. For example, the absence of a written constitution is not of itself a bar to a group being an unincorporated body for the purposes of the Act'. He asserted that as long as there is 'a group which is organized and capable of taking group decisions to further the objective of listing, whether through meetings or other less formal means of group decision taking' this was sufficient."

Gosschalks submission suggests that any defects in the nomination can not be rectified once it has been made. The Council's solicitors advise that "in the case of Admiral Taverns Limited [2016] the Council sought further information from the group, after the form had been submitted by them in April 2016, prior to making the decision of whether to list the ACV or not in May 2016. No comment was made in that case that the council had acted improperly or not in accordance with the Act or the Regulations by asking for such information. Ultimately, it is for the local authority to review the evidence that a group provides, whatever form that evidence may take, and decide whether or not the nominator is eligible."

Officer sought further evidence from the Clewer Group and received four documents relating to the group that was formed as The Plan for Clewer Group in 1972 and later changed its name to The Clewer Group. The nominees attached; a copy of the Constitution, a newsletter, and an endorsement note from Roger Sutton the founder member and Secretary. The group has been in correspondence with the Council over many issues since 1972 right up to our submission on the local Plan earlier this year so there is strong evidence of its existence and activities.

2. The Department of Communities and Local Government has defined an asset of community value as follows (This is also set out in Appendix B of RBWM’s policy):

“A building or other land should be considered an Asset of Community Value Community Value if:
i. its actual current use furthers the social wellbeing and interests of the local community, or a use in the recent past has done so;

The pub is ceased trading in January 2016 and the nomination refers to 'trading decline and closure over about four years'. So the nomination refers to a use in the 'recent past' and will hinge on the meaning of that term. The recent past is not defined in the legislation. It is interpreted at the local authority's discretion in the light of local circumstances.

The Clewer Group state, "Clewer village needs a pub as a social amenity and hub. There are only four pubs left in all of Dedworth / Clewer and none within about half a mile. The reason it has traded poorly recently is due to how it was run and does not reflect its commercial potential or the community's social need. They state that in the recent past, until its trading decline and closure over about 4 years, the pub was the centre of Clewer village life including:
* 1 women's and up to 2 men's darts teams often playing twice a week, a successful cribbage team and a football team
* Weekly quiz nights, bingo evenings, local book club, St. Edwards School PTA meetings, Villiers Court residents' AGMs and many charitable events for the hospice and other causes
* St Andrews Church PCC (Parochial Church Council) meetings, as the church has no hall, and receptions following baptisms, weddings and funerals at St Andrews Church. (The pub also changed the church collection for notes, so was an informal village bank!)
* Community noticeboard, Christmas carol singing, even a weekly meat raffle and, not so recently, a Pigeon Club using the garage loft.

The owners' solicitors submit that the Property cannot an does not meet the requirements of Section 88(2) and that there has not been a time in the 'recent past' when an actual use of the property that was not an ancillary use furthered the social well being or interests of the local community.

The Council's solicitors advise

"Section 88(2) of the Act states that:
(2) For the purposes of this 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 (1) 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."
The crucial elements of s.88(2) are the issues surrounding the definition of ‘recent past’ and whether in the next five years, realistically, the property could function again in a non-ancillary way to benefit the local community.

There is no statutory definition for ‘recent past’, but case law does shed some light on how this requirement should be interpreted; it is clear, however, that each case must be taken on its own merits (Scott v South Norfolk DC [2014] and Crostone Ltd v Amber Valley Borough Council (Community Rights: Dismissed) [2015]).

Judge Snelson in the matter of Z B Investments Ltd v London Borough of Croydon & Anor [2016] reasoned that an ACV which had been closed in 2014, but successfully run until 2011 did meet the requirement of s.88(2)(a) of being in the ‘recent past’. He stated that previous case law had made it clear that the language used in statute ‘invites nuanced and contextual interpretation. In a case concerning a public amenity which has existed for over 150 years and perhaps more than two centuries, I certainly consider 2011 ‘recent’. It was ‘recent’ at the time of the ACV listing and it is still ‘recent’.’

In Hawthorn Leisure Ltd v Chiltern District Council [2016] a public house which became an Indian restaurant in 2013 and closed in 2015 had been run as a successful public house from 2000-2007. Judge Lane concluded that ‘given the long history of the Kings Head as a pub, up to 2007, it is, I find, correct to describe that use as having occurred “in the recent past”.’

