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Democratic Services
White Cliffs Business Park
Dover
Kent CT16 3PJ

Telephone: (01304) 821199
Fax: (01304) 872453
DX: 6312
Minicom: (01304) 820115
Website: www.dover.gov.uk
e-mail: democraticservices@dover.gov.uk

10 December 2020

Dear Councillor

NOTICE OF DELEGATED DECISION – (DD17 20) APPLICATION TO INCLUDE FORMER REGENT BINGO HALL ON COUNCIL'S LIST OF ASSETS OF COMMUNITY VALUE

Please find attached details of a decision taken by Mr Roger Walton, Strategic Director (Operations and Commercial), to include the former Regent Bingo Hall in Deal on the Council's list of Assets of Community Value.

As a non-Key Officer Decision, call-in does not apply (paragraph 18(a) of Part 4 (Rules of Procedure) of the Constitution).

Members of the public who require further information are asked to contact Kate Batty-Smith, Democratic Services Officer on 01304 872303 or by e-mail at democraticservices@dover.gov.uk.

Yours sincerely

A handwritten signature in purple ink that reads "Kate Batty-Smith". Below the signature is a short horizontal line.

Democratic Services Officer

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NOTICE OF DELEGATED DECISION - (DD17 20) APPLICATION TO INCLUDE FORMER REGENT BINGO HALL ON COUNCIL'S LIST OF ASSETS OF COMMUNITY VALUE (Pages 2-6)

Decision Notice

Delegated Decision

Decision No:	DD17
Subject:	APPLICATION TO INCLUDE THE FORMER REGENT BINGO HALL, DEAL ON THE COUNCIL'S LIST OF ASSETS OF COMMUNITY VALUE
Notification Date:	10 December 2020
Implementation Date:	4 December 2020
Decision Taken by:	Roger Walton, Strategic Director (Operations and Commercial)
Delegated Authority:	Delegation 281 of the Scheme of Officer Delegations (Section 6 of Part 3 (Responsibility for Functions) of the Constitution)
Decision Type:	Executive Non-Key Decision
Call-In to Apply?	No (<i>call-in does not apply to non-Key Officer Decisions</i>)
Classification:	Unrestricted
Reason for the Decision:	An application has been received to include the former Regent Bingo Hall, Deal within the Council's list of Assets of Community Value.
Decision:	To include the former Regent Bingo Hall, Deal within the District Council's list of Assets of Community Value (ACV).

1. Introduction

- 1.1 In determining this application, I have been mindful that I need to determine the nomination in accordance with the provisions of Chapter 3 of the Localism Act 2011 and The Assets of Community Value (England) Regulations 2012.
- 1.2 This requires that community nominations to include a property within the District Council's list of Assets of Community Value meet a series of tests including:
 - (a) That the provisions of section 89 of the Localism Act are met with regard to the validity of the nomination.
 - (b) Whether the actual current use (not an ancillary use) of the building or other land is one that furthers the social wellbeing or social interests of the local community; AND whether it is realistic to think that there can continue to be non-ancillary use of the building or other land that will further the social wellbeing or social interests of the local community (whether or not in the same way as the current use) and if not;
 - (c) Whether 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 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.

2. Matters considered in reaching the decision

2.1 In determining the nomination, I have taken the following into consideration in reaching my decision:

- (a) Chapter 3 of Part 5 of the Localism Act 2011;
- (b) The Assets of Community Value (England) Regulations 2012;
- (c) Nomination Form submitted by Reopen the Regent, received by email on 14th October 2020;
- (d) Decision Notice DD19 setting out the decision to include the former Regent Bingo Hall, Deal on the Council's list of Assets of Community Value dated 10th November 2015.
- (e) Planning Application 18/01395 - Change of use and conversion to a mixed use comprising of 2 No. 100 seat cinemas (Use Class D2) with 114-seat cafe/bar area. The Regent and land adjacent to the Timeball Tower, Beach Street, Deal CT14 7BP

3. Review of Application and Submissions

Context

- 3.1 The 'Reopen the Regent' group successfully applied for the former Regent Bingo Hall, Deal to be added to the Council's list of Assets of Community Value in 2015.
- 3.2 The property was included on the Council's list of Assets of Community Value from 10th November 2015 and was removed from the list in November 2020 when the 5-year listing period expired in accordance with the provisions of section 87 (3) of the Localism Act 2011.
- 3.3 In considering the 2015 application it was noted that the applicant had set out a detailed history of the property and its use since its construction in 1928. In summary this states that the *"Regent Cinema opened for business on 9th June 1933 with a seating capacity of 911 and that until the Odeon was built three years later, it was the largest cinema in Deal. In the mid-1940s the Regent was taken over by ASER cinemas but as attendances fell in the 1950s, and despite an injection of X-rated films, The Regent Cinema closed in 1963 and later became a bingo hall. The bingo club at the Regent Cinema building was closed on 9th January 2009 and the building was sold by the Council in 2011"*.
- 3.4 The narrative accompanying Decision Notice DD19 discusses in some detail whether the community use of the property could be considered to be 'in the recent past' given that the property had already been closed since 2009, noting that some authorities have sought to restrict this to 5 years, but that such an approach has not found favour with the court as for example in the case of *Scott v South Norfolk DC* and *Worthy Developments v Forest of Dean DC*. The effect of this case law is such that the concept of recent is to be a relative one and the Decision Notice records that it was appropriate to have regard to the period of closure relative to the period of use; in this instance, the property having been in use for a period of more than 80 years.
- 3.5 Turning to the current nomination, submitted by the same applicant, the information provided whilst less comprehensive than in 2015, states that the group: *"were positive and optimistic a year ago when planning permission was granted for a two-cinema restoration of the building, we feel strongly it is in the best interests of the people of*

Deal for it to remain protected as an Asset of Community Value at a time when it is perhaps at its most vulnerable.”

