

## Community Services

Nicola Riley – Interim Community Partnerships & Recreation Manager



DISTRICT COUNCIL  
NORTH OXFORDSHIRE

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Our Ref: SM/ACV/029

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12 February 2016

Dear Mr Hardman

**Listing of "Bishop's End (aka The Bishop Blaize), Burdrop, Sibford Gower, Banbury, Oxfordshire OX15 5RQ" as an Asset of Community Value Under and in Accordance With Chapter 3 of Part 5 of the Localism Act 2011 ('the Act') and the Assets of Community Value (England) Regulations 2012 (the Regulations)**

Further to my letter of 22 December 2015 informing you that Cherwell District Council ('the Council') had received Sibford Gower Parish Council's nomination to list **Bishop's End (aka The Bishop Blaize), Burdrop, Sibford Gower** (the Asset) as an asset of community value, the Council has determined that the Asset *does* meet the relevant criteria specified in the Act and the Regulations and it has accordingly added the Asset to the list of assets of community value maintained by the Council for this purpose ('the List').

In reaching this decision, the Council considers that the Asset has furthered the social wellbeing or social interest of the local community in which it is situated in the recent past and that it is realistic to think that there can be a non-ancillary use of the Asset again which will further (whether or not in the same way) the social wellbeing or social interests of the local community. I have enclosed a copy of the Decision Notice.

### **Effect of inclusion of the Asset on the List**

In consequence of the Asset being added to the List, the Council must now apply to the Land Registry for entry of a restriction on the Asset's registered title to the effect 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*".

In addition, the Council must also include the Listing on the register of Local Land Charges to ensure that all prospective new owners will be aware that the Asset has been added to the Council's List.



The effect of a Listing is that the owner of a Listed site may not transfer it or let it on a long lease of 25 years or more during a period of **6 weeks** beginning on the date the owner makes their intention known to the Council unless the owner's proposal to dispose of the asset falls within one of the exemptions summarised in the Annex attached to this notice. This initial 6 week period is called an 'Interim Moratorium Period'.

Once the Council has been notified of the owner's intent to dispose, the Council will update its List to evidence the owner's intention and to show on the List the date on which the Interim and Full Moratorium Periods end (see below), and also the end date of the Protected Period (see also below). The community group that nominated the site as an asset of community value will also be informed of the owner's intention.

During the 6 week interim moratorium period referred to above a *community interest group* may request the Council in writing to be treated as a potential bidder for the asset in which event the Full Moratorium Period of **6 months** (running, again, from the date of the owner's notification of intent to dispose) will come into force. A community interest group must have one or more of the following structures:

- (a) A charity
- (b) A community interest company
- (c) A company limited by guarantee that is non profit distributing
- (d) A community benefit society
- (e) A Parish Council

Once a local community interest group makes a written request to the Council during the Interim Moratorium Period to be treated as a potential bidder, the Council must as soon as practicable let the owner know that this request has been received and the owner may not then dispose of their asset during the Full Moratorium Period of 6 months except as may be permitted by the Act and Regulations.

As mentioned, there are a number of types of disposal which are exempt from the moratorium requirements described in this notice (i.e., sales permitted by the Act and Regulations that can be lawfully concluded within the specified moratorium periods), and these are summarised in the Annex included with this notice.

If no community interest group comes forward during the 6 week Interim Moratorium Period to be treated as a potential bidder for the asset, or a community interest group does come forward but the Full Moratorium Period elapses without a disposal of the asset to them having occurred, then the owner is free, for a Protected Period of 18 months beginning, once again, on the date of the owner's notification of intent to dispose, to transfer or lease the asset without having to comply with the restrictions on disposal summarised in this notice. If the owner concludes no such disposal within this Protected Period then the sequence is reset and the procedure described in this notice would need to be followed once more by the owner if the owner should wish to dispose of the asset while it remained Listed as an asset of community value.

### **Removal of Permitted Development Rights**

Since the authorised planning use of the property is A4 (Drinking Establishment), nomination, and subsequent listing as an Asset of Community Value removes permitted development rights. Planning consent will be required for change of use or demolition whilst the property remains listed as an ACV. The specific rights removed are listed at Annex 2 (attached).



### Right to Request a Review

The owner of an asset Listed by the Council has a right to request an **internal review** of the Council's decision to include the owner's asset on the Council's List.

If an owner wishes to avail themselves of this right then they must notify the Council in writing within 8 weeks from the date notice of the Listing is given by the Council.

The Council will decide the outcome of any such review within 8 weeks from the date on which it receives notice from the owner requesting the review.