In Neem Genie Company Ltd v Telford & Wrekin Council & Anor [2016] the public house in question had closed to business in 2011 and a successful nomination was made to list it as an ACV in November 2015. With regard to the argument that the non-ancillary use was not in the ‘recent past’, Judge Bird asserted that ‘whilst that term is not defined in the Localism Act 2011, five years ago fall well within the scope of the ordinary and natural meaning of the words “recent past” in the context of a public house which has stood on the land for decades’.

Furthermore in King v Chiltern District Council & Anor [2016] Judge Snelson concluded that a public house which was listed as an ACV just short of five years after the closure of the business which had prior to that furthered the social wellbeing and interests of the community qualified as being in the ‘recent past’. He stated that ‘given its history which dates back to Victorian times, the statutory language is satisfied.’

The case of Crostone saw Judge Lane also confirm that a relevant factor in what constitutes ‘recent past’ was that the nominated building had ‘operated as a public house for almost 200 years, until its closure in 2012’.

In a policy statement made by the Department for Communities and Local Government (Department for Communities and Local Government: Assets of Community Value: Policy Statement (2011)) the following statement was made in relation to 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, then for a derelict building. Ten or even twenty years might be considered recent for the former but not for the latter.'

It is clear from all of the above mentioned that a local authority should not impose a blanket policy where the question of 'recent past' is concerned, rather they should exercise their discretion and consider the facts of the individual case, in particular where the nominated asset has a long standing history of non-ancillary use. The time period between an asset no longer functioning under its non-ancillary use and being listed as an ACV can therefore vary quite substantially from one decision to another.

There has been a hostelry or public house at the entrance to Mill Lane since medeaval times. The current building is 19th century, although parts are much older. In this context, on the basis of case law, a use within the last four years could be construed as the 'recent past'.

It is also the case that the individuals behind the nomination had been in negotiation with the landlords for two years before the nomination before negotiations broke down around the issue of dilapidation, so there has been an interest in securing the building for the community during the period when it is acknowledged it had ceased to trade.

ii. that use is not an ancillary one;

The nomination relates to the building's principle use which was to be a public house.

They owners solicitors submit that the activities described are 'ancillary' and not part of the buildings primary purpose as a public house.

The Council's solicitors advise, "s.88(2)(a) requires that the social interests of the community are furthered by the actual use of the non-ancillary use of the nominated asset. Judge Warren stated in the case of Firoka Ltd v Oxford City Council (Community Rights: Dismissed) [2014] that "social interests" includes in particular cultural, recreational and sporting interests'. The conclusion in this case was that 'non-ancillary' does not necessarily equate to 'primary use'.

Judge Bird also concluded in the Neem case that the requirement of s.88(2)(a) was met as the ACV was 'plainly actively and well used by the local community for a range of activities ranging from darts and dominoes to the holding wakes. I am satisfied that the Second Respondent has established that the primary use of the Swan Inn furthered both the social well-being and social interests of the local community, in providing a venue for a broad range of local social and community activities.'
In the *Hawthorn* case Judge Lane also made mention of the fact that during the period that the public house was run successfully (2000-2007) it had 'furthered the social wellbeing or interests of the local community, as required by section 88(2)(a)... During that period the pub was successful, with a large and varied clientele, including six dart teams, two cribbage and dominos teams and two quiz league teams. It is noteworthy that those teams have either disbanded or play outside the village... owing to a lack of suitable public houses there.'

*Z B Investments* also highlighted the importance of the pub hosting of activities such as quiz nights, the facilities of a darts board and pool table, the fact that it hosted golf and five-a-side football teams and that is was used for 'one-off celebrations of 'big' birthdays and other special occasions'.

It is clear from case law that 'non-ancillary use' is not limited to simply eating or drinking in an establishment, but that it can include a number of activities which further the social wellbeing and interests of a community.

The Clewer Group have provided evidence that a similar range of activities took place at the Swan before the period of decline which they blame on poor management rather than commercial potential.

They have since provided further evidence in the form of testimonies from individuals supporting the range of activities that were in place.

iii. for land in current community use it is realistic to think that there will continue to be a use which furthers social wellbeing and interests or for land in community use in the recent past it is realistic to think that there will be community use within the next 5 years (In either case, whether or not that use is exactly the same as the present or past) and

There is strong support for the building locally; evidenced by 90+ residents who attended a local meeting, support from the Windsor and Eton Society, a registered charity with a local interest, and the Neighbourhood Planning Group. The nomination has also been supported by West Windsor Residents Association and has the support of local ward councillors.