- 3.6 Picking up on this point, I have noted that planning consent was granted on 19th November 2019 for Change of use and conversion to a mixed use comprising of a 2 no. 100 seat cinema (Use Class D2) with 114-seat cafe/bar area (Use Class A3/A4), re-landscaping of public space fronting the Time Ball Tower and erection of a single storey side extension and outside terraced area for tables and chairs with glass balustrade to front and side, replacement windows and doors, infill glazing to first floor front/side elevation, block up 3no. windows to rear, erection of 3no. poster panels to rear and 6no. poster panels and fire escape door to side, 2no. ventilation louvres to rear, installation of satellite dish and extraction flue and re-painting of exterior, together with use of the public car park at the rear of the site for deliveries and associated works including partial demolition of the existing car park wall, relocation of the ticket machine and alterations to car park layout
- 3.7 The applicant states in their nomination that: *“there was enormous community interest and excitement at the granting of planning permission last July for the Regent Cinema revival. Clearly, under current circumstances, things are in a state of flux, but there will be a huge need for venues as a source of local entertainment and social wellbeing when things gradually start to improve, and it’s essential that the Regent Cinema remains protected as an ACV for the times to come.”* and goes on to state that; *“It is already an ACV and we would like to see this status renewed. Were it to come up for sale we, as Reopen the Regent, would love to see it acquired by an independent cinema chain to give Deal the two-screen cinema and leisure venue it so richly deserves and can support (we have been advised of this by more than one such chain).”*
- 3.8 In considering the nomination received from ‘Reopen the Regent’ I shall now consider in turn whether each of the three ‘tests’ noted at paragraph 1.2 above are met:

A. Validity of the Nomination

- 3.1.1 Section 89(2)(b)(iii) of the Localism Act notes that “For the purposes of this Chapter “community nomination”, in relation to a local authority, means a nomination which... is made by a person that is a voluntary or community body with a local connection.
- 3.1.2 The ‘Reopen the Regent’ group is a Community Interest Company established on 27th February 2017, with locally-based directors, whose aims and activities are; “to work and campaign in the interests of the local community of Deal and surrounding villages for the reopening of the Regent Cinema building as a working cinema.” I am satisfied therefore that ‘Reopen the Regent’ meets the definition of a voluntary or community body with a local connection.

B. Does the actual current use (not an ancillary use) of the building further the social wellbeing or social interests of the local community; AND is it realistic to think that there can continue to be non-ancillary use of the building or other land that will further the social wellbeing or social interests of the local community.

- 3.1.3 The Regent Bingo Hall has been closed since 9th January 2009 so is not actively used by either the owners or the local community.
- 3.1.4 Clearly there is not an actual current use of the building or land which can be said to further the social wellbeing or social interests of the local community and the issue of whether there can be any prospect of there being any

continuing non-ancillary use of the building or other land that will further the social wellbeing or social interests of the local community does not therefore arise.

- 3.1.5 I therefore consider that the requirements of the Localism Act 2011 as set out at Section 88(1)(a) and (b) are not met.

C. Whether 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 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.

- 3.1.6 With regard to (a) there is clear evidence provided within the application that the land has previously been used for activities which furthered the social wellbeing or interests of the local community. The 2015 Decision Notice discusses in some detail whether the community use of the property could be considered to be 'in the recent past' given that the property had already been closed since 2009. I see no reason to change the conclusion drawn then that it was appropriate to have regard to the period of closure relative to the period of use; in this instance, the property having been in use for a period of more than 80 years.

- 3.1.7 With regards to (b), the key question in relation to this nomination is whether 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. Given that planning consent was granted in 2019 for a proposal that would deliver such an outcome it is entirely reasonable to conclude that this remains a realistic assumption.

- 3.1.8 I therefore consider that the requirements of the Localism Act 2011 as set out at Section 88(2)(a) and (b) are met.

4. Conclusion

In conclusion, taking all these points into account, I am satisfied:

- That the nomination meets the definition of a community nomination as set out in Section 89(2)(b)(iii) of the Localism Act 2011.
- That the test set out in section 88(1)(a) & (b) of the Localism Act 2011 as to whether an actual current use of the building or other land that was not an ancillary use furthered the social wellbeing or interests of the local community, AND it is realistic to think that there can continue to 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 has not been met.
- That the test set out in section 88(2)(a) & (b) of the Localism Act 2011 as to whether (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, has been met.

I have therefore decided that the property should be included within the District Council's list of Assets of Community Value.

D. Any Conflicts of Interest Declared?

No.

E. Supporting Information

None.