

NOMINATION OF ASSET OF COMMUNITY VALUE : THE HANBURY TURN

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

1. SUMMARY OF PROPOSALS

To consider a request to list the Hanbury Turn as an Asset of Community Value.

2. RECOMMENDATIONS

That Cabinet consider the contents of the report in relation to the Hanbury Turn 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 Hanbury Turn public house. 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.

- 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 31 October 2016 – Appendix 5
- 3.4 The nomination supports the inclusion of the asset due to the fact that the Hanbury Turn provides a number of services that they believe further the social wellbeing and interests of the local community. These are detailed in section B4 of the nomination form attached at Appendix 1.
- 3.5 The Hanbury Turn is owned by Punch Partnership (PML) Limited. Punch Taverns have been consulted as part of the process. Initially it was intended that this matter would come before Cabinet on 7th December and members are referred to a copy of the representations received from their solicitors TLT by letter dated 28 November 2016 (Appendix 6). That report did not proceed because the application could not be dealt with due to information that had not been supplied by the applicants. Accordingly, a fresh application has now been made by CAMRA which is the subject of this report. Further comments on behalf of Punch Taverns have been submitted by their solicitors TLT by letter dated 15 December 2016 (Appendix 7).
- 3.6 In accordance with the process for nominations of Assets of Community Value the ward councillor for Avoncroft Ward (Councillor Malcolm Glass) has been consulted. Cllr Glass has responded stating that he is in support of the application.

Financial Implications

- 3.7 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

- 3.8 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.
- 3.9 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.”
- 3.10 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.
- 3.11 Members are reminded that under the new 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.
- 3.12 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.
- 3.13 In relation to the letter of objection received from TLT solicitors (Appendix 6) officers would draw Members attention to the following:-
- The fact that the nomination form includes information taken from the CAMRA website does not of itself invalidate the application process. In its process for

ACV applications the Council does not make any stipulations about the type of evidence to be supplied with a nomination. The issue is whether there is sufficient evidence to satisfy the test in section 88(1).

- 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.
- 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.
- Members need to balance the information they have received in support of the application from CAMRA as against the objection comments received from the land owner.

3.14 For clarification, officers are treating the current application as a new application and not an amendment of the original application. A new ACV application form has been submitted. The Localism Act and relevant regulations do not set out any rules regarding the status of second applications either following formal refusal, or as in this case, on the basis that the accompanying information was incomplete.

Service/Operational Implications

3.15 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

3.16 The approval of the nomination of The Royal Oak 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 from CAMRA dated 31 October 2016
- Appendix 6 – Letter from TLT solicitors dated 28 November 2016
- Appendix 7 - Letter from TLT solicitors dated 15 December 2016

AUTHOR OF REPORT

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