

30th July 2015

Mr Sohail Sarbuland
4 Abbots Place
London
NW6 4NP
By email only sohail@crossier.com

Dear Mr Sarbuland

Decision on Nomination of Land to be added to the Brent Local Authority List of Assets of Community Value.

This decision is made in accordance with Part 5 Chapter 3 of the Localism Act 2011 (Assets of Community Value) ("the Act") and The Assets of Community Value (England) Regulations 2012 ("the 2012 Regulations").

The Council received a complete nomination on 15th June 2015 from Queen's Park Area Residents' Association in relation to the Corrib Rest Pub at 76 to 82 (even numbers) Salusbury Road, London NW6 6PA.

In order to form a view as to whether the site should be listed the views of the freeholder of the land (Ashcross Limited, through their solicitors Mishcon de Reya), and the nominee (Queen's Park Area Resident's Association) have been sought and taken into account. I refer to the nomination form and accompanying documents received in full on 15th June 2013, the letter from Mishcon de Reya dated 1st July 2015 and the subsequent letter from Queen's Park Area Residents' Association dated 13th July 2015. The two parties actively involved were provided with an opportunity to address the criteria for listing an asset as set out in the Act and the Regulations. I have also taken into account a section 106 planning agreement relating to the site.

(1) Was there a valid community nomination?

In accordance with S89 of the Act '*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 in response to a community nomination*'. A community nomination is defined as one made by (inter alia) '*a voluntary or community body with a local connection*'. Voluntary or community bodies include an unincorporated body whose members include at least 21 members and which does not distribute any surplus it makes to its members. (Regulation 5(1)(c)). A body has a local connection with land in a local authority's area if the body's activities are wholly or partly concerned with the local authority's area (Regulation 4(1)(a)) and any surplus it makes is wholly or partly applied for the benefit of the local authority's area.

This nomination is made by Queen's Park Area Residents' Association. The group confirms it is an unincorporated body whose members include at least 21 members and that it does not distribute any surplus it makes to its members. The nomination form provides that "Our constitution clearly states that our mission is to continuously strive to make Queen's Park a wonderful place to live, work and bring up a family. We work with a variety of "local partners" – Churches, Schools, Brent Council – Queen's Park Area and to continuously improve the environment and the opportunities to come together as a community". It is not disputed that the Queen's Park Area Residents' Association is entitled to make the nomination and the Council is satisfied that this group is a body which is able to make the nomination.

Regulation 6 sets out the content required in a community nomination. It is not disputed that those requirements are met. The nominated land, namely, 'the Corrib Rest pub' is described in the nomination form and delineated on a plan accompanying the form. The Council is satisfied having regard to the nomination documentation that regulation 6 (a) is met and that the land is that land known as The Corrib Rest Pub, 76-82 (even numbers) Salusbury Road, London NW6 6PA.

(2) Is the Land of Community Value?

In accordance with Section 90 of the Act if a local authority receives a community nomination the Council must consider the nomination. The Council must accept the nomination if the land nominated is in the local authority's area and is of community value. The Corrib Rest Pub is situated in the London Borough of Brent and the land does not fall within land exempt from the legislation (Schedule 1 of the Regulations).

The criteria to be applied by the Council in deciding whether the Pub is of community value is set out in Section 88 which provides

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 of 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 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.

Section 88(6) provides that “social interests” includes (in particular) each of the following—
(a)cultural interests; (b)recreational interests; (c)sporting interests;

On the information and evidence I have carefully considered, I am of the opinion that both limbs of S88(2) have been met and that this nomination should succeed. The Corrib Rest Pub has strong credentials as an asset of community value. The building has been used as a community pub for many years. In addition, various community activities (e.g. meetings of various local groups and activities such as dancing etc.) have taken place within the building.

(a) Section 88(2)(a) – actual use of the building in the recent past

This nomination is correctly stated to be based on the actual use of the building in the recent past as currently it is closed and re-development plans are afoot. According to the nomination: “The Corrib Rest Pub has for many years had a community use. In addition to the pub which has been a meeting place for local people, there is an upstairs room that has been used for classes – Irish Dancing, Salsa being the most recent uses. The classes have been attended by local families plus people who work in the area. The upstairs room was also regularly rented out for local wedding, christening and similar family parties”.

