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STAFFORDSHIRE MOORLANDS DISTRICT COUNCIL

CABINET DELEGATED DECISIONS

Wednesday, 8 November 2023

**APPLICATION TO REGISTER THE GEORGE, ALSTONEFIELD AS AN
ASSET OF COMMUNITY VALUE**

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Staffordshire Moorlands District Council

Delegated Decision Report

8 November 2023

TITLE:	Community Right To Bid – Nomination of a Community Asset Name: The George Address: Alstonefield, Nr Ashbourne, Staffordshire Post Code DE6 2FY
PORTFOLIO HOLDER:	Councillor Bill Cawley
CONTACT OFFICER:	David Smith & Victoria Ellis
WARDS INVOLVED:	Hamps Valley

Appendices Attached:

Appendix 1 - Assets of Community Value Assessment Form

Appendix 4 – Title Plan

Appendix 5 – Land registry details

1. **Reason for the Report:** The District Council has received a nomination from Save The George Group for The George in Alstonefield, Nr Ashbourne DE6 2FY to be registered as an asset of community value and in accordance with the Council's policy must decide whether to approve or refuse the nomination.

2. **Recommendation**
 - 2.1 To list The George in Alstonefield, Nr Ashbourne DE6 2FY as an asset of community value.

3. **Executive Summary**
 - 3.1 Save The George has made a nomination under the Localism Act 2011 (provisions relating to the community right to bid) for the The George in Alstonefield, Nr Ashbourne DE6 2FY, to be listed by the Council as an asset of community value.

3.2 Officers, following the Council's policy, have assessed the application using the agreed criteria.

4. How this report links to Corporate Priorities

4.1 The community rights measures in the Localism Act 2011 have the potential to support the delivery of the Council's corporate aims and priorities.

5. Options and Analysis

5.1 That the nomination is approved (recommended).

5.2 That the nomination is not approved (not recommended).

6. Implications

6.1 Community Safety - (Crime and Disorder Act 1998)

No implications.

6.2 Workforce

No implications.

6.3 Equality and Diversity/Equality Impact Assessment

No implications.

6.4 Financial Considerations

No implications.

6.5 Legal

The Council is required under the Localism Act 2011 to consider nominations from eligible organisations to register land/property as an asset of community value. The Council has a Community Right to Bid Policy (approved in December 2012) which sets out the process the Council will follow.

6.6 Sustainability

No implications.

6.7 Internal and External Consultation

Ward Councillors and Parish Council, along with the Lease Holders and owners of the property have been informed about the nomination.

Parish Council have submitted written support the application.

The Lease holders have made comments, which are included in appendix 3.

6.8 Risk Assessment

Owners of properties listed by the Council can appeal against the decision of the Council to list their property as an asset of community value and, if successful, recover their costs.

7. **Background**

- 7.1 The Community Right to Bid provides a mechanism for parish councils and voluntary bodies to request that buildings and/or land in their community is registered with the Council as an 'Asset of Community Value'. The owner of any land and buildings registered with the Council is then required to inform the Council of their intention to dispose of these assets. Should eligible organisations express an interest in acquiring the land or buildings a moratorium on the sale is triggered during which time community groups or parish councils can seek to raise funds to make a bid to purchase the asset. Once listed, land remains on the register of assets of community value for 5 years from the date of entry unless it is appropriately disposed of.
- 7.2 The moratorium operates to prevent certain proposed disposals of land being made until specified conditions are met.
- *Notification.* The owner must firstly notify the local authority that it wishes to enter into a relevant disposal.
 - *Interim moratorium period.* The community interest group then has six weeks to notify the local authority that it wishes to be treated as a potential bidder. If no such request is made, then the owner can proceed with disposal of the land and no further moratorium period will apply for a protected period lasting 18 months.
 - *Full moratorium period.* If the community interest group requests to be treated as a potential bidder within 6 weeks, then the moratorium on disposal runs for 6 months. As before, no further moratorium period will apply for a protected period lasting 18 months.
- 7.3 The right does not restrict in any way decisions by the owner of a listed asset about whom they can sell their property to, or at what price, and they do not confer on parish councils or voluntary bodies a right to buy. It is important to recognise that:

