

**Staffordshire Moorlands District Council**

**Delegated Decision Report**

**8 November 2023**

<b>TITLE:</b>	<b>Community Right To Bid – Nomination of a Community Asset</b> Name: The George Address: Alstonefield, Nr Ashbourne, Staffordshire Post Code DE6 2FY
<b>PORTFOLIO HOLDER:</b>	<b>Councillor Bill Cawley</b>
<b>CONTACT OFFICER:</b>	<b>David Smith &amp; Victoria Ellis</b>
<b>WARDS INVOLVED:</b>	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 10<sup>th</sup> 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**