

UNSUCCESSFUL ACV NOMINATION DECISION

Brewers Quay (including Coopers Building), Brewery Reach (former car park) and Newberry Gardens Car Park, Weymouth

3 August 2021

Dorset Council has considered the nomination of Brewers Quay (including Coopers Building), Brewery Reach (former car park) and Newberry Gardens Car Park as an asset of community value under Part 5 Chapter 3 of the Localism Act 2011 and the Assets of Community Value (England) Regulations 2012.

Dorset Council has decided not to list the following as an asset of community value, having considered the various tests required under the relevant legislation:

- Brewers Quay (including Coopers Building)
- Brewery Reach
- Newberry Gardens Car Park

Our decision is as follows:

1. Validity of nomination

The nomination satisfies the following legal requirements as:

- i. The asset is within the Dorset Council's administrative area.
- ii. The land or building is an asset that is not specifically excluded under the Assets of Community Value (England) Regulations 2012.
- iii. The nomination identifies the site, provides information on the owners and occupiers, and provides the nominator's reasons for the nomination.
- iv. The nomination has been made by Weymouth Area Development Trust, meeting the definition of a voluntary or community body with a local connection.

2. The asset of community value legislative tests

The legal requirements for a nominated property to be an asset of community value (ACV) are set out in section 88 of the Localism Act 2011, with there being differing tests for properties in current actual use and those with a use in the recent past.

Current actual use: Section 88(1) provides that 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.

Use in the recent past: Section 88(2) provides that a building or other land in a local authority's area 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.

'Social wellbeing' is not defined in ACV legislation whilst under section 88(6) of the Act 'social interests' includes (in particular) each of the following:

- (a) Cultural interests
- (b) Recreational interests
- (c) Sporting interests

'Recent past' is not defined in ACV legislation or government guidance.

'Building' is identified in ACV legislation as including part of a building.

3. Reasons for decision

The following sections set out how the legislative tests have been applied in respect of each of the three parts of the nominated property and the reasons for Dorset Council's decisions. In applying the tests, documents held by the council that are in the public domain have been consulted in addition to evidence submitted with the nomination. These comprise documentation included with planning applications WP/14/01064/FUL and WP/18/00298/FUL, approved in 2016 and 2020 respectively, and listed building consent WP/17/00435/LBC, including the Museum Development Agreement dated 11 November 2016 (which forms part of the S106 Agreement for planning consent WP/18/00298/FUL) and the 25 year lease held by Weymouth Museum dated 22 November 2016. In making its decision the council has taken into account comments on the nomination received from Weymouth Museum Trust and on behalf of the receivers of the property.

(i) Brewers Quay (including Coopers Building)

'Brewers Quay' comprises two buildings: the main, former brewery, building that is part 4-storey and part 2-storey and Coopers Building, a smaller single-storey building that was originally a coopers' workshop. Both buildings are grade II listed, however their heritage significance is not of relevance to the consideration of whether the buildings meet the definition of an asset of community value. Land Registry Title DT326482 identifies that parts of the ground, first and second floors of the main Brewers Quay building are subject to a 25 year lease held by Weymouth Museum Trust beginning on 22-11-2016.

The brewery ceased operating in 1985 and since then the buildings have been occupied by a range of uses for various periods of time. The nomination form identifies that from 1989 the buildings contained a mixed attraction complex comprising a 'Timewalk' visitor attraction, Weymouth Town Museum, a science museum, shops, workshops (it is believed in the Coopers Building), bars, offices and restaurants. It is understood that these uses took place on the lower floors of the buildings while the upper floors remained vacant. The nomination form goes on to say that this complex closed around 2010 leaving one area for the Weymouth Town Museum and some offices. It is understood that, in addition to the museum, an antiques emporium and restaurant were also open between 2013 and 2017, these uses being located on the ground and first floors of the main building.

At the present time the buildings are vacant apart from a small part on the ground floor at the eastern end of the main building which is occupied by Weymouth Town Museum. It is understood that the museum moved to this location in March 2018 as a temporary measure in connection with proposed mixed use alterations/conversion works to Brewers Quay, including provision for a museum, approved under lapsed planning permission WP/14/01064/FUL. It is understood that this temporary relocation is provided for under the terms of the museum's lease. The nomination form identifies that the museum collection is housed in other parts of the building but which parts these are is not indicated.

With part of Brewers Quay being in use and part vacant, to apply the differing legislative tests under sections 88(1) and (2) the council has undertaken separate assessments of those areas of the buildings currently in use and those not in use.

BREWERS QUAY AREAS CURRENTLY IN USE

Section 88(1)(a) – Weymouth Town Museum is an actual current non-ancillary use within part of the main Brewers Quay building. Whilst acknowledging that the museum will be an attraction for visitors to Weymouth, the council considers that as a local history museum it furthers the social wellbeing or social interests of the local community. Therefore, in the council's opinion, those areas within the main Brewers Quay building in current use by Weymouth Town Museum meet the requirement of section 88(1)(a).

Section 88(1)(b) – Whilst acknowledging that the museum can continue to occupy part of Brewers Quay, the council does not consider it realistic to think that there will necessarily be non-ancillary use of the same parts of the building currently occupied by the museum, taken to be the location to which it re-located as a temporary measure in 2018, which will further (whether or not in the same way) the social wellbeing or social interests of the local community. This is due to the uncertainty, brought about by the liquidation of the current owners, over the nature of the future use of Brewers Quay. This uncertainty is demonstrated by the differing proposed layouts of the schemes that have been granted planning consent in previous years. So while the area on the ground floor currently occupied by the museum is identified in both the lapsed 2014 and extant 2018 permissions for use as a retail unit together with an entrance corridor and bin store for residents, the museum's 2016 lease includes a plan dating from the 1990's that identifies that same area in use as offices. At the same time, the location(s) of the other parts of the museum collection has/have not been identified. Therefore, in the council's opinion, those areas within the main Brewers Quay building in actual current use by Weymouth Town Museum do not meet the requirement of section 88(1)(b).

Conclusion – Although those areas of the Brewers Quay buildings in actual current use as Weymouth Town Museum meet the legal test under section 88(1)(a), the council does not consider they meet the legal test under section 88(1)(b). As such those areas of the Brewers Quay buildings in actual current use as Weymouth Town Museum are not an asset of community value.

BREWERS QUAY AREAS NOT IN USE

Section 88(2)(a) - 'Recent past' is not defined in ACV legislation or government guidance and so it is a matter of interpretation whether any of the former uses within the now vacant areas of the buildings can be regarded as being in the recent past. As set out previously, following the closure of the brewery in 1985 the upper floors of the main Brewers Quay building are understood to have been unused. In respect of the currently vacant areas of the lower floors of the main building and Coopers Building, parts of these have been occupied by a range of uses for differing periods of time in the past, including Weymouth Town Museum before it moved to its temporary location in March 2018. Of the other parts of the lower floors, some areas fell out of use around 2010, with the remainder becoming vacant in 2017.

The council considers that Weymouth Town Museum, being a local history museum, furthers the social wellbeing or social interests of the local community. The council also considers that it is reasonable to think that March 2018 is in the recent past. Therefore, in the council's opinion, those areas within the main Brewers Quay building that were in recent use by Weymouth Town Museum, as identified in the 2016 museum lease and prior to it moving to its current location, meet the requirement of section 88(2)(a).

The council, however, does not consider that the remainder of the vacant areas within the Brewers Quay buildings meet the requirement of section 88(2)(a) as they either did not take place in the recent past and/or would not have furthered the social wellbeing or social interests of the local community.

Section 88(2)(b) - Whilst acknowledging that the museum has a long lease and can continue to occupy part of Brewers Quay, the council does not consider it realistic to think that there will necessarily be a time in the next five years when there could be non-ancillary use of the areas of the Brewers Quay main building that were occupied in the recent past by the Weymouth Town Museum, being the areas identified in the 2016 museum lease, that would further (whether or not in the same way as before) the social wellbeing or social interests of the local community. This is due to the uncertainty, brought about by the liquidation of the current owners, over the nature of the future use of Brewers Quay, as evidenced by the proposed layouts of the schemes that have been granted planning consent in previous years. This uncertainty is demonstrated in the table below which sets out a comparison of the areas occupied by the museum under its 2016 lease with the approved layouts under the lapsed 2014 and extant 2018 planning consents. While there is some overlap between the areas subject to the lease with the approved layouts of each of these planning proposals, including where there is opportunity to incorporate brewery equipment into the museum exhibits, there are also differences between the planning proposals themselves.

Floor	2016 lease	WP/14/01064/FUL (approved 2016)	WP/18/00298/FUL (approved 2020)
Ground	Lower store	Retail	Cultural space
First	Galleries	Residential with a small part amenity	Residential with a small part museum
	Kitchen	Cleaners' Store	Within area identified for museum use
	Workshop (over mash tun)	Brewery equipment to be retained	
	Computer store	Residential	
	Shop	Demolished	Demolished
	Offices/Resource centre	Retail bins/Residential	Service area/Residential
Second	Store	Museum (brewery equipment to be retained/storage)	Museum

This uncertainty is further demonstrated by the Museum Development Agreement 2016, whether or not still in force, that identifies that on completion of alterations/conversion works to Brewers Quay, the museum would enter into an updated lease, occupying different parts of Brewers Quay to that shown in the 2016 museum lease. Therefore, in the council's opinion, those areas within the main Brewers Quay building occupied in the recent past by Weymouth Town Museum do not meet the requirement of section 88(2)(b).

As the remainder of the vacant areas within the Brewers Quay buildings do not meet the requirement of section 88(2)(a) it is not considered necessary to assess those areas against section 88(2)(b).

Conclusion - Whilst those areas of the Brewers Quay buildings in use in the recent past by Weymouth Town Museum meet the legal test under section 88(2)(a), the council does not consider they meet the legal test under section 88(2)(b). As such those areas of the Brewers Quay buildings in use as Weymouth Town Museum in the recent past are not an asset of community value.

As the remainder of the vacant areas within the Brewers Quay buildings do not meet the requirement of section 88(2)(a) and therefore section 88(2)(b), they are not an asset of community value.

BREWERS QUAY (INCLUDING COOPERS BUILDING) CONCLUSION

Brewers Quay, including Coopers Building, both in full or part, do not meet the requirements of section 88(1), (a) and (b), or of section 88(2), (a) and (b), of the Localism Act 2011 and is therefore not a building or land of community value.

(ii) Brewery Reach (formerly Newtons Road car park)

Brewery Reach is a stalled residential building site and so does not have an actual current use. Consideration of whether the land meets the definition of an asset of community value has therefore been made under section 88(2), (a) and (b), of the Localism Act 2011.

Section 88(2)(a) - Works commenced on the Brewery Reach site in connection with the implementation of a residential development planning consent in August 2017 (WP/14/01062/OUT & WP/16/00852/RES). Prior to that time the use of the land was that of a privately operated public car park (Newtons Road Car Park). It is unknown when the parking use ceased, however it is understood to be during 2017, i.e. some four years ago. As referred to earlier, 'recent past' is not defined in ACV legislation or government guidance and so it is a matter of interpretation whether the land's use as a car park can be regarded as being in the recent past. However, even if 2017 is considered to be the recent past, there is no evidence to suggest that the car park furthered the social wellbeing or social interests of the local community.

Section 88(2)(b) – As outlined above, Brewery Reach is subject to planning consent for residential development with works having commenced on site. Regardless, therefore, of both whether 2017 is considered to be the recent past and whether the car park furthered the social wellbeing or social interests of the local community, in the council's opinion it is unrealistic to think that there would be 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.

BREWERY REACH CONCLUSION

Brewery Reach does not meet the requirements of section 88(2), (a) and (b), of the Localism Act 2011 and is therefore not a building or land of community value.

(iii) Newberry Gardens Car Park

Newberry Gardens Car Park is a privately operated public car park that includes a section leased to Dorset Council solely for residents parking (known as Hope Square Car Park). There are no allocated car parking spaces for employees or visitors to Brewery Quay. As the car park has an actual current use, consideration of whether the land meets the definition of an asset of community value has been made under section 88(1), (a) and (b), of the Localism Act 2011.

Section 88(1)(a) – There is no evidence to suggest that Newberry Gardens Car Park specifically furthers the social wellbeing or social interests of the local community. Given its location close to the Weymouth's historic harbour, it is considered that the car park will be serving both the local community and tourists for a range of purposes beyond those that might further social wellbeing or social interests. Therefore, in the council's opinion Newberry Gardens Car Park does not further the social wellbeing or social interests of the local community.

Section 88(1)(b) - In the council's opinion Newberry Gardens Car Park does not meet the requirement of section 88(1)(b) as, regardless of whether or not it is realistic to think the actual current use of the building will continue, its use is not considered to further the social wellbeing or social interests of the local community, as outlined above.

NEWBERRY GARDENS CAR PARK CONCLUSION

Newberry Gardens Car Park does not meet the requirements of section 88(1), (a) and (b), of the Localism Act 2011 and is therefore not a building or land of community value.

4. Decision

Taking all the above into account, it is therefore Dorset Council's decision not to list:

- Brewers Quay (including Coopers Building)
- Brewery Reach (former car park)
- Newberry Gardens Car Park