- The right granted on registration is NOT a right to buy. It does not create a right of first refusal or any preferential pricing or a right to buy of any kind.
- The price for land/building remains its open market value even if a moratorium is triggered.
- The owner may continue to market the property and negotiate potential sales during the moratorium period.
- The prohibition during the moratorium period is only on entering into a binding contract to dispose of the land (unless the disposal is to a community interest group)
- Registration does not compel the owner to enter into any negotiations with a community interest group or to engage with them in any other way.
- At the end of the moratorium period, the owner can sell to anyone it chooses at whatever price it is able to obtain.

7.4 In 2015 the Government provided additional protection for property registered as an Asset of Community Value by removing permitted development rights such that planning permission is required if an owner wishes to demolish or change the use of a registered property.

8 The Application

8.1 The Council received a nomination on 10th June 2023 from Save The George requesting that The George in Alstonefield, Nr Ashbourne DE6 2FY should be listed as an Asset of Community Value under the community right to bid measure of the Localism Act 2011 (Part 5 Chapter 3: Assets of Community Value).

8.2 The George public House sits within the centre of the village of Alstonefield and is the only public house in the village. It was regularly used by people living in the village, ramblers and campers that were passing through for food and social gatherings. The land is identified on the attached map (Appendix 4).

8.2 The George is a brewery owned establishment, currently by Marstons and the current landlord took over the business in 2017. The George has been for sale since February (not openly listed) this year and the current Lease Holders are in the process of purchasing it from Marston's and continue the business as a Transfer of Going Concern (TOGC). They state they have no plans to change the use of the premises or de-license the premises.

8.3 Officers have assessed the nomination (**Appendix 1**) and confirmed that:

- Save The George Group is eligible to make the nomination.
- The land is not exempt from listing.
- The land has been used by members of the community for activities that have furthered the social wellbeing or social interests of the local community.

8.5 The Council is required under Section 88 (1)(b) Localism Act 2011 to determine whether "*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 wellbeing or social interests of the local community".
This is commonly referred to as the "realistic to think" test.

- 8.6 It has been suggested that the words "can continue" do not require the local authority to be able to envisage a lengthy period of continuance (Adamyk: Assets of Community Value – Law and Practice (2017)
- 8.7 Case law has identified that the "realistic to think" test presents a lower threshold than the balance of probabilities and that "realistic" does not mean "most likely" but instead means having to show a sensible and practical idea of what could be achieved, and it thus permits of a number of possibilities. In *J Halev v West Berkshire District Council*, the First-tier Tribunal held that: *"whether something is realistic does not mean that it must be more likely than not to happen. A use may be "realistic", even though it is one of a number of possibilities"*.
- 8.8 *Ali v Rother (2015)* concerned an application for woodland to be declared an asset of community value in the face of the owner's plans to develop the land. The Tribunal considered an appeal against listing by the landowner and dismissed the appeal on the grounds that it was realistic to think that even if the woodland had development potential, it would be years before it could be realised, and at least one of the realistic possibilities was that the appellants' development aspirations would come to nothing and the existing use of the woodland would continue.
- 8.9 In *TV Harrison CIC v Leeds City Council (2021)* a community interest company successfully challenged the refusal to list a sports ground as an asset of community value. The Council had argued that the land had been allocated for housing under the Leeds Site Allocations Plan; that there were "firm and settled plans" to develop the land for housing, subject to the grant of planning permission; and that it was "reasonable for the Council to conclude that it is not realistic to think that there can continue to be non-ancillary use of the site which will further (where or not in the same way) the social well-being or social interests of the local community". The Court concluded that the Council had acted unlawfully in refusing to list the sports ground and had taken a wholly one-sided approach in its reasoning. The court stated that although the owner's development intentions would be relevant, particularly in the planning context, any factors casting doubt on the owner's ability to achieve those aims had to be considered.
- 8.10 Accordingly, the Council's officers have assessed that the criteria for listing have been met and recommend that the George in Alstonefield, be listed as an Asset of Community Value.

