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Cabinet

10 July 2019

NOMINATION OF AN ASSET OF COMMUNITY VALUE : FOXLYDIATE ARMS

Relevant Portfolio Holder	Cllr Kent
Portfolio Holder Consulted	No
Relevant Head of Service	Ruth Bamford – Head of Planning and Regeneration
Wards Affected	Tardebigge Ward
Ward Councillor Consulted	Yes Cllr Peter Whittaker

1. SUMMARY OF PROPOSALS

- 1.1 To receive this updated report on the Nomination to list the Foxlydiate Arms, Birchfield Road, Redditch as an Asset of Community Value.

2. RECOMMENDATIONS

- 2.1 That Cabinet notes that it is no longer necessary for Cabinet, as consultee, to consider this matter.

3. KEY ISSUES

Financial Implications

- 3.1 There are none as a result of this report.

Legal Implications

- 3.2 The test for listing an Asset of Community Value as set out in Section 88 (1) of the Localism Act 2011, The Assets of Community Value (England) Regulations 2012 and Guidance issued by the DHCLG.
- 3.3 The Nomination Form and letter of objection from the Owner to the Nomination are appended to the main report.
- 3.4 The Council sought expert advice on the matters raised by the Owner in the letter of objection relating to the Nomination itself and the substance of the Nomination. With regard to the Nomination, Counsel confirms that the Owner's criticism of the Nomination is justified and that it is currently entirely insufficient to support listing. In any event the main question is around the substance of the Nomination.
- 3.5 Schedule 1 of the Assets of Community Value (England) Regulations 2012 exclude hotels from listing. The Owner's representations and Counsel's advice address the essential issue of whether the premises comprise a hotel with bar, or a pub with rooms.

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- 3.6 Whilst there is some complex argument from the Owner regarding the Plan submitted with the Nomination form and the actual composition of the property, it is not necessary to examine these in detail due to the flawed Nomination but more so because Counsel's advice is that as a Premier Inn, it is very much likely that premises comprise a hotel and as such is excluded from the regime.
- 3.6 Accordingly, Cabinet is no longer required to express its view on this Nomination. A decision to this effect will be sent to the parties.
- 3.7 There is no appeal against a decision not to list a property, other than by way of Judicial Review.

Service / Operational Implications

- 3.8 None

Customer / Equalities and Diversity Implications

- 3.9 N/a

4. RISK MANAGEMENT

N/a

5. APPENDICES

None

6. BACKGROUND PAPERS

None

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