Residents at the public meeting 6 March 2018 were of the view that the pub had traded poorly in the past because it had been poorly run and that this did not reflect its commercial potential. They blamed the pub's decline on poor customer service and lack of commercial investment.

There is also support from the Craufurd Arms Society a Maidenhead based group who formed a Community Benefit Society that recently purchased a Maidenhead Public House and are running it as a public house. Clewer Residents are in contact, through the Clewer Group with organisations that will potentially support them with crowd funding to raise the necessary capital.
The Council’s solicitors advise, "The key element of this subsection is whether or not the prospect of the asset being used for non-ancillary use in the next five years is realistic. 'Realistic' for the purposes of the Act has been deemed to take the meaning of 'not fanciful'. In King Judge Snelson confirmed that 'the test under s.88(2)(b) is not a demanding one. Parliament has chosen to set the bar low.'

Also, it is made clear in Worthy Developments that the test to be applied should not be which of a number of possible options may be more likely than another. When considering the possibilities for the future use of the ACV in this case, Judge Warren stated 'the future is uncertain. It remains still a realistic outcome that The Rising Sun might return to use either as a traditional pub or as a pub/shop/community centre as envisaged by the committee.' She went on to conclude that her decision was 'reinforced by the pledges of support and petitions gathered by our Save our Sun Committee... their proposals are not fanciful. It is enough that return to use as a pub or some other venture furthering the social wellbeing or interests of the local community be realistic.'

In the Hawthorn case, Judge Lane confirmed that 'turning a profit from the pub need not be "foremost" in the purchaser's mind' and that he did not consider 'the fact that the appellant did not receive a community bid for the Kings Head when it was on sale in 2015 demonstrates that it is not realistic to think the Kings Head could re-open as a pub.'

Judge Hughes, when deciding whether the requirements of s.88(2)(b) were met in Worthmore Properties Ltd v South Oxfordshire District Council & Anor [2017] took into account the clear interest in the public house being maintained for that purpose, particularly as some of those persons had 'knowledge and expertise in running pubs in the area'. He found that despite the fact that the public house in question had suffered from a declining turnover over the years, it was realistic to think that in the next five years especially in light of the fact that there was community interest 'from residents keen to ensure the survival of the village pub with a commitment from one local resident of significant funding'.

In King Judge Snelson was also of the opinion that 'the extent to which the local community is behind a rescue is likely to be a crucial factor' in whether or not an ACV would realistically succeed in the next five years if it continued as a public house.

Most case law shares the view of the cases mentioned above, particularly that of Judge Snelson in King, that the threshold for 'realistic' is low. There also appears to be an indication from the case law that where the lawful use of the nominated asset is unchanged, and particularly cases where planning permission for a change of use has been rejected prior to the nomination, the prospect of meeting the 'realistic' requirement is more likely than not.
Again, fundamentally it will be for the local authority to take into account all evidence provided by a nominator, the history of the asset in question and the level of interest from prospective purchasers and the community when deciding if the requirements of s.88(2)(b) have been satisfied."

There is strong evidence of community support for the Swan. A key individual involved with the nomination has knowledge and expertise of running pubs in the local area and a business plan has been prepared that would give the pub a wider purpose as a community hub for the area.

iv. It does not fall within one of the exemptions (e.g. residential premises and land held with them.)"¹

The land is not covered by any of the listed exemptions.

¹ DCLG Policy Statement on Assets of Community Value – Sept 2011 Sec 1. p6
3. Other matters set out in RBWM's policy.

i. RBWM's Local Plan defines 'community facilities' as day care centres for pre-school children and the elderly, schools, hospital and health facilities, churches, public halls, meeting halls, places for public religious worship, libraries, theatres, cinemas, museums, arts centres and Citizens Advice Bureau. This is not a definitive list but indicates the type of facilities RBWM will normally consider as assets of community value.

