

**Reference**

CAMACV17

**Category**

Public house

**Property name and address**

The Black Cap, 171 Camden High Street, London NW1 7JY

**Date Nomination Received**

10 February 2015

**Nominated By**

Camden LGBT Forum

**Decision**

Successful

**Reason For Unsuccessful Nomination**

**Decision Date**

08 April 2015

**Listing decision under review or appeal?**

No

**Land Registry restriction status**

Restriction entered

**Notice To Dispose Received By Council Date**

02 September 2015

**Interim Moratorium End Date**

14 October 2015

**Full Moratorium Triggered**

Yes

**Community Group Which Triggered Full Moratorium**

Camden LGBT Forum

**Full Moratorium End Date**

02 March 2016

**Protected Period Expiry Date**

02 February 2017

**Listing Expiry Date**

08 April 2020

**Location**

(51.53840488°, -0.142649736°)

**Publisher Label**

London Borough of Camden

**Publisher URI**

<https://opendata.camden.gov.uk/Community/Assets-Of-Community-Value-complete-list/84z2-jixf/data>



**Corporate Strategy**  
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[www.camden.gov.uk](http://www.camden.gov.uk)  
email: [communityrighttobid@camden.gov.uk](mailto:communityrighttobid@camden.gov.uk)  
**23 May 2013**

Mr Stephen Cox  
Director  
Faucet Inn Ltd  
88-90 George Street  
London  
W1U 8PA

Dear Mr Cox

**Nominations of Assets of Community Value, Localism Act 2011 –  
Consideration to list ‘The Black Cap Public House’ 171 Camden High Street,  
London NW1 7JY as an asset of community value**

I am writing to inform you that the ‘Black Cap Public House’ has been nominated as an asset of community value and that we are considering listing this according to the criteria.

The legislation (also known as the "community right to bid") allows defined community groups to ask the council to list certain assets as being of "community value".

We have an obligation under Regulation 8 of the Assets of Community Value (England) Regulations 2012 ("the 2012 Regulation") to inform you that we are considering listing this property.

We will make a decision within 8 weeks and we will write to you again to inform you of the outcome.

If you require further information on assets of community value in Camden please visit the website: <http://camden.gov.uk/ccm/navigation/community-and-living/localism-act>

Yours sincerely

Janette John  
Senior Officer

Janette John - Senior Officer  
London Borough of Camden  
Camden Town Hall  
Judd Street  
London WC1H 9JE

26 June 2013

BY POST

Dear Jannette,

**FREEDOM OF INFORMATION REQUEST – DESIGNATION OF THE BLACK CAP PUBLIC HOUSE, CAMDEN HIGH STREET, CAMDEN AS AN ASSET OF COMMUNITY VALUE**

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This is a formal request for information under the Freedom of Information Act 2000. This request is made on behalf of Faucet Inn Ltd.

We understand that the Council has confirmed its intention to give consideration to the nomination of the Black Cap Public House for listing as an asset of community value.

In order to understand the Council's consideration in this case we request copies of information relating to the application for the nomination of the site as an asset of a community value, and all internal correspondence within the Council in relation to the application.

To confirm, we request the following:

- A copy of the nomination of the site as an asset of community value, including the name of the nominator and date of submission;
- A copy of any justification for the nomination of the site as an asset of community value;
- A copy of any correspondence between officers at the Council to date on the merits or justification of the site as an asset of community value, and any correspondence on the process which the nomination has taken.

We would like the above information to be provided to us in electronic or paper form. We understand that there may be costs associated.

We understand that under the provision of the Freedom of Information Act 2000 we should be entitled to a response within 20 working days of your receipt of this letter.

We would be grateful if you could confirm that you have received this request.

We look forward to hearing from you.

Yours sincerely



David Churchill  
DIRECTOR

**Corporate Strategy**  
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email:communityrighttobid@camden.gov.uk

Mr David Churchill  
Director  
Iceni Projects  
Flitcroft House  
114-116 Charing Cross Road  
London  
WC2H 0JR

19 July 2013

Via e-mail

Dear Mr Churchill

**Freedom of Information Request – designation of the Black Cap Public House, Camden High Street as an asset of community value**

Thank you for your letter on behalf of Faucet Inn Ltd dated 26<sup>th</sup> June 2013 requesting for information relating to the council's intention to list the above asset as of community value.

