

Application Number: 24/001

**Nominated Asset:** Atik OXFORD

**Site Address:** Cantay House, Park End Street, Oxford, OX1 1JD

**Ward:** Osney & St Thomas

**Applicant:** Michael Kill, Night Time Industries Association (NTIA)

**Recommendation:** The Head of Planning & Regulatory Services is recommended to:

1. **Disagree** that the Nominated Asset should be confirmed as an Asset of Community Value
2. **Disagree** to include the asset on the City Council's Register of Local Assets of Community Value Register and place the asset on the Local Land Charge Register.

**Background to Report.**

1. The Localism Act and the Assets of Community Value Regulations set out the opportunities and procedures to follow for communities wishing to identify assets of community value and have them listed.
2. The City Council is able to list a nominated asset if, in its, opinion:

*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*

*Is it realistic to think that there can continue to be non-ancillary use of the building or other land that will further (whether or not in the same way) the social wellbeing or social interests of the local community.*

**OR**

*There is a time in the recent past when an actual use of the building or other land that was not 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. These definitions have been taken from the Government's Regulations. There is no national guidance as to what the key terms in these definitions mean. It is for the nominating organisation in the first instance to argue why it considers the nominated asset meets the definition in the Regulations.

4. If the owner objects to their property being placed on the List, they have a right in the first instance to an internal review by the City Council of this decision.

### **Nomination**

5. Michael Kill, on behalf of the Night Time Industries Association (NTIA) has submitted a nomination for the inclusion of the Atik Oxford Venue in Osney & St Thomas ward on the Council's register of Assets of Community Value. The nomination letter was received by Oxford City Council via email on 3 May 2024. A plan of the nominated area is attached to this report.
6. The group has argued that Atik Oxford is an Asset of Community Value on the following grounds:
  - a. The nightclub is long established part of the city's late night landscape, retaining its historical identity despite changes over the years and beloved by locals and students
  - b. It has a strong association with the student population of both universities and is an important life of social life for both, with
  - c. It is the largest capacity licensed premises in the city, serving both student and non student clientele.
  - d. There are no comparable premises in the city of comparable type and scale, particularly one that caters to the younger demographic i.e. under 25.
  - e. The loss of the venue to development will represent a major decline of the city's night time economy, and a loss to the city's cultural heritage.

### **Response to consultation**

7. The freehold for the premises is held by SRECaP SSF GP Ltd. They were notified via their representatives about the nomination of the premises in writing on 30 May 2024. A representation on behalf of the freeholders was received on 18 June 2024.
8. The freeholders have objected to the nomination on the following grounds, in summary:
  - a. The nominating organisation is not an eligible body according to the regulations
  - b. The extent of the site area indicated in the nomination covers the entire site which includes various occupiers and uses that do not entail social or community uses
  - c. The nomination does not include proposals to continue the current use of the premises or for the nominator or some other organisation to take over the operation of the premises as a viable concern,
  - d. The nomination does not include proposals for alternative uses for the premises that would promote social interest of the community, or proposals for the nominator or some other organisation to operate it as such.
  - e. The nomination refers to aspects of the local planning policy to argue for the unsuitability of the premises for other uses, which is irrelevant for the purposes of deciding on the nomination.
9. The leasehold for the premises is held by Neos2 (formerly CC STIM UK Tradeco 2 Ltd), who have been the operators of Atik. They have provided a representation in support of the nomination and its stated grounds. The representation reiterates that the business continues to trade well and is profitable.

10. A further representation was submitted by a P. Williams in support of the nomination and its stated grounds.

## Assessment

### *Eligibility of nomination*

11. The Regulations require the City Council to consider whether the Atik Oxford Night club meets the definition of an Asset of Community Value as set out in section 88 of the Localism Act, i.e. in this case that it is currently, or in the recent past has been, in a use that furthers the social wellbeing or social interests of the local community, and also that it is realistic to think that there can continue to be non-ancillary use of the building or other land which will further the social wellbeing or social interests of the local community (whether or not in the same way).
12. The Regulations require that the nominating group should be an eligible body as set out in section 89 of the Localism Act, i.e. that they are a voluntary or community body with a local connection, which broadly means that the group must demonstrate that its activities are wholly or partly concerned with the Oxford City Council area.
13. Section 89 of the Localism Act states:
  - (1) *Land in a local authority's area which is of community value may be included by a local authority in its list of assets of community value only—*
    - (a) *in response to a community nomination, or*
    - (b) *where permitted by regulations made by the appropriate authority.*
  - (2) *For the purposes of this Chapter “community nomination”, in relation to a local authority, means a nomination which—*
    - (a) *nominates land in the local authority's area for inclusion in the local authority's list of assets of community value, and*
    - (b) *is made—*
      - (i) *by a parish council in respect of land in England in the parish council's area,*
      - (ii) *by a community council in respect of land in Wales in the community council's area, or*
      - (iii) *by a person that is a voluntary or community body with a local connection.*
  - (3) *Regulations under subsection (1)(b) may (in particular) permit land to be included in a local authority's list of assets of community value in response to a nomination other than a community nomination.*
  - (4) *The appropriate authority may by regulations make provision as to—*
    - (a) *the meaning in subsection (2)(b)(iii) of “voluntary or community body”;*
    - (b) *the conditions that have to be met for a person to have a local connection for the purposes of subsection (2)(b)(iii);*
    - (c) *the contents of community nominations;*
    - (d) *the contents of any other nominations which, as a result of regulations under subsection (1)(b), may give rise to land being included in a local authority's list of assets of community value.*
  - (5) *The appropriate authority may by regulations make provision for, or in connection with, the procedure to be followed where a local authority is considering whether land should be included in its list of assets of community value.*