The review will be conducted by a panel of senior officers of the Council who did not take part in the original decision to List the owner's asset as an asset of community value.

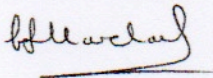
An owner may make representations to the Council in writing or orally to support a request for a review and can, if he/she so wishes, nominate a representative to make the representations on his/her behalf.

Both the owner and the Council bear their own costs in conducting any such review.

If the owner is not satisfied with the outcome of an internal review they have the right to **appeal to the First-Tier Tribunal** against the Council's review decision. The Council's written response following the internal review will summarise the procedure the owner would need to observe in pursuit of an independent appeal.

If you have any questions about the content of this letter, please feel free to contact me.

Yours sincerely



Sue Marchand  
Countryside and Conservation Officer



## **Annex 1**

### **Exemptions from the moratorium requirements**

- A. disposal to a local community interest group, which can be made during a moratorium period (interim or full)
- B. disposals which are gifts (including transfer for no payment to trustees by way of settlement upon trusts)
- C. disposals by personal representatives in accordance with the will of the deceased owner or under intestacy rules
- D. disposal by personal representatives of the deceased owner in order to raise money for matters connected with administration of the estate
- E. disposals between family members ("family member" is defined in section 95(7) of the Act as the owner's spouse or partner and descendants of grandparents – which includes the owner's own parents, but not the grandparents)
- F. part-listed land – i.e. sale of a site only part of which has been listed
- G. sale of land on which a business is carried on, together with sale of that business as a going concern (in such circumstances there would normally be payment separately for the business as a going concern, e.g. the value of equipment, stock and goodwill)
- H. disposals occasioned by somebody becoming or ceasing to be a trustee
- I. disposal by trustees in connection with the trust, as specified
- J. a disposal occasioned by a person becoming or ceasing to be a partner in a partnership
- K. transfers made in pursuance of a court order
- L. transfers (not in pursuance of a court order) as part of a separation agreement between spouses or civil partners (or ex ditto) including agreements for care of dependent children
- M. a transfer (not in pursuance of a court order) for the purposes of any enactment relating to incapacity, with "incapacity" being widely defined to include physical and mental impairment and any interference with capacity to deal with financial and property matters
- N. a disposal made in pursuance of a legally enforceable requirement that it should be made to a specific person, including disposals required under planning obligation agreements; and in the case of an option to buy, nomination right, pre-emption right or right of first refusal only if the agreement was entered into before the land was listed (and in this context it should be noted that an option etc entered into after the land is listed would count as a relevant disposal under section 96(4) of the Act)
- O. disposals of a description which brings them within the Crichton Down rules (where the land was acquired by compulsory purchase but is no longer needed, and the disposal is by way of return to the original owner or their descendants)
- P. sale by a lender under a power of sale (i.e. where the land was security for a loan)



- Q. disposal of land under bankruptcy or other insolvency proceedings – the wording is “insolvency proceedings as defined by Rule 13.7 of the Insolvency Rules 1986”, which gives a very wide definition of insolvency proceedings
- R. compulsory purchase disposals
- S. the grant of a agricultural tenancy to a successor on the death or retirement of the current tenant pursuant to Part 4 of the Agricultural Holdings Act 1986
- T. transfers between connected companies in a group of companies (using the definition of “group undertaking” in section 1161(5) of the Companies Act 2006, modified to restrict “undertaking” to a body corporate)
- U. disposals of closed Church of England churches under Part 6 of the Mission and Pastoral Measure 2011: the lengthy process in Part 6 of the Measure involves public consultation, and at the end of it the building will either be sold or leased for an agreed purpose, or demolished, or transferred to the Churches Conservation Trust for preservation – following which outcomes it will once more be possible to list the building and land if appropriate
- V. disposals by any owner for the purpose of continuing health service provision on the land (in accordance with section 1(1) of the National Health Service Act 2006)
- W. a disposal of land to be held for the purpose of a school (excluding independent schools), further education institution or 16 to 19 Academy
- X. disposal of land subject to a statutory requirement regarding the making of the disposal, where that requirement could not be observed if the Assets moratorium rules were complied with

## Annex 2

### **Permitted development rights removed from Class A4 (drinking establishments) nominated or listed as Assets of Community Value**

- change of use to Class A1 (shops) and Class A2 (financial and professional services);
- change of use to Class A3 (restaurants and cafés);
- change of use to Class A1 (shops), Class A2 (financial and professional services), Class A3 (restaurants and cafés), and Class B1 (business), for a period of two years; and
- change of use to a state funded school for one academic year;
- demolition of the building.