Neil Rodgers
Executive Director (Place)

**Web Links and
Background Papers**

Location

Contact details

STAFFORDSHIRE MOORLANDS DISTRICT COUNCIL

<p>ASSETS OF COMMUNITY VALUE ASSESSMENT FORM</p>

Application reference number	Received date	Has all the relevant detail been provided by the applicant?	Listing recommended?
27	19/06/23	YES	YES

Details	
Nominating organisation	Save The George
Nominated Land/buildings Brief description and location of land/buildings nominated	Name: The George Address: Alstonefield, Nr Ashbourne, Staffordshire Post Code DE6 2FY Licensed pub in Alstonefield currently operating 4 days a week
Is the applicant authorised to act?	Yes - Unincorporated bodies (that has at least 21 individual members of 21 who are on the local electoral register)

Organisational eligibility assessment	
<p>Type of Organisation</p> <p>Eligible organisations are:</p> <ul style="list-style-type: none"> • Neighbourhood Forums (section 61F of the Town & Country Planning Act 1990 – added by the Localism Act 2011) • Parish Councils in respect of land in the parish council’s area • Unincorporated bodies (that has at least 21 individual members of 21 who are on the local electoral register) • A Charity • Company Limited by Guarantee (where profits are not distributed to members) • Industrial or Provident Society • Community Interest Company 	<p>21 members on the local electoral register (verified members on the electoral register).</p> <p>Eligible YES</p>

Local Connection	
All the people signed the application are local	Eligible YES
Is the organisation eligible to nominate?	YES

Exemption	
Is the land or building exempt from listing?	Exempt NO

Community Value Assessment	
<p>Does the current use (or its use in the past 5 years) of the building or land further the social well-being or social interests of the local community?</p> <p>The Localism Act 2011 'social interest' includes (in particular) each of the following: cultural interests, recreational interests, sporting interests.</p>	<p>The George is currently being run as a restaurant and is now only open Thursday - Sunday.</p> <p>The George is a brewery owned establishment, currently Marstons and the current landlord took over the business in 2017.</p> <p>For a period of 40 years the establishment was run successfully and the pub became very popular and well known. There were loyal customers from both the local communities plus a wider area, many of whom regularly visited for lunch/dinner. On a Friday night it was often packed by 8:00 p.m.</p> <p>New Years Eve was a major highlight of the year when the landlord at the time put on a free buffet to thank all their customers. There was a regular group of locals who would gather on a Tuesday evening. A tradition that went back over 30 years. That particular group had grown in size over the years, especially as the demographics of the village changed.</p> <p>During the warmer months the George would be very busy with many drinkers sitting on the village green opposite. The successful Landlords retired in 2007 and the business was taken over by a new landlady.</p> <p>Initially she kept the business model the same but after a while she began to change the business model taking it more up market in terms of dining. She stopped catering for the type of visitors who had traditionally made up a significant part of the business. i.e. walkers and day visitors.</p> <p>Nevertheless, the establishment was still open and accessible by all.</p>

	<p>The current landlord took over the business in 2017 and initially there was no change to the business model. However, they eventually went much more up market in terms of prices and the range of ales/beers were reduced as were the opening hours.</p> <p>Yes</p>	
The use above is the main one and not ancillary?	Yes	
Is it realistic to think that the building or land will continue to be used in a way which will further the social well-being and social interests of the community within the next 5 years?	<p>It could be ran as a successful public House and attract more visitors. It could also become a social hub for the community as it was previously. The building, grounds and facilities are purpose built to accommodate a pub and restaurant. The premises are in excellent condition inside and out.</p> <p>I confirm that the Parish Council are aware that an application has been made to list The George, Alstonefield as an Asset of Community Value. The matter was discussed at the Council meeting on 21st June and I am instructed to inform you that the <u>Parish Council supports the application.</u></p> <p style="text-align: right;">YES</p>	
Is the Criteria met?	YES	
Assessment undertaken by:	Signed	Date
Victoria Ellis	V.Ellis	26/07/23
David Smith		

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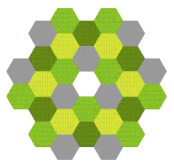
These are the notes referred to on the following official copy

The electronic official copy of the title plan follows this message.

