

Jayne Pickering
Executive Director (Finance and Corporate Resources)
Bromsgrove District Council
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Date: 28 September 2016
Your ref:
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Dear Ms Pickering

**Assets of Community Value Nomination
The Greyhound Public House, 30 Rock Hill, Bromsgrove, B61 7LR ("the Property")**

We are instructed on behalf of Greyhound Inn Developments Ltd ("our Client"), the owner of the above Property with regard to the recent nomination of the Property as an Asset of Community Value ("ACV") as introduced by Part 5 Chapter 2 of the Localism Act 2011 ("LA 2011").

Further to your letter dated 14 September 2016 notifying our Client of the nomination of the Property by Redditch and Bromsgrove CAMRA, this letter is to be treated as our Client's response to such nomination and sets out its concerns and objections to such listing.

It is our Client's understanding that the above nomination came as a direct result of the notification requirements pursuant an application for permitted development under Class B of Part 11 of the GDPO regulations 2015. The prior approval notification was submitted to the Council on 19 August 2016 and included the statement, which was accurate at the time, that the Property was not defined as an ACV. The prior notification procedure would enable the demolition of the Property without the need to obtain detailed planning permission.

The purpose of the demolition of the Property is to assist with the future redevelopment of the neighbouring site identified as BROM3 in the emerging District Plan (further details set out below). These arrangements are to be secured through the established contractual relationship between our Client and the developers of the BROM3 site.

Statutory Criteria:

In deciding whether the statutory criteria provided by section 88 of the LA 2011 has been satisfied the local authority has to adopt a two stage approach. The first stage is not relevant to the Property as it is applicable where the nominated property is in current actual use. As you may be aware, the Property was closed for trading purposes in April of this year as a result of continual and considerable trading losses in previous years.

As such, the second stage of the criteria is applicable which comprises two limbs and is set out at section 88(2) of the LA 2011. This provides that land is of community value if in the opinion of the local authority:

- (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*

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- (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. (emphasis added)*

It is clear from the official non-statutory guidance in the DCLG Guide that the general terms used in setting the criteria at section 88 of the LA 2011 is deliberate and is intended to ensure that each local authority should interpret the meaning of a community asset on a case by case basis.

Section 88(2)(a) – The First Limb

It is not disputed that the First Limb of section 88(2)(a) is likely to be satisfied by the fact that the Property was in use as a public house up until April 2016. It is therefore necessary to consider the application of the Second Limb to the Property.

Section 88(2)(b) – The Second Limb

On behalf of our Client, we set out below why this Second Limb of section 88(2) is not satisfied when applied specifically to the facts of the Property and, in turn, our recommendation that the Property should not be listed as an ACV.

Site Constraint:

The Bromsgrove Infrastructure Delivery Plan ("the IDP"), identifies the highways works and other transport measures that are required to support the proposed development strategy within the draft District Plan. The IDP is intended as an overview of the infrastructure that is required to support the draft District Plan and identifies specific items of infrastructure needed in relation to specific sites. Of particular importance and relevance to the Property is the recognition of the constraint caused to future development by the Fox Lane/Rock Hill junction, which is located adjacent to the Property.

The IDP recognises that the Property constrains the potential redevelopment at Whitford Road as identified in policy BDP5 Bromsgrove Strategic Site Allocations ("BROM3"), of the draft District Plan. BROM3 is one of three Bromsgrove Town Expansion Sites which are needed to come forward to maximise housing delivery in the area. These Town Expansion Sites are identified as the most sustainable locations for significant growth within the District due to the wide variety of services, facilities and employment opportunities available. In addition, there are existing public transport links by both bus and rail, which, with further investment in infrastructure and services will help to provide local residents and businesses with a realistic alternative to the car. BROM3 has been allocated to include a minimum of 490 dwellings, together with associated community infrastructure that would include public open space with play facilities and small scale local retail.

The impact of the Fox Lane/Rock Hill junction on the potential redevelopment of BROM3 is already evident by reference to an appeal decision in respect of planning application reference 13/0479 (appeal reference APP/P1805/A/14/2225584). On 3 August 2015, the appointed Inspector held that the appeal against the refusal of outline planning permission for residential redevelopment at BROM3 be dismissed due to the severe residual cumulative impact on traffic congestion, movement and highway safety. The impacts identified by the Inspector are specifically addressed by the redevelopment of the Property to allow for appropriate junction improvements at Fox Lane/Rock Hill. It is, on this basis, that our Client has entered into contractual arrangements with the developer of the BROM3 site and it is these arrangements that then led to the notification for demolition of the Property.

