

NOMINATION OF AN ASSET OF COMMUNITY VALUE : FOXLYDIATE ARMS

Relevant Portfolio Holder	Cllr Kent
Portfolio Holder Consulted	Yes
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 consider a request to list the Foxlydiate Arms, Birchfield Road, Redditch as an Asset of Community Value.

2. RECOMMENDATIONS

That Cabinet consider the contents of the report and decides to either:-

- (a) Support the listing of the Foxlydiate Arms, Birchfield Road, Redditch as an Asset of Community Value; or
(b) Not support the listing of the Foxlydiate Arms, Birchfield Road Redditch as an Asset of Community Value

3. KEY ISSUES

Financial Implications

- 3.1 Property owners who believe that 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 claims over £20,000 will be met by the Government. The owners also have a right to appeal the decision made by the council where it is minded to determine that the building be included on the list of Assets of Community Value

Legal Implications

- 3.2 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 the local authority to maintain local registers. Further more detailed rules detailing the operation of this process are set out in the Assets of Community Value Regulations 2012.

- 3.3 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 use 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.

- 3.4 In this case the Foxlydiate Arms is in active use as a public house and hotel.

- 3.5 The owners of the building have applied for planning permission to demolish the Foxlydiate Arms and use the site area and its environs for residential development purposes.

- 3.6 The owners of the site have challenged the extent of the property to which the application should apply and the validity of the Nomination on the basis of non-compliance of their Constitution with the requirements of the Localism Act.

- 3.7 Listing as an ACV can be a material consideration in planning decisions relating to future development and may limit some Permitted Development rights under the GPDO 2015 but it is only one of the many factors that are material to the Planning Decision to be made.

- 3.8 Members are asked to consider whether, should the application meet the statutory test (or part of it) and the objections to the Nominating body’s Constitution are clarified, they would support its listing as an ACV.

- 3.9 A decision must be made by the Head of Planning and Regeneration by 18 July 2019, to comply with the statutory deadline and for this reason consultation with Members as the process requires is now being made, so that the final decision can be made within time.

Service / Operational Implications

- 3.6 As Members are aware the Localism Act 2011 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, and to nominate it to be registered as an “Asset of Community Value”, so that where that

building or land is put up for sale, there will be a six month period within which the community can prepare their bid to buy the asset. The building or land can then be sold on the open market. The Community Group are afforded the same rights as any other bidder with no preference given to the community bid.

- 3.7 Following the receipt of the planning application to demolish and rebuild on the site of the Foxlydiate Arms the Council received a nomination submitted by Brockhill Residents Association for the building to be listed as an Asset of Community Value. The nomination is attached at Appendix 1.
- 3.8 For the purposes of establishing whether the building should or should not be listed as an asset of community value, the test under section 88 of the Localism Act 2011 has to be met.
- 3.9 The owner of the building as listed at HM Land Registry together with the Developer who has made the application for demolition and the Local Ward Councillor have been notified in respect of the nomination.
- 3.10 Members are advised that the Council has received a letter of objection to the nomination from the developers/owners and this is attached at Appendix 2.

Customer / Equalities and Diversity Implications

- 3.11 There are no specific issues identified other than those supporting the application.

4. RISK MANAGEMENT

- 4.1 The register will be maintained by the Council to ensure that all assets nominated are listed accordingly. Each application is assessed in accordance with the Statutory Guidance to ensure that a consistent approach is taken to applications received.

5. APPENDICES

Appendix 1 – Application Form

Appendix 2 – Letter dated 20 June 2019 from dwf LLP, Solicitors on behalf of Premier Inn Hotels Limited

6. BACKGROUND PAPERS

None

7. KEY

N/a

AUTHOR OF REPORT

Name: Ruth Bamford

E Mail: r.bamford@bromsgroveandredditch.gov.uk

Tel: 01527 881202