

## Compulsory purchase of Rising Sun public house

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This article is a follow up to an article written last year entitled “Responding to Assets of Community Value left vacant.” That article was concerned with ACV listed public houses that are left vacant in the hope that eventually planning permission will be granted to convert the building to residential use. It discussed the possibility that such premises may be acquired by the local authority by exercising the authority’s powers of compulsory purchase. This is the first time it has happened. I am grateful to Dale Ingram of Planning For Pubs for bringing it to my attention.

The Government Guidance on Compulsory purchase process and the Crichel Down Rules was updated in July 2019. The section on community assets is now section 17 at page 103. This update can be found at:

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/817392/CPO\\_guidance\\_-\\_with\\_2019\\_update.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/817392/CPO_guidance_-_with_2019_update.pdf)

It is not the purpose of this article to go over the process which is discussed in the earlier article but rather to focus on the recent making of a compulsory purchase order in respect of the Rising Sun public house in Woodcroft, Chepstow by the Forest of Dean District Council (“the Council”). The compulsory purchase order and the accompanying Statement of Reasons can be found at: <https://www.fdean.gov.uk/residents/communities/compulsory-purchase-orders-cpos/>

A brief history of the Rising Sun will help place this in context. The public house had existed since the 1880s. When it closed in 2011 it was the only public house in the village of Woodcroft. It was sold at auction to a property development company. It was nominated as an ACV by the Save our Sun community group and listed by the Council. In 2013 a planning application to convert to two dwellings was refused and an appeal failed on the ground that it had not been proved that a community pub was unviable or that there were other suitable and convenient existing facilities (APP/P1615/W/15/3006278). It was relisted as an ACV on 5<sup>th</sup> February 2019.

In the Statement of Reasons (“the Statement”) the state of repair of the premises deteriorated “markedly” over the period starting with the closure. It has remained boarded up and the gardens have become “extremely overgrown”. The Statement records that this has been a long standing concern to the local residents.

The Community Group pressed for the compulsory purchase of the public house and the Council has responded. On 25<sup>th</sup> November 2019 the Council made the compulsory

purchase order under section 226 TCPA 1990. The owner had until 18<sup>th</sup> December 2019 to object to the making of the order.

The first point to be made is that a local authority has gone through the process and made a compulsory purchase order in relation to an ACV listed public house. It is not the first. The Holywell Inn was compulsorily acquired by Calderdale Council in the Autumn of 2018. However, it is an important step.

The Statement of Reasons accompanying the compulsory order sets out carefully and with great clarity the reasons for the making the order. It contains a number of interesting points:

(i) it was recognised that there has to be a compelling case in the public interest to justify the exercise of the statutory powers (section 10 of the Statement).

(ii) the framework followed by the Council was set out in section 6.1 of the Statement listing all the issues to be considered which are then individually discussed in the remainder of the Statement.

(iii) The Council considered the qualified rights of the owner under the Human Rights Act 1998 and decided that the interference with those rights by making such an order was proportionate and justified (section 9 of the Statement). In reaching this determination account was taken of the property being vacant and abandoned for seven years and the overall significant public benefits if acquired. It was noted that there is both a procedure for objection by any one adversely affected by the compulsory purchase order and a right to compensation.

(iv) One of the factors taken into account was the public sector equality duty under section 149 of the Equality Act 2010 which has to be balanced with other relevant factors (section 10.5 of the Statement). The overall effect of the compulsory purchase order was considered to secure a benefit for all users of the premise including those with protected characteristics.

(v) the Council gave consideration to whether the purpose for which the property is being acquired fits with both the Council's adopted Local Plan and the NPPF and to other relevant local policy and guidance (section 7 of the Statement).

(vi) In order to be able to exercise the statutory power the Council acknowledged in Section 2 of the Statement that it must consider that the acquisition of the land "will facilitate the carrying out of development, re-development or improvement on or in relation to the land" and that the proposed development e-development or improvement is likely to contribute to the achievement of any one or more of the following objects—

(a) the promotion or improvement of the economic well-being of their area;

(b) the promotion or improvement of the social well-being of their area;

(c) the promotion or improvement of the environmental well-being of their area

(vii) the Council considered that all three of these objectives had been satisfied with regard to the Rising Sun:-

(a) The economic well-being comprised creation of jobs whilst redevelopment carried out; opportunity for employment in community venture; in longer term boost to tourism; hoped for catalyst for investment in area and creation of tangible economic benefits to local community which not otherwise occur (section 8.1 to 8.5 of the Statement).

(b) social well-being – removes a blight to the local community which may collapse if deteriorates further at risk of death or injury (section 8.6 to 8.8 of the Statement).

(c) environmental well-being – bringing back into use an abandoned and decaying building (section 8.9 of the Statement).

(viii) Importantly it was noted that evidence was provided of attempts to purchase the premises by agreement but it had not been possible to progress the negotiations (section 11.1 of the Statement). The hope was expressed that even at this stage there may still be a voluntary sale.

(ix) interestingly and of significance for other ACV listed public houses the Council accepted assurances that resources both financially and professional would be secured to carry out the regeneration project as a community public house (section 9.4). It was stated that given “the long-standing and sincere desire of the local community to restore the Order Land to a beneficial use it is not considered appropriate for the Council to enquire beyond that assurance.”

(x) in line with the acceptance of those assurances the Council did not require the community group to have obtained a fresh planning permission before the making of the compulsory purchase order. It was accepted that the order was a preliminary to the community group committing expenditure.

(xi) the intention is that the Council will transfer the premises to the community group who will be subject to a time limit in which to get the community public house up and running. This will probably be a period of three years (section 9.6 of the Statement).

It may be that the owner will challenge the making of the compulsory purchase order by objecting which could result in a public enquiry. Even if this is the case the making of the order illustrates that the policy of boarding up an ACV listed public house and leaving it vacant carries risks for an owner. It may encourage the local community to press for such a compulsory order to be made.