Finally, it is important to note that the Council has a clear expectation that BROM3 should come forward for development within the next 5 years to meet the programming housing delivery requirements of the emerging District Plan and to ensure that the authority maintain a reliable and robust 5 year land supply for housing within the District. As such, it is entirely realistic to conclude that there will not be a time in the next five years that the Property would

be available to further the social wellbeing or social interests of the local community. The potential to use the Property to address the infrastructure requirements needed to unlock much needed housing development as set out at draft policy BDP5, is clearly a key priority for the Council and would serve a far greater social purpose than the Property alone could ever deliver.

Highways Limitations:

In order to mitigate increased traffic from developments and organic growth over the next 14 years, WSP Parsons Brinckerhoff have proposed a new roundabout to replace the existing Fox Lane/Rock Hill T-junction. To deliver this improvement, the land presently occupied by the Greyhound public house would be required.

The proposed roundabout design has emerged from a series of assessments and design studies of potential options to improve the Fox Lane/Rock Hill junction including upgrades to the existing arrangement and signalisation of the junction, both of which identified significant constraints. The proposed design is, itself, more compact than a standard roundabout and the departure from normal standards has been carefully assessed and approved by the Highways Authority.

The roundabout design, while requiring the additional land at the Property, offers the best solution for the existing and future use of Fox Lane. The existing junction is known to be the cause of long queues along Fox Lane, while the limited visibility at the junction mouth further slows the rate of exiting traffic, while also producing a potential safety risk as drivers may emerge on to Rock Hill without being aware of approaching vehicles. Furthermore, the roundabout has been designed to accommodate traffic expected by 2030, while the existing junction has already exceeded the number of vehicles that are regarded as acceptable and safe for a T-junction.

The benefits derived from creating a roundabout at the Fox Lane/Rock Hill junction are, therefore, to improve the safety of those wishing to use the junction at Fox Lane and to reduce future queuing / delay with improved capacity that better suits the level of traffic that will encounter the junction.

The proposed roundabout, which cannot be delivered without demolition of the existing Greyhound Public House building, offers significant advantages to Bromsgrove in terms of transport improvements, both in capacity and safety for the existing population alongside delivering capacity for future development at the BROM3 site.

The proposed roundabout is the preferred solution of the Highway Authority at this current time. However, the IDP does propose a traffic signal solution which, as the IDP states, is also constrained by the retention of the Greyhound Public House. WSP Parsons Brinckerhoff have also produced a traffic signal design solution for the junction. This design also results in the Property being demolished in order to provide the necessary land area required to construct a traffic light solution that meets requisite design standards.

In short, any means to improve highway safety and the free flow of traffic on Fox Lane would require the demolition of the Property and these measures are a pre-requisite in the delivery of the BROM3 housing scheme.

Site Value:

It is material to the Council's decision to fully consider the interrelationship between the IDP and BROM3 designations and the value of the Property. The development value now attributable to the Property as a result of its ability to unlock the development at BROM3 far exceeds that which a typical public house would achieve within the local market. As such, the financial sum that any community interest group would be required to raise would be insufficient in comparison to the Property's established development value and would not be a commercial or realistic possibility to any seller.

If the Property were to be designated as an ACV it would serve no purpose other than to frustrate development of much needed housing at BROM3 and would simply delay any potential sale or redevelopment of the Property.

Local Area:

Within one mile of the Property there are a further 13 public houses that are currently trading and furthering the social wellbeing or interests of the local community. Whilst this is not a reason in of itself to prevent the listing of the Property as an ACV, it does support the position that the local community already benefits from a number of facilities which are similar to those services once provided by the Property.

In addition, it is highly likely that any development of BROM3 would result in an array of community benefits being delivered that would be additional to and different from those already provided by the great number of public houses in the vicinity of the Property. This enriched mix of community uses would better serve a wider community and provide positive place making in an area that is in need of both housing and community enhancements.

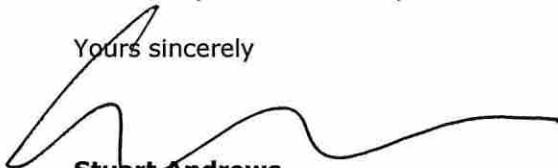
Conclusion:

It is clear from both the LA 2011 and the supporting regulations that the decision as to whether to list land as an ACV is not an absolute requirement and the relevant test is whether in the opinion of the local authority the criteria has been satisfied. The Council is provided with the discretion to review the application in its entirety in consideration of the local context and the potential impact of any such designation.

In this case, we would suggest that the Council need to assess the designation of the Property as a community asset in the context of the Property's recent trading history, the availability of similar community facilities in the area and the prospect that the Property has no potential for reuse as a community facility if it were designated.

As a consequence, we cannot identify any value in the proposed designation which would only serve to frustrate and delay BROM3 development, which will bring forward substantially greater community benefits in the provision of much needed housing development.

Yours sincerely



Stuart Andrews
Partner | National Head of Planning and Infrastructure Consenting
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