In their subsequent letter the Association amplified their reasons for making the nomination. In particular, they asked the Council to consider a section 106 agreement dated 11 December 2000 and emphasized the community use of the pub and the link between the use of the pub and the function room.

Mishcon de Reya submit that the Corrib Rest Pub was just like any other pub and that “there must be something over and above this for the test to be made out”. I cannot accept this submission because it amounts to an attempt to put a gloss on the statutory language. If it can be demonstrated that the actual and main use of a building is no more than an ordinary pub and that use furthered the social wellbeing or social interests of the local community, nothing more is required is satisfy the test in S82(2)(a). A pub like the Corrib Rest (i.e. its location, history and use) will often be a strong candidate for a listing.

On the facts of this particular case, I am of the opinion that the information submitted in support of the nomination, including the reliance placed on the s106 agreement, satisfies S88(2)(a).

It is clear that the Corrib Rest Pub was intended to be a valued community facility and its actual use in the past lived up to that expectation.

For the same reasons, I have no hesitation in rejecting the submission that the various functions that took place in the upstairs room were no different from any pub with a function room.

Mishcon de Reya also argue that, in any event, the use of the first floor was only ancillary to the main operation of the building. This argument is misconceived. If anything, it militates in favour of the listing. It establishes a strong link between the pub and the activities the function room was used for. It demonstrates that the actual and main use of the function room also furthered the social wellbeing and social interests of the local community. Just because the function room had to be used ancillary to the pub does not mean that its use is ancillary for the purposes of S88(2)(a).

(b)Section 88(2)(b) Is it realistic to think that there can continue to be non-ancillary use?

In respect of the second limb of the test, I believe it is realistic that in the next five years there could be non-ancillary use of the same building that would further (whether or not in the same way as before) the social wellbeing of social interests of the local community.

Bearing in mind that any future use of the building need not further the social wellbeing or social interests of the local community in the same way as before, this remains a realistic possibility on the facts. At this formative stage in the Pub's redevelopment process, and especially having regard to the fact that any different use has not been settled or approved yet, to suggest otherwise is not convincing.

If, in the future, there is a material change of circumstances, such that the council no longer considers the building to be of community value, the council can and indeed is required to remove the listing.

The Council is satisfied that the nomination made by the community body falls within Section 90(3) and under section 90(4) the Council is therefore required to enter the land as nominated on the Council's list of assets of community value.

In accordance with Section 91 of the Act the Council hereby gives notice of the inclusion of the land owned by Ashcross Limited and known as the Corrib Rest Pub at 76 to 82 (even numbers) Salusbury Road, London on the Local Authority's list of Assets of Community Value.

The consequences for the land and for Ashcross Limited as owners of the land of the inclusion of the land on the list of assets of community value are that

- i) The land will remain on the list of assets of community value for a period of 5 years unless the criteria for listing are found to no longer exist during an earlier review.

- ii) It is open to the Council to remove the entry if for any reason the council no longer considers the land to be of community value.
- iii) A restriction will be entered on the Land Registry and entry will be made on the Local Land Charges Register.
- iv) Under s95 of the Act the owner (Ashcross Limited) must not enter into a relevant disposal of the land unless certain conditions are met. These include notifying the Council in writing of the owner's wish to enter into a relevant disposal of the land and complying with any moratorium periods on disposal.
- v) A relevant disposal of listed land is ineffective if it is a disposal which contravenes S95. There is an exception to this in paragraph 21(2) of the Regulations.

The owner of the land Ashcross Limited has the right to ask for a review under S92 of the Act. A request for a review must be made in writing before the end of 8 weeks from the date of this notice. Such request should be addressed to the Chief Operating Officer, Brent Council, Brent Civic Centre, Empire Way , Wembley, HA9 0FJ

Cathy Tyson
Head of Policy and Scrutiny