

**NOMINATION ASSETS OF COMMUNITY VALUE : THE NEW INN  
BOURNHEATH**

Relevant Portfolio Holder	Cllr Kit Taylor
Portfolio Holder Consulted	Yes
Relevant Head of Service	Ruth Bamford – Head of Planning & Regeneration
Wards Affected	Belbroughton and Romsley
Key Decision – N/A	

**1. SUMMARY OF PROPOSALS**

To consider a request to list The New Inn Bournheath as an Asset of Community Value.

**2. RECOMMENDATIONS**

**That Cabinet consider the contents of the report in relation to the New Inn Bournheath decide to either:-**

- (a) Support listing as an Asset of Community Value; or**
- (b) Not support listing as an Asset of Community Value**

**3. KEY ISSUES**

- 3.1 As Members are aware from previous reports the Localism Act included the 'Community Right to Bid' which gave communities a right to identify a building or other land that they believe to be of importance to their community's social well-being so that if it comes up for sale there is a six month period within which they can prepare their bid to buy the asset. The property in question can then be sold on the open market. Community groups have the same rights as any other bidders and there is no preference given to the local community bid.
- 3.2 A nomination has been received for the New Inn. The nomination has been submitted by CAMRA (Campaign for Real Ale), Redditch and Bromsgrove branch. The nomination of an asset does not give any organisation an advantage in any future purchase. CAMRA is requesting that the pub is listed to enable it to continue to operate as community asset in the future. The nomination of an asset does not give any organisation an advantage in any future purchase.

- 3.3 The following documents have been submitted by CAMRA in support of the nomination and are attached at Appendices 1 to 6 :-
- Nomination Form – Appendix 1
  - Articles of Association - Appendix 2
  - Office copy entries - Appendix 3
  - Land Registry Plan - Appendix 4
  - Letter in support dated 25 April 2016 – Appendix 5
- 3.4 The nomination supports the inclusion of the asset due to the fact that the New Inn provides a number of services that further the social wellbeing and interests of the local community. These are detailed in section B4 of the nomination forms attached at Appendix 1.
- 3.5 The New Inn is owned by Punch Partnerships (PTL) Limited (Co. Regn. No. 3512363) and the owners have been consulted regarding the application. In accordance with the process for nominations of Assets of Community Value the ward councillors for Belbroughton and Romsley have also been consulted.
- 3.6 The landlord has raised two concerns in relation to the listing:
- They have advised that there is an alternative public house in close proximity to the New Inn and they are of the view that this is more popular and successful venue than the New Inn and therefore this has been the reason for the trade struggling and the frequency of turnover of licensee at the New Inn. On the basis of the alternative amenity they of the belief that the pub, in itself, does not further the social wellbeing or social interest of the community as a whole
  - In addition they have stated that during the period of them marketing the freehold of the site, no community group has come forward to put an offer to purchase the building. It is of the landlords view that listing the pub would not have the desired intention of allowing a community group to purchase the pub as they have not taken this opportunity during the marketing
- 3.7 Members may recall that an earlier report seeking the nomination of the New Inn as an ACV was included on the agenda for Cabinet on 7<sup>th</sup> September 2016. At that stage applications had been made by both CAMRA and Bournheath Parish Council. Unfortunately the matter could not be dealt with as Cabinet was inquorate on that occasion. Accordingly, CAMRA have now submitted a new application which is the subject of this report.

**Financial Implications**

- 3.8 Property owners who believe they have incurred costs as a result of complying with these procedures can apply for compensation from the Council. As previously reported to Council, Government recognises this as a potential risk to local authorities and will provide a safety net whereby any verified claims of over £20,000 will be met by Government. The owners also have a right to appeal the decision made by the Council in agreeing that the building be included on the Assets of Community Value.

**Legal Implications**

- 3.9 The Localism Act 2011 made provision for a new system of listing of assets of community value, giving community groups the right to make nominations, and requiring local authorities to maintain local registers. Further more detailed rules around the operation of assets of community value are set out in the Assets of Community Value Regulations 2012.

- 3.10 The test for listing an Asset of Community Value as set out in Section 88 (1) of the Localism Act 2011 is as follows:-

“A building or other land in a Local Authority’s area is land of community value if in the opinion of the authority:-

- (a) an actual current use of the building or other land that is not an ancillary user furthers the social well-being or social interests of the local community, and
- (b) 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 well-being or social interests of the local community.”

- 3.11 It is worth noting that any sale of a going concern business would be exempt from the legislation relating to assets of community value. Therefore if the pub was to be sold on as a going concern the 6 month moratorium would not apply. The nomination of an asset does not give any organisation an advantage in any future purchase.

- 3.12 Members are reminded that under the process for assets of community value introduced in November 2012 the final decision regarding whether to list an asset rests with the Head of Planning and Regeneration in consultation with the Portfolio Holder for Planning and Regeneration.

## **CABINET**

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3.13 In their nomination CAMRA make reference to the First Tier Tribunal case of St Gabriel Properties Limited v London Borough of Lewisham and South East London Branch of CAMRA (also known as the Windmill case) which considered the ability of local CAMRA branches to make ACV applications. Another case on this point has since been considered by the First Tier Tribunal. The second case (Hamna Wakaf Ltd v Lambeth) suggests that authority for the nomination should be provided by CAMRA headquarters and this has been supplied as set out in Appendix 5.

3.14 Officers would draw Members attention to the following:-

- There has to be an identifiable local interest in having the asset nominated and Members needs to be satisfied that there is evidence of this in the application form.
- Each ACV application must be judged on it's own merits. If a pub satisfies the test as an ACV it is not a relevant that there may be a number of other pubs nearby which also satisfy the test.
- At the listing stage, the issue of whether a community group could raise the funds to purchase a listed property in the event of a future sale is not the determining factor; members need to apply the test set out in section 88(1) of the Localism Act.

### **Service/Operational Implications**

3.14 There are no specific operational implications for the District. The list of nominated assets is maintained by Land Charges officers and is available on the Councils Website.

### **Customer / Equalities and Diversity Implications**

3.15 The approval of the nomination of the New Inn would ensure that should the property be declared for sale any community group would be able to express an interest in purchasing the asset. This would result in up to 6 months of moratorium whereby any sale could only be to a community group. Following this the owner can sell to any purchaser. This excludes the sale as a going concern.

## **4. RISK MANAGEMENT**

4.1 The register will be maintained to ensure that all assets nominated are included to mitigate any risks associated with assets not being included on the register. Consideration by officers and members will be

undertaken at each nomination to ensure a consistent approach is taken.

**APPENDICES**

Appendix 1 - Nomination Form

Appendix 2 - Articles of Association of CAMRA

Appendix 3 - Office copy entries

Appendix 4 - Plan

Appendix 5 - Letter in Support dated 25<sup>th</sup> April 2016

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