

Date: 17<sup>th</sup> December, 2018  
Your reference:  
Our reference: CH/ABL

Mr. E. Atkinson  
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Dear Mr. Atkinson

**REVIEW OF COUNCIL DECISION TO LIST LAND AT THE BOAR'S HEAD,  
GARSTANG ROAD, BARTON, AS AN ASSET OF COMMUNITY VALUE (ACV)**

Under Section 92 of the Localism Act 2011, the owner of the land, Barton NWL Properties Ltd, has asked the Council to review its decision to list the Boar's Head Public House. The application to nominate for listing was made by the Barton Heritage Group on 8th December 2016. The decision to list the above property was made on 31st January 2017. It was felt that the principal use of the property furthered the community's social well-being and/or social interests and was likely to do so in the future. The owner requested a review of the Council's decision on 17<sup>th</sup> February 2017. This was carried out and a decision was made in April 2017 to retain the listing.

Since then, there have been two requests from the owner to review the listing and these have been rejected.

In accordance with Schedule 2 of the Assets of Community Value (England) Regulations 2012 I have carried out the review as "an officer of the authority of appropriate seniority who did not take part in making the decision to be reviewed". (Part 4, Schedule 2). The review decision under the Council's Constitution has been made in consultation with the Cabinet Member for Planning and Regulation.

This request has been carefully considered, along with other views submitted, against the Council's responsibilities as set out in legislation and including relevant case law.

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The legislation balances the right of community groups to request an asset be listed with a view to its use for community purposes being secured, as against the rights of the property owner not to be unfairly infringed on. The Council has a responsibility to list an asset if it believes that it has the potential to become an asset of community value. However, it also has a responsibility to take a site or property off the ACV list as soon as practical should it form the view that it no longer has a realistic prospect of playing that role.

The Council's letter of 12<sup>th</sup> September 2018 set out the history of recent interactions with the Council on the future of the property, since the closure of the pub by its then owners, Mitchell & Butler, on the ground of non-viability just over two years ago. There is evidence of the property being widely advertised as a going concern all to no avail prior to its sale to the current owners, Barton NWL Properties Limited.

The new owners then indicated their intention to redevelop the site for residential housing, and the property then became the subject of a request for listing as an ACV by the Barton Heritage Group (BHG). The group's submission was detailed. It provided evidence of plans for community use beyond food and drink offerings, and local support by means of a petition. On that basis, the Council agreed to list the property.

The legislation provides for a period during which the listing applicant has exclusive rights to bid to purchase the property. It does not however require the property owner to accept any bid submitted. The valuation of site by the respective parties was far apart and a compromise proposal by the owners to sell the buildings to BHG while retaining the associated land was not acceptable to the listing applicant.

The owners of the property have made subsequent approaches to BHG to engage in discussions, but there has been no substantive progress. In the meantime, the state of the physical fabric of the property has continued to deteriorate and the Council has had to work with the owners on health and safety grounds to ensure that the property has been made secure. Notwithstanding, this, the property has suffered from vandalism, break-ins, the theft of lead from the roof, attempted arson and significant water ingress which has revealed underlying issues with the structure of the building.

The Council has previously refused an application to delist, believing that there was a realistic possibility that the property could be used to further the community's social well-being. As time has gone on, however, the physical fabric of the building has continued to deteriorate. In addition, there has been no compromise between the BHG and the owners on what a reasonable sale price for the property might be and the gap in value is significant.

Taking into account these factors, the Council has come to the conclusion that there is no realistic prospect of the building remaining an asset of community value and consequently it has decided to take the premises off the ACV list.

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It should be pointed out, however that the de-listing does not mean that a sale cannot still be agreed between the parties. Nor does it mean that redevelopment of the site, as previously proposed by the owners, will automatically go ahead. Any proposals of that nature will need to be considered as part of the Council's planning process. It is noted that the building has recently been identified on the local heritage list of buildings and this is one material consideration which needs to be considered through the planning process, alongside any benefits arising from redevelopment.

Yours sincerely

A handwritten signature in black ink that reads "C. M. Hayward". The signature is written in a cursive style with a large, sweeping flourish at the end of the word "Hayward".

**Chris Hayward**  
Director of Development