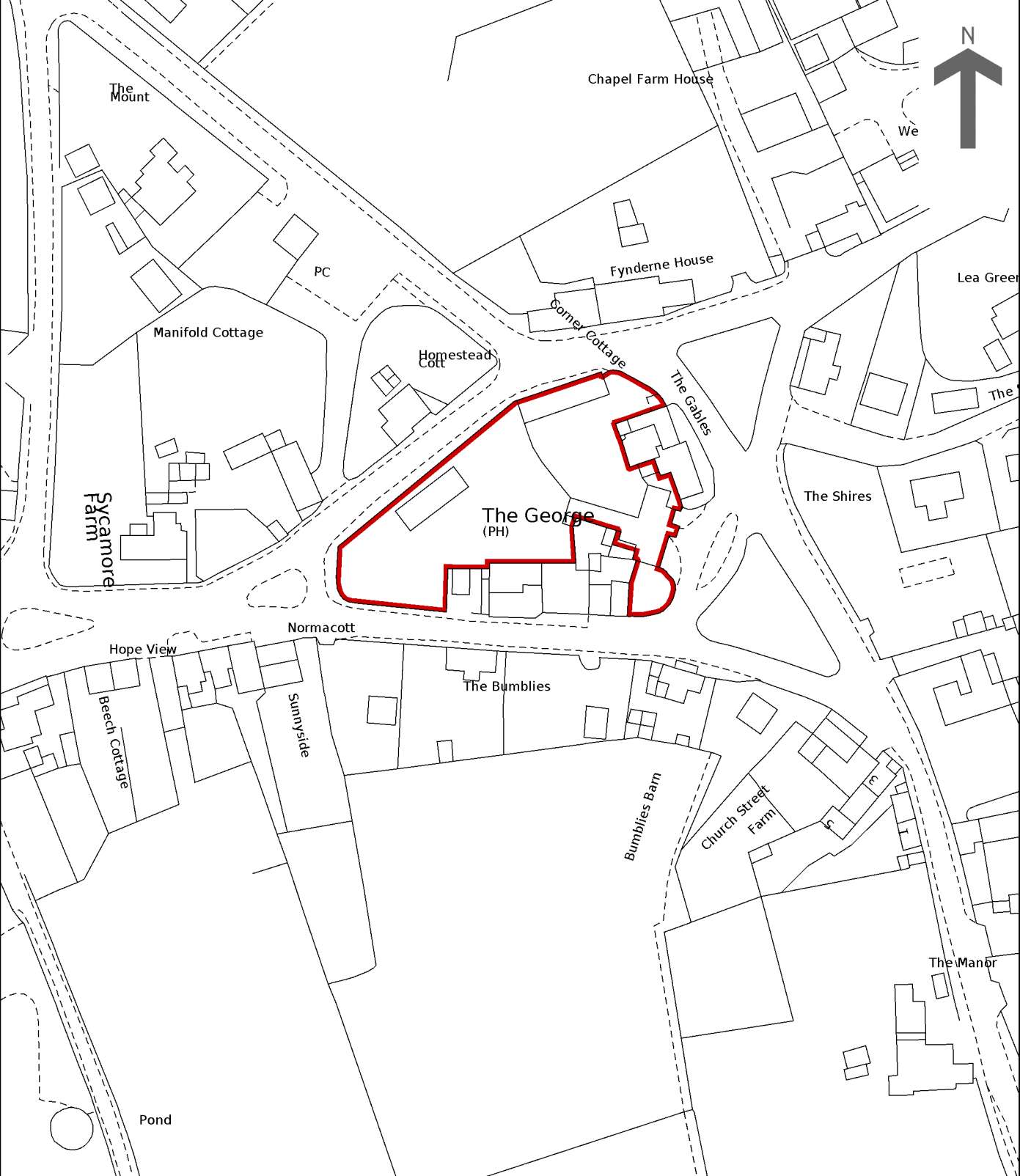
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Official copy of register of title