I am writing to confirm that we have received a nomination to list the Black Cap Public House as an asset of community value under the Localism Act 2011. This asset was nominated by 'The Drama Queens Drag Theatre Company'. I have redacted some contents of the document under the following exemption:

**Section 40 (2) of the Freedom of Information Act (FOI).**

We have withheld information in accordance with Section 40(2) by virtue of s 40 (3) a (i) of the FOI Act which allows a public authority to withhold information from a response to a request when the information requested is personal data relating to someone other than the requestor, and its disclosure would contravene one of the Data Protection principles.

In this instance we consider that such a disclosure would be unfair to the third party individuals and in breach of the first Data Protection principle which states that – "Personal data shall be processed fairly and lawfully".

This is an absolute exemption.

The nomination form also includes the rationale for the listing. Using the information provided by the nominating body as we are required to do by the Act, we believe that the Black Cap meets the criteria for an asset of community value. We also believe that the nominating organisation is eligible to nominate an asset of community value<sup>1</sup>. We needed to seek clarification on this latter point but we have now done so. Consequently the asset will be listed on 22 July 2013.

There has been no written correspondence between officers on the merits or justification of the site as an asset of community value or any correspondence on the process which the nomination has taken.

I would like to take this opportunity to remind you that the owner of a listed asset has the right to appeal against the Council's decision to list the site as an asset of community value. The procedure for the review is set out in s92 of the Localism Act and in Schedule 2 of the Regulations. The land would remain listed while the review is carried out. They have eight weeks from the date of listing, until 16 September 2013, to request an appeal.

I hope this answers your questions and please do not hesitate to contact me if I can be of further assistance.

If you are unhappy with any aspect of the way in that your request has been managed you have the right to issue a complaint. If you wish to issue a complaint, please set out in writing your grounds of appeal (within 2 months of this correspondence) and send it to: Access to Information Team, Legal Services, Camden Town Hall, Judd Street, London, WC1H 9LP and your complaint will be dealt with through our Internal Review procedure

Yours Sincerely

Janette John  
Senior Officer, Corporate Strategy

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<sup>1</sup> Please see <https://www.gov.uk/government/publications/community-right-to-bid-non-statutory-advice-note-for-local-authorities> for criteria for assets of community value and nominating organisations.

## Guidance notes – Definitions

### Eligibility

Only **voluntary and community organisations** with a **local connection**, in addition to parish councils in England (and community councils in Wales) will have the right to make community nominations of assets to be included on the list.

A 'local voluntary and community body' is defined as a body, other than a public or local authority, which may be incorporated or unincorporated, must not be run primarily for profit, and must have a primary purpose concerned with the local authority area, or the neighbourhood in which the asset is situated where this is in more than one authority's area. In practical terms, this means your organisation must be one of the following:

- (a) A body designated as a neighbourhood forum pursuant to section 61F of the Town and Country Planning Act 1990;
  - (b) A parish council;
  - (c) An unincorporated body –
    - (i) Whose members include at least 21 individuals, and
    - (ii) Which does not distribute any surplus it makes to its members;
  - (d) A charity;
  - (e) A company limited by guarantee which does not distribute any surplus it makes to its members;
  - (f) An industrial and provident society which does not distribute any surplus it makes to its members (defined as a body registered or deemed to be registered under the Industrial and Provident Societies Act 1965 which meets one of the conditions in section 1 of that Act) ; or
  - (g) A community interest company
1. In the regulation 'industrial and provident society' means

### Local connection

**Definition of local connection** – Please provide evidence that your organisation has a connection to Camden. This means:

a body other than a parish council has a local connection with land in a local authority's area if –

- (a) The body's activities are wholly or partly concerned –
    - with the local authority's area or
    - with a neighbouring authority's area;
  - in the case of a body within regulations 5(1)(c), (e) or (f), any surplus it makes is wholly or partly applied –
  - For the benefit of the local authority's area, or
  - For the benefit of a neighbouring authority's area; and
  - In the case of a body within regulations 5(1)(c) it has at least 21 local members.
- For the purposes of these regulations and section 89 (2) of the Act-

- (a) A parish council has a local connection with land in another parish council's area if any part of the boundary of the first council's area is also part of the boundary of the other council's area.
- (b) A parish council's area is within the local authority's area, but is not in any parish council's area if –

- ✓ the council's area is within the local authority's area or
  - ✓ any part of the boundary of the council's area is also part of the boundary of the local authority's area.
- In paragraph (1)(c). 'local member' means a member who is registered, at an address in the local authority's area or in a neighbouring authority's area, as a local government elector in the register of local government electors kept in accordance with the provisions of the Representation of the People Acts(3).