As stated in the policy the list in the Local Plan is not a definitive one and was prepared for different purposes. A pub meets the statutory definition identified above. There are currently nine public houses on RBWM's Register of Assets of Community Value. The Council has a strong track record of supporting local public houses and recently supported residents to purchase the Craufurd Arms in Maidenhead as a community run pub.

ii. Bids must be submitted to the Council's Business and Community Partnership Unit by a parish council or a local voluntary or community organisation with a local connection. Nominating groups must have a primary purpose concerned with the local authority's area or the neighbourhood where the asset is situated if this is in more than one local authority area.²

This criteria has been met.

iii. RBWM will expect the nominating group to evidence that the land or building they are proposing to nominate plays (or has played) a significant role in local life and that the activity it supports (or that it is proposed to support) could not reasonably continue if the building was lost to community use. This will normally mean that there are no similar or alternative facilities in the local area that could support the existing or proposed activity.

The property ceased trading in January 2016 and on the evidence of residents' submission refers to its trading decline and closure over a period of about four years. So the application relates to a use in 'the recent past'.

The nomination demonstrates that the building did and could play a significant part in village life.

It states, "There are no pubs in Windsor west of the relief road / Imperial Road (excluding the Harvester restaurant) within a mile of this site because all others, including the Duke of Edinburgh which was opposite the Swan on Mill Lane, have been closed – mainly to convert to residential properties. That is why it is so important for the community that the same fate is not allowed to happen to the Swan."

² Policy Statement on Assets of Community Value – Sept 2011
Whilst the owners have submitted evidence of other pubs and facilities in the general area Clewer Village is a clearly defined area created by a number of physical boundaries in terms of roads and has a long standing and well defined historical identity. The Swan is/was the only pub in this local community and there is a strong case for saying it could or should be a centre for social activities in the village.

iv. **Nominating groups should be able to demonstrate that there is a continuing demand for the activity they are proposing and that the demand for it is likely to be sustained for at least five years.**

The nomination lists activities that took place when the pub was fully functioning.

The consensus among over 90 local residents at a meeting on 6th March was that these activities declined solely due to lack of investment and poor customer service in the pub which in turn contributed to the pub’s closure. This led to a decline in communal activities and hence in village spirit, but there was a massive will to restore such activities and to reclaim a strong village identity again.

It is one of the most historic pubs in the area; there has been an inn on this site since medieval times and it has provided sustenance, accommodation and social interaction for locals and travellers alike for hundreds of years.

It is in The Clewer Conservation Area and is a Non-Designated Heritage Asset (NDHA) considered to make a significant contribution to the Clewer Village (Mill Lane) Conservation Area and is included in the Draft “Local List” being compiled by the Windsor & Eton Society with support from the Windsor Neighbourhood Plan.”

v. **Nominating groups should evidence that they have the capacity to raise the necessary capital and running costs or that they could reasonably expect to do so within the six month window allowed by the regulations.**

A business plan has already been prepared. Terms of a commercial mortgage have also been investigated and sources of funding are now being considered in order to determine the optimal legal and ownership structure to best develop and deliver the “pub as the hub” of Clewer village.

The project is supported by Will Calvert, a partner in Windsor & Eton Brewery, who is experienced in pub operations.
vi. Whilst happy to entertain submissions relating to the use of commercial premises (such as pubs or shops) - the Council will nevertheless proceed more cautiously in respect of such premises and will not normally consider commercial premises for listing if there are similar facilities in the local area that are easily accessible to local people. The Council will only consider commercial premises for listing if the nominating body can demonstrate that their loss to the local area would be a significant loss for local people in respect of their social well being.

This building is commercially owned but loss of this building would have a significant impact on social well being locally. There is a well established precedent of listing public houses under the borough policy.

vii. Social well being is a sense of involvement with other people and with our communities. An Asset of Community Value should promote active engagement with life and other people which could be of a social, cultural or recreational nature.

The building, and the range of activities that formerly took place there, meet this criteria

4. DCLG guidance recognises that certain categories of land should be excluded from listing. These are specified in the regulations and are:

a) Residential premises, including sites for mobile homes and boats. For a building which is or includes residential premises this will include land held with the residence under a single legal title, which would go beyond immediate gardens, outbuildings, yards etc and extend to all land held under that title. The exception to the exclusion of residential premises will be premises which include living quarters which are an integral part of a pub or shop and which are otherwise eligible for listing – these could still be listed as assets of community value.

b) Operational land as defined in Part 11 of the Town and Country Planning Act 1990 – that is land used for transport infrastructure and some other related purposes by specified bodies with statutory powers.

The building is not covered by any of these exemptions.

Recommended Option

Approve Nomination