

**Report of**     **Asset Management Service**

**Report to**     **Head of Asset Management**

**Date:**         **16 April 2015**

**Subject:**      **Community Right to Bid Nomination for The Cardigan Arms, 364  
Kirkstall Road, Leeds, LS4 2HQ**

Are specific electoral Wards affected?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
If relevant, name(s) of Ward(s): Kirkstall		
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
If relevant, Access to Information Procedure Rule number: Appendix number:		

## Summary of main issues

1. In line with the legislation and regulations set out in the Localism Act 2011, this report considers the nomination to add The Cardigan Arms, 364 Kirkstall Road, Leeds, LS4 2HQ to the List of Assets of Community Value.
2. The Council has received a nomination from the Campaign For Real Ale (CAMRA) Leeds Branch, who is an unincorporated group. Therefore, they are eligible to nominate the property, but not trigger the moratorium period, bid for the property or purchase the property.
3. The nomination is one of 2 received simultaneously from CAMRA Leeds Branch. The Cardigan Arms is open 7 days a week and serves a range of cask ales. It is a 'traditional pub', with many exterior and interior original architectural features.
4. Officers conclude that the property's current use furthers the social interests of the local community and it is realistic to think that this can continue in the future.

## Recommendations

5. The Head of Asset Management is recommended to add The Cardigan Arms, 364 Kirkstall Road, Leeds, LS4 2HQ to the List of Assets of Community Value.

## **1 Purpose of this report**

- 1.1 The purpose of this report is for the Head of Asset Management to consider whether the nominated property should be added to the List of Assets of Community Value or whether it should be included on the List of Land Nominated by Unsuccessful Community Nominations in accordance with Part 5 Chapter 3 of the Localism Act 2011.

## **2 Background information**

- 2.1 Part 5 Chapter 3 of the Localism Act 2011 details the legislation for Assets of Community Value and sets out the Community Right to Bid. The right came into force on 21<sup>st</sup> September 2012 and its purpose is to give communities a right to identify a property or land that is believed to further their social interests or social wellbeing and gives them a fair chance to make a bid to purchase the property or land on the open market if the owner decides to sell. From the date the landowner informs the Council of their intention to sell, eligible community groups have a period of six weeks to confirm whether or not they wish to submit to bid to purchase the property or land. If they do inform the Council that they want to bid, the landowner is prevented from disposing of the property for a period of six months (from the date they originally informed the Council of their intention to sell) unless it is to a community organisation. The landowner is free to dispose of the property at the end of the six month period to whomever they see fit.
- 2.2 On 26<sup>th</sup> January 2015 Government Ministers announced their intention to change the law to remove permitted development rights for pubs that are listed as Assets of Community Value. The new law took effect on 6<sup>th</sup> April 2015. Pub owners now require full planning permission to change a pub's use to certain uses (including retail) or to demolish a pub if the pub is listed as an Asset of Community Value.
- 2.3 The nomination is for The Cardigan Arms which is located within the Kirkstall ward (please see the red line boundary plan at appendix 1). Ward Members and Area Support (Citizens and Communities) have been made aware of the nomination and Councillor Illingworth and Councillor Yeadon have responded supporting the nomination.
- 2.4 There has been a national campaign by CAMRA to list pubs as Assets of Community Value. This has resulted in approximately 461<sup>1</sup> pubs being listed nationally and they make up 36% of all assets listed nationally. The Development Control Services collected data from 134 local planning authorities and their analysis highlighted that, of the 189 pub applications assessed, 155 were successfully added to the List of Asset of Community Value resulting in an 88% success rate. This is in the context of the average approval rate across all assets being 79%.
- 2.5 The freehold interest in the property is owned by The Spirit Pub Company (Leased) Limited (Spirit). The property is leased to a private tenant.

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<sup>1</sup> Data taken from CAMRA website and correct as of 10<sup>th</sup> November 2014

- 2.6 There has been no objection received from the landowner The Spirit Pub Company (Leased) Limited.
- 2.7 