Title number SF626368

Edition date 29.08.2017

- This official copy shows the entries on the register of title on 23 AUG 2021 at 14:31:11.
- This date must be quoted as the "search from date" in any official search application based on this copy.
- The date at the beginning of an entry is the date on which the entry was made in the register.
- Issued on 23 Aug 2021.
- Under s.67 of the Land Registration Act 2002, this copy is admissible in evidence to the same extent as the original.
- This title is dealt with by HM Land Registry, Birkenhead Office.

A: Property Register

This register describes the land and estate comprised in the title. Except as mentioned below, the title includes any legal easements granted by the registered lease but is subject to any rights that it reserves, so far as those easements and rights exist and benefit or affect the registered land.

STAFFORDSHIRE : STAFFORDSHIRE MOORLANDS

- 1 (12.06.2017) The Leasehold land demised by the lease referred to below which lies within the area shown edged with red on the plan of the above Title filed at the Registry and being The George, Alstonefield, Ashbourne (DE6 2FX).
- 2 (12.06.2017) The land has the benefit of the rights reserved by but is subject to the rights granted by a Deed of Grant dated 3 November 1981 made between (1) Ind Coope (West Midlands) Limited (2) Allied Breweries (UK) Limited and (3) Michael William Goodwin and Jean Emily Goodwin.
NOTE: Copy filed under SF355275.
- 3 (12.06.2017) Short particulars of the lease(s) (or under-lease(s)) under which the land is held:
Date : 29 September 2006
Term : 21 years starting on 18 May 2006 and ending on 17 May 2027
Parties : (1) The Wolverhampton & Dudley Breweries Plc
(2) Emily Charlotte Hammond
- 4 (12.06.2017) The Lease prohibits or restricts alienation.
- 5 (12.06.2017) By a Deed dated 4 January 2008 made between (1) Marston's Plc as agent and attorney for Marston's Pubs Limited and (2) Emily Charlotte Hammond the terms of the registered lease were varied.
NOTE: Copy Deed filed.
- 6 (12.06.2017) The landlord's title is registered.

B: Proprietorship Register

This register specifies the class of title and identifies the owner. It contains any entries that affect the right of disposal.

Title absolute

- 1 (29.08.2017) PROPRIETOR: PENROSE JOHNSON LIMITED (Co. Regn. No. 10644132) of The George, Alstonefield, Ashbourne DE6 2FX.
- 2 (29.08.2017) The price stated to have been paid on 14 August 2017 was £30,000.

C: Charges Register

This register contains any charges and other matters that affect the land.

- 1 (12.06.2017) A Conveyance of the freehold estate in the land in this title and other land dated 11 August 1950 made between (1) Henry Wright Whitaker and others (Vendors) (2) John Curzon (3) Constance Aimee Johanna Coaker and (4) Strettons Derby Brewery Limited (Purchasers) contains the following covenants:-

"THE Purchasers hereby covenant with the Vendors that they the Purchasers will for ever hereafter permit the owner or owners for the time being of the Harpur Crewe Settled Estates in Staffordshire and his or their agents twice in every year to have the use of a suitable room in the said Hotel free from all charge for the purpose of conducting a rent audit

THE Purchasers hereby covenant with the Vendors for the benefit of the remainder of the Harpur Crewe Settled Estates in Staffordshire that they the Purchasers and their successors in title will submit to the owner or owners for the time being of the Harpur Crewe Settled Estates all plans and elevations in respect of any proposed alterations to the exterior of the property hereby conveyed and will not carry out any such alterations without the written consent of such owner or owners first obtained."

- 2 (12.06.2017) The land is subject to any rights that are reserved by clause LR11.2 of the registered lease dated 29 September 2006 and affect the registered land.

End of register

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