"Assets" refers to land, buildings and structures – it does not include services.

"Owners" are those who own the freehold of an asset or a lease which when granted had a term of at least 25 years. Where there are a chain of leases the Owner for the purpose of the Assets of Community Value regime, is the qualifying leasehold owner most distant from the freehold owner.

### **What is community Value?**

The assessment of whether a particular "building or other land" is of community value is a discretionary decision for the LA; it will have to take into account all relevant matters when making its decision. If in the opinion of the LA the land meets the following criteria it is intended that it should qualify for listing as an asset:

1. Its main actual current use furthers the social wellbeing or social interests of the local community, or a use in the recent past has done so; and
2. That use is not an ancillary; and
3. For land in current community use it is realistic to think that there will continue to be a main use which furthers social wellbeing or social 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
4. It does not fall within one of the exemptions which may be contained in the regulations.

This means that for an asset which already furthers social well-being or social interest, it must be realistic that it will continue to do so; and for one which do so in the recent past, it must be realistic to think that there will be community use again within the next five years. Reference to potential use is to allow community groups to develop options for future use of such buildings.

### **Moratorium**

Once an asset has been listed nothing further will happen unless and until the owner decides to dispose of it, either through a freehold sale, or the grant or assignment of a qualifying lease (i.e. originally granted for at least twenty-five years).

Unless an exemption applies, the owner will only be able to dispose of the asset after a specified window has expired.

The "interim moratorium" period is a six week interim period, which will apply in all cases, from the point the owner notifies the local authority of their intention to dispose of the land. This will allow community interest groups to make a written

request to be treated as a potential bidder. If none do so in this period, the owner is free to sell their asset at the end of the six weeks.

The "full moratorium" period is a full six month moratorium (again from the point the owner notifies the local authority) which is triggered if a community interest group makes a request during the interim period for a full moratorium to apply.

During either an interim or full moratorium the owner may continue to market and negotiate sales, but may not exchange contracts (or enter into a binding contract to do so later). There is one exception. The owner may sell to a community interest group during the moratorium period.



Janette John  
Senior Officer, Corporate Strategy  
Room 305  
London Borough of Camden  
Town Hall  
Judd Street  
London WC1H 9JE

13 September 2013

Our Ref: 13-683  
BY POST/EMAIL

Dear Ms John,

**BLACK CAP PUBLIC HOUSE, CAMDEN HIGH STREET**  
**REQUEST FOR A REVIEW OF THE LISTING AS AN ASSET OF COMMUNITY VALUE**

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I write on behalf of Kicking Horse Limited to request a review of the Council's decision to list the Black Cap Public House, Camden High Street, as an Asset of Community Value (under section 92(2) of the Localism Act 2011). We take this opportunity to set out the areas of concern that we have with both the eligibility of the organisation making the request and the conclusions reached by the Council in deciding to list the building.

**a. Procedure**

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We would like to take this opportunity to point out that the letter notifying our client that the Council were considering listing the Black Cap as an Asset of Community Value was incorrectly addressed to "Faucett Inn Limited", who are not the owners of the property. For correct procedures to have been followed the notification should have been addressed to "Kicking Horse Limited" who own the freehold of the building.

In addition, we would like to inform the Council that our client did not receive formal confirmation that the Council had decided to list the building and therefore the building should be removed from the list pending the correct process being followed. Notwithstanding this view, the following paragraphs address the decision to list the asset with regard to the relevant regulations.

**b. Eligibility of community interest group**

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Regulation 6(d) of the "Assets of Community Value (England) Regulations 2012" requires that the community nomination includes "evidence" that the nominator is eligible in accordance with Regulations 4 (local connection), 5 (voluntary or community bodies) and 12 (community interest groups). The relevant criteria are addressed in the paragraphs below.

The Council's response to our Freedom of Information (FOI) request (dated 19<sup>th</sup> July 2013) did not include any evidence that the nominating party constitutes a community interest group with a local connection to the area, as defined by the regulations. We have received no evidence that the body's current activities are wholly or partly concerned with the local authority's area, or that of a neighbouring authority, in accordance with Regulation 4(1)(a). The nominating group state that they were previously based in the Black Cap Public House until 2012, but they do not demonstrate a

current connection and any local connection is therefore considered to have ceased. No evidence has been provided on where they are now based to demonstrate their current connection with the local authority or a neighbouring authority, within the same neighbourhood as the Black Cap Public House.

