

Report to: Regeneration and Property Section Head
Date of decision: June 2016
Report of: Interim Property Team Manager
Title: **NOMINATION THAT THE ONE BELL PUBLIC HOUSE 90 HIGH STREET WATFORD WD17 2BW BE ADDED TO THE LIST OF ASSETS OF COMMUNITY VALUE**

1.0 **SUMMARY**

1.1 Amongst other matters the Localism Act 2011 (Part 5 Chapter 3) requires local authorities to maintain a list of Assets of Community Value (the ACV list) nominated by the local community. If listed assets come up for sale then the Act gives community groups the time to develop a bid and raise money to buy the asset. The Council has received a nomination from an unincorporated community group (the Group) in relation to the One Bell Public House. This meets the relevant criteria in the Localism Act and accordingly the recommendation is that the property is added to the ACV list.

2.0 **RECOMMENDATIONS**

2.1 **That the Group have made a valid nomination in respect of the One Bell Public House and that accordingly the property is added to the list of Assets of Community Value maintained by the Council in accordance with the Localism Act 2011**

Contact Officer:

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3.0 DETAILED PROPOSAL

3.1 Localism Act 2011 Assets of Community Value

Amongst other matters the Localism Act 2011 (Part 5 Chapter 3) provides a mechanism under which defined local voluntary or community groups can nominate property to be included on a list of assets of community value. These are defined as land and/or buildings where the current, past or potential future use furthers the social well being or social interests of the local area. If successfully nominated then the property is added to the ACV list which the legislation requires the Council for the area concerned to maintain. In the event that the nomination is rejected then the property is added to a list of assets that have been unsuccessfully nominated. Assets successfully nominated remain on the list for 5 years and legislation goes on to set out the detailed circumstances in which a community interest bid can be made although the owner cannot be compelled to sell.

3.2 Under the legislation Watford Borough Council is responsible for maintaining the list of assets of community value within its administrative area and taking decisions on any nominations received in accordance with the prescribed criteria. The Council's scheme of delegation provides that the initial decision on a nomination is taken by the Head of Regeneration & Property. In the event that a decision to include a property on the list of ACV is challenged by a land owner then a decision on an internal review is delegated to the Head of Regeneration & Development. Should the owner challenge the outcome of a review then the Head of Democracy & Governance would arrange for the Council's decision to be defended at any consequential First Tier Tribunal hearing.

3 Nomination Received

3.3 A nomination was received from an unincorporated community group (the Group) on 18th April 2016 that the One Bell Public House, 90 High Street, Watford WD17 2BW be added to the list of Assets of Community Value maintained by the Council. The Group has made two previous nominations this year but both were refused as they did not meet the statutory definition of an organisation qualified to make a nomination. Although lists of members were included with both applications these did not contain a minimum of 21 people who were on the electoral roll of either Watford or an adjoining borough. The current nomination is supported by 21 people who are electors and has therefore been made by a qualifying organisation.

3.4 The premises have recently been sold and are now owned by the One Bell Public House Ltd. They are currently vacant and the new owner is exploring options for the refurbishment and adaptation of the premises for use as a restaurant.

3.5 The nomination has been reviewed against the criteria in the legislation to determine whether the current, past, or potential future use of the property will further the social wellbeing or social interests of the local community. Within the last 12 months the Council has listed two other public houses as Assets of Community Value (the Red Lion which had just been sold and was vacant and the Essex Arms which was trading as a public house). Government guidance and recent case law envisages that

buildings such as public houses are within the definition of an Asset Of Community value.

3.6

Recent case law supports the listing of an asset even when a public house has been closed with the intention of a change of use. In these cases First Tier Tribunals looked at whether a public house that had been closed constituted an asset where its current, past or potential future use could further the social well being or social interests of the local area. The conclusion reached in these cases was that even if there had been historic operating difficulties it was realistic to take the view that a public house could be revived with the support of the local community.

3.7

On the facts presented the legislation would suggest that that the Council should list the One Bell Public House as an Asset Of Community Value as there would appear to be no legal grounds for rejecting the nomination. The new owners could appeal a decision by the Council to list but on the basis of recent case law this is unlikely to be successful. Alternatively if the Council decided not to list this asset then the Group could challenge the Council's decision through the Judicial Review process and/or a complaint to the Ombudsman on the ground of maladministration. In such circumstances case law would suggest that such a challenge would be successful.

3.8

Listing the One Bell Public House as an Asset of Community Value will mean that the property will for a period of 5 years be subject to the moratorium provisions in the Localism Act. These are designed to provide an opportunity for a community interest bid to be made in the event that the owner gives notice of an intended disposal although the owner cannot be compelled to accept such a bid. Legislation defines what constitutes a disposal for the purposes of triggering a moratorium as a freehold sale with vacant possession or the grant of an occupational lease of 25 years or more (this means an owner is free to let the property on lease for less than 25 years and sell the property subject to occupational leases). A listing will also remove permitted development rights for a change of use or demolition. However such a step does not in itself preclude a change of use or demolition but means planning permission would need to be obtained.

3.8

Decision

The nomination is valid as the Group fall within the statutory definition of a voluntary or community group that can put forward a proposal for listing and the One Bell Public House is an asset where the current, past or potential future use furthers the social well being or social interests of the local area. Accordingly the property will be added to the list of Assets of Community Value maintained by the Council and the Group and the owner notified of the Council's decision in this matter.

4.0

IMPLICATIONS

Possible implications are listed below. Paragraphs 4.1 and 4.2 must be completed in all cases. Paragraph 4.3 must be completed if the report relates to a new policy. Those paragraphs which are not appropriate can be deleted.

4.1 **Financial**

4.1.1 None unless following an internal review the land owner refers the Council's determination to a First Tier Tribunal.

4.2 **Legal Issues** (Monitoring Officer)

4.2.1 The views of the Head of Democracy & Governance are reflected in the text of this report.

4.3 **Equalities**

Watford Borough Council is committed to equality and diversity as an employer, service provider and as a strategic partner. In order to fulfil this commitment and its duties under the Equality Act 2010 it is important to demonstrate how policies, practices and decisions impact on people with different protected characteristics. It is also important to demonstrate that the Council is not discriminating unlawfully when carrying out any of its functions

Not applicable as the report makes a recommendation on a decision being made by the Council under the Community Right to Bid provisions of the Localism Act 2011.

4.4 **Potential Risks**

Please identify potential risks using the graph below. An example is given to demonstrate how the graph should be used. The score is reached by multiplying the likelihood by the impact.

Potential Risk	Likelihood	Impact	Overall score
<i>E.g</i> That following an internal review the land owner refers the Council's determination to a First Tier Tribunal.	4	2	8
<i>Those risks scoring 9 or above are considered significant and will need specific attention in project management. They will also be added to the service's Risk Register.</i>			

4.5 **Staffing**

4.5.1 No staffing implications

4.6 **Accommodation**

4.6.1 No accommodation implications

4.7 **Community Safety**

4.7.1 No community safety implications

4.8 **Sustainability**

4.8.1 No sustainability implications

Appendices

No appendices

Background Papers

- *Localism Act 2011.*
- *The Assets of Community Value (England) Regulations 2012.*
- *Community right to Bid : Non-statutory advice note for local authorities DCLG 2012
Nomination received from an Unincorporated Community Group*

File Reference

- *None*