

**Report to:** Regeneration and Property Section Head

**Date of decision:** 17th January 2017

**Report of:** Interim Property Advisor

**Title:** **REQUEST THAT THE RED LION PUBLIC HOUSE 105 VICARAGE ROAD WATFORD WD18 0EY BE DELETED FROM 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. Following a nomination by Watford & District CAMRA (CAMRA) that met the relevant criteria in legislation the Council took a decision in September 2015 to add the Red Lion Public House in Vicarage Road, Watford to the ACV list.
- 1.2 Subsequently the owners of the property notified the Council of an intention to dispose of the property and this was processed in accordance with the relevant provisions in the legislation. As there was no interest from qualifying organisations the owners were advised that they were free to proceed with a disposal within a protected period expiring in October 2017. Following a disposal of the public house the owners have formally requested that the listing be deleted and legislation places the Council under an obligation to amend or remove the listing to reflect changing circumstances.

## 2.0 **RECOMMENDATIONS**

- 2.1 **That following the partial sale and change in circumstances the listing made in respect of the Red Lion Public House be removed from the list of Assets of Community Value maintained by the Council in accordance with the Localism Act 2011**

**Contact Officer:**

For further information on this report please contact: David Lewis, Interim Property Advisor telephone extension: 8216 email: david.lewis@watford.gov.uk

## 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 Deputy Managing Director Place Shaping and Corporate Performance. 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 Tribunal hearing. In the event that circumstances change subsequent to the listing of an asset then legislation requires a Council once it has become aware of the changes to amend or delete an entry as soon as practicable.

#### **CAMRA Nomination**

- 3.3 A nomination was received from CAMRA on 25<sup>th</sup> July 2015 that the Red Lion Public House, 105 Vicarage Road, Watford WD18 0EY be added to the list of Assets of Community Value maintained by the Council. The premises, which were vacant at the time, had recently been sold by the liquidators of Watford Leisure Ltd and the new owners were pursuing plans for the future development of the property.
- 3.4 The nomination was reviewed against the criteria in the legislation to determine whether CAMRA were a qualifying organisation entitled to make a nomination and whether the current, past, or potential future use of the property would further the social wellbeing or social interests of the local community. The Council was satisfied that the nomination met the relevant criteria in the legislation and took a decision on 3<sup>rd</sup> September that the property should be added to the ACV list.

#### **Disposal**

- 3.5 In April 2016 the owner notified the Council of an intention to sell the freehold interest in the property thereby triggering the commencement of a 6 week initial moratorium period in accordance with the relevant legislation. Although the publicity around this

resulted in a single expression of interest this was subsequently withdrawn once the group concerned became aware that the listed asset included land with potential for the development of 8 flats and that the ground floor and basement of the actual public house had been let on a 24 year lease and would not be available for occupation.

- 3.6 The owners of the Red Lion were advised of the outcome of the moratorium process and that they were free to proceed with a freehold disposal within a protected period which ends on 28<sup>th</sup> October 2017. They have now formally advised the Council that they have completed a sale of the actual public house which is shown shaded blue on the plan at Appendix A. The owners also obtained planning permission on appeal in November 2016 for the development of 8 flats on the former garden area which is the majority of the remaining area within the red edge on the plan at Appendix A.
- 3.7 On the 8<sup>th</sup> December 2016 the Council received a request from the solicitors acting for owner that the property should be removed from the ACV list given the changing circumstances. There is a specific requirement in the regulations to amend or remove a listing where what is known as a relevant disposal has taken place. The site of the actual public house shown shaded blue on the plan falls into this category and so arrangements should be made to amend the current entry to remove this area from the listing. The purpose of the original listing has been met through the letting of the ground floor and basement which has reopened as a public house.
- 3.8 There is also a requirement in the regulations to remove an entry if an authority considers that due to changing circumstances land listed is no longer considered to be land of community value. Given that the purpose of the nomination and listing in 2015 was to safeguard the public house which has now reopened the intention is to remove the remainder of the land edged red on the attached plan comprising the former stables and garden. Removal of the current entry in its entirety will ensure that the Council meets its obligations under the relevant legislation to amend or delete an entry as soon as practicable after it becomes aware of changes.

#### 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

##### 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>That the Council fails to amend or remove an ACV listing within a reasonable period resulting in either a Judicial Review and/or complaint to the Ombudsman on the grounds of maladministration.</i>	1	4	4
<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

Appendix A – site plan of the Red Lion

### 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 Watford & District CAMRA*

*Request by the owners of the Red Lion that the ACV listing be removed.*