14. Regulation 4 of the Assets of Community Value (England) Regulations 2012 states:

- (1) For the purposes of these regulations and section 89(2)(b)(iii) of the Act, 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—*
    - (i) with the local authority's area, or*
    - (ii) with a neighbouring authority's area;*
  - (b) in the case of a body within regulation 5(1)(c), (e) or (f), any surplus it makes is wholly or partly applied—*
    - (i) for the benefit of the local authority's area, or*
    - (ii) for the benefit of a neighbouring authority's area; and*
  - (c) in the case of a body within regulation 5(1)(c) it has at least 21 local members.*

Regulation 5 states:

- (1) For the purposes of section 89(2)(b)(iii) of the Act, but subject to paragraph (2), "a voluntary or community body" means—*
- (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) [a co-operative or community benefit society] which does not distribute any surplus it makes to its members; or*
  - (g) a community interest company.*
- (2) A public or local authority may not be a voluntary or community body, but this does not apply to a parish council.*
- [
- (3) In this regulation "co-operative or community benefit society" means a registered society within the meaning given by section 1(1) of the Co-operative and Community Benefit Societies Act 2014, other than a society registered as a credit union.*

15. Therefore, to be an eligible community nomination, NTIA must be a voluntary or community body and have a local connection. It is accepted that NTIA's activities are partly concerned with the Oxford City Council area because, as a body that exists to champion the nighttime economy and the well-being of its members, they are championing a venue within Oxford. To have a local connection, however, a body of the description set out in Reg 5(1)(e) must apply any surplus it makes wholly or partly for the benefit of the Oxford City area or a neighbouring authority's area.

16. Turning to whether NTIA are a voluntary or community body, they describe themselves in the application form as a "Limited by Guarantee Company (Not for Profit)". Companies House also indicates they are a private limited company by guarantee. If one looks at the definition of a voluntary or community body in Regulation 5, this includes "(e) a company limited by guarantee which does not distribute any surplus it makes to its members".

17. NTIA have been asked for confirmation as to whether it distributes any surplus it makes to its members. They have stated that this is the case, however there has not been sufficient evidence provided in their response that shows how this surplus is actually distributed to the benefit of the local Oxford area, or a neighbouring area. In the absence of this information, the nominators are not considered to meet the criteria set out in the regulations for being a voluntary or community body and having an local connection to be eligible.

*Whether the current use furthers the social wellbeing or social interests of the local community*

18. The nightclub is located within Cantay House, which is a mixed-use premises that comprises of the nightclub and a number of private commercial businesses. While the nightclub occupies a notable amount of floorspace in the premises, the other occupiers' holdings are of a size that make them clearly distinct with their own entrances and presence on the streetscene.
19. The Atik nightclub is a large well used venue that has formed part of the night-time economy in Oxford, particularly serving the student and under 25 population. It has served as a venue for the wider community and has hosted student nights and other fixtures of the social calendar for both universities. It can be considered as having furthered social interests and wellbeing for the Local community, particularly for the student population.
20. The regulations do not include provisions that preclude outright separately listing individual floors or levels of a building. It is noted that the other uses in the premises are clearly commercial operations, and they cannot be described as being of particular wider social wellbeing function or community social interest.

*Whether 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.*

21. The Club has operated in the premises on the basis of a leasehold, which was due to expire in June 2024. The nomination does not indicate any ongoing discussions to extend this lease under the current operator or an alternative who will carry on the same use. There are also no proposals for continued operation and management of the premises as a nightclub.
22. The freeholder has indicated an interest in redeveloping the premises for alternative uses, which will require an application to be submitted for a change of use. It is therefore not likely that the use as a club will be feasible in a foreseeable timescale.

**Conclusion**

23. Although the Atik can be argued to perform a social interest function the premises are not suitable to be nominated as an asset of community value for the following reasons:
  - a. the nominator is not an eligible person according to the regulations, as insufficient evidence has been provided to demonstrate that the nominator meets the criteria of a. voluntary or community body with a local connection.
  - b. It is not considered to be realistic that there can continue to be a non-ancillary use of the premises performing a social interest function within a foreseeable timescale.

## Decision

**I confirm that:**

**Nominated Asset:** Atik OXFORD  
**Site Address:** Cantay House, Park End Street, Oxford, OX1 1JD

**Should not be** an Asset of Community Value and not included on the City Council's Register of Local Assets of Community Value Register and not placed on the Local Land Charge Register.

**Name:** David Butler  
**Title:** Head of Planning & Regulatory Services



**Signature:**  
**Date:** 30/09/2024

**Background Papers:** Nomination letter, Site location map

**Contact Officer:** Arome Agamah  
**Extension:** x2360  
**Date:** 17 September2024

# Site location Map

