

BABERGH DISTRICT COUNCIL

To: Strategy Committee	Report Number: N35
From: Head of Communities	Date of meeting: 11 July 2013

REQUEST TO REGISTER AN ASSET OF COMMUNITY VALUE – THE CASE IS ALTERED PUBLIC HOUSE, CAPEL ROAD, BENTLEY

1 Purpose of Report

- 1.1 This report considers a request from an unincorporated body to nominate The Case is Altered Public House as an Asset of Community Value under the provisions of the Localism Act, 2011.

2 Recommendation

- 2.1 That the nomination be accepted and The Case is Altered Public House be entered onto a Register as defined by the Assets of Community Value (England) Regulations, 2012.

The Committee is able to resolve this matter.

3 Key Information

- 3.1 The Case is Altered Public House is located on the eastern side of Capel Road, Bentley and is unoccupied. The property is currently being offered for sale on a freehold basis.
- 3.2 The permitted use of the premises is as a public house however enquiries have been received from prospective purchasers who may wish to use the building for residential purposes. Any proposal to change the use of the building would have to be assessed against existing planning policies. As yet no firm proposals have been submitted.
- 3.3 Under the provisions of the Localism Act, 2011 community groups and unincorporated bodies are able to nominate non-residential buildings or land as 'assets of community value' if the current use of the land or building 'furthers the social well-being or social interest of the local community'.
- 3.4 Many communities already own village halls and similar facilities and have run them successfully. It is however important for all communities to consider what buildings and facilities are important to them, such as the local shop, public house or park, so that they are not lost. The introduction of the nomination process therefore empowers communities and provides them with an opportunity to purchase buildings and facilities that might otherwise be used for alternative purposes or lost.
- 3.5 If a nomination is agreed by the Council the 'asset' cannot be sold before the nominating group is given the opportunity to acquire it on the open market. The nominated asset must however meet the definition of an asset of community value, before the Council is able to record it on a register.

- 3.6 The owner of the asset has the right of an internal review of this decision, and a right of an independent tribunal as a result of the internal review. Nothing else happens at this stage unless the owner decides to dispose of the asset, either through freehold sale, or the grant or assignment of a lease of at least twenty-five years.
- 3.7 The statutory provisions for the consideration of nominations are set out in the Assets of Community Value (England) Regulations, 2012. The Regulations do not confer any preferential rights to the nominating groups when an asset is offered for sale, such as in Scotland. Instead they confer time to the nominating groups to prepare bids for the purchase of the asset within prescribed periods.
- 3.8 The Regulations also specify certain exemptions to the registration of land and buildings as community assets, including residential properties. Public houses and shops are not however exempt and are therefore capable of registration subject to the receipt of an appropriate nomination.
- 3.9 The Regulations outline that nominations can be received from Parish Councils, community groups and unincorporated bodies. An unincorporated body must include at least 21 local members who are registered at an address in the local authority's area or in a neighbouring authority's area as a local government elector.
- 3.10 The Regulations further stipulate that a local authority must decide whether to accept a nomination within eight weeks of receiving a nomination.
- 3.11 The Regulations do not appear to restrict the consideration of nominations after a property has been offered for sale. If however the asset is incorporated onto the register the relevant time periods for the expressions of interest would take effect from its inclusion on the register rather than the date upon which the property was placed on the market.
- 3.12 The Committee is requested to note that the registration of the property is a legal process and there is no compunction on the owner to sell the asset. Furthermore there is no community right to buy the asset, just to bid. In some instances the local community bid may be unsuccessful.

The Nomination

- 3.13 The request to nominate The Case is Altered Public House was received by the District Council on 20 June 2013. In line with the requirements of the Regulations interested parties have been notified as detailed below. The Electoral Register has also been checked. The District Council has until 15 August 2013 to make a decision.
- 3.14 The public house is capable of being considered as an asset of community value and is not exempted from inclusion on a register by the Regulations. In support of the nomination the unincorporated group has outlined that prior to its closure the public house performed an important social and community function and hosted many events. The group wishes to retain the public house but incorporate other uses such as a shop and tea room.

3.15 The verification of the nomination form has revealed that of the 30 names provided:

- Twenty six people are registered to vote at the address given on the nomination form,
- Two people are registered but not at the address given on the nomination form, and,
- Two people are not registered.

3.16 The nomination can therefore be accepted as the unincorporated group has the requisite number of people on the electoral roll as required by the Regulations.

3.17 The inclusion of the public house on a Register of Assets of Community Value would further the social well-being and interests of the local community as defined by the Localism Act, 2011. As such 'The Case is Altered Public House' should be entered onto a Register as defined by the Assets of Community Value (England) Regulations, 2012.

4 Financial Implications

4.1 There would be financial implications for the Council if it can be demonstrated by the owners of the property that the sale of the building has been delayed.

4.2 The Government has said that it will meet the costs of compensation claims that exceed £20,000 in a financial year up to March 2015, with follow-on funding from 2015 onwards. It has also announced a fund of £17.5 million to assist local communities with using the regulations.

5 Risk Management

5.1 The financial risks identified above and those associated with the implementation of the Localism Act, 2011 are not specifically identified in the Council's Corporate / Significant Business Risk Register. The likelihood of a claim is difficult to predict however there would be an impact given current financial constraints. The risk register therefore requires revision to reflect this eventuality.

For information on current risks see <http://www.babergh.gov.uk/council-business/council-and-democracy/finance/risk-registers/>

6 Consultations

6.1 In line with the requirements of the Assets of Community Value (England) Regulations, 2012 the Parish Council, the owners of the premises and their appointed agents have been notified of the request. Although there is no requirement within the Regulations a Public Notice has also been displayed on the premises. In addition the relevant Ward Members have been notified.

6.2 All parties have been invited to send the Council comments on this matter by 11 July 2013. Members will be informed of any representations received after the publication of this report and before the date of the meeting.

7 Equality and Diversity Impact

7.1 There are no equality and diversity implications arising directly from the content of this report.

8 Shared Service / Partnership Implications

- 8.1 This report relates to a matter affecting Babergh only. A separate report is however due to be considered by the Strategy Committee and Executive Committee which will set out an approach for the consideration of future requests from community groups and unincorporated bodies to nominate assets of community value.

9 Appendices

None

10 Background Documents

None

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