In addition, no evidence has been provided that any surplus made by the nominator is wholly or partly applied for the benefit of the local authority or neighbouring authority's area in accordance with Regulation 4(1)(b) and that any surplus is not distributed to its members in accordance with Regulation 5(c)(ii). Furthermore, no information has been received that could constitute evidence that the nominating group have 21 or more members (on the electoral roll within the local authority) in accordance with Regulation 4(1)(c) and Regulation 5(1)(c)(i).

The nominating body states that they fall within these criteria set out above, but again no evidence has been provided to our knowledge. The Council's response to our FOI request stated that they had themselves sought clarification on the eligibility of the organisation, but any further information subsequently received and accepted by the Council has not been provided to us.

In the absence of such evidence having been provided, it is clear that the nominating body and the Council have not complied with the requirements of the regulations, and specifically Regulation 6(d). We therefore consider the Council's decision to list the building has an Asset of Community Value as erroneous and we request that this decision be reviewed and the evidence be presented for our consideration where applicable.

### **c. Purpose of the legislation**

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Were the nominating group to be found to be eligible to apply for a listing, then the Council must determine whether the building meets the definition of an asset of community value as set out in section 88 of the Localism Act. The building must meet the following criteria:

- 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;
- 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.

Section 88(2) of the Act extends this definition to land which has furthered the social wellbeing or social interests of the local community in the recent past, and which it is realistic to consider will do so again during the next 5 years.

It is not considered that the Black Cap PH furthers the social well-being or social interests of the local community. There are a number of alternative public houses in the local area which are capable of filling the same role were the Black Cap to be disposed of by the current owners and its use to change. The local community do not benefit from the Black Cap specifically, rather from its use which exists in alternative public houses in the area. Notwithstanding this, the use of the Black Cap by the LGBT community as a venue for events is considered to be ancillary to its primary use as a public house, and therefore prevents this serving as justification for the Black Cap to be listed as an Asset of Community Value.

In addition, it is not considered that the above position will change in the next 5 years, in fact the nominating group indicate that they stopped using the venue in 2012 and therefore any community value set out in their justification is deemed to have ceased.

We would like to take this opportunity to request an oral review for the case to be heard and would be very grateful for confirmation of the details for this process. In addition, confirmation that you have received this request for a listing review would also be gratefully received.

In the meantime we would be grateful if you could forward us the evidence referred to above concerning the eligibility of the nominating party for our consideration.

Yours sincerely

A handwritten signature in black ink, appearing to be 'IM', followed by a long, sweeping horizontal line that ends in a small upward curve.

Ian Mayhead  
ASSOCIATE

cc. Stephen Cox, Faucett Inn Limited

emailed to SC 30.10.13.



Corporate Strategy  
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Tel: 020 7974 4328  
www.camden.gov.uk  
email:communityrighttobid@camden.gov.uk

Mr Ian Mayhead  
Iceni Projects Limited  
Flitcroft House  
114-116 Charing Cross Road  
WC2H 0JR



23 October 2013

And via e-mail  
cc: Kicking Horse Ltd, Faucet Inns

Dear Mr Mayhead

**Request for a review of the listing of Black Cap public house as an asset of community value**

Thank you for your letter dated 13 September 2013 in which you raised several concerns about the listing of the Black Cap Public House as an asset of community value. I've sought clarification from our legal department on the issues you raised and provide the following response.

The Council has concluded that, on the information provided we have not received a valid nomination and did not follow the correct procedure having received the nomination. Consequently, the Black Cap cannot be listed as an asset of community value at this point in time and we will therefore remove it from the list immediately.

In light of the removal of the Black Cap Public House from the list of assets of community value, we are of the opinion that the review of the listing decision is no longer necessary. Equally, in the absence of a valid nomination, we cannot take a view at this stage as to whether the Black Cap is an asset of community value. In light of this, please confirm that the owner is happy to withdraw their request for a review.

You will receive a response to your freedom of information request separately from our Freedom of Information team.

Please accept my apologies for the delay in responding to your letter; this was because I needed to seek advice from our legal department on how to proceed.

Yours sincerely

Michael Webb  
Corporate Strategy team  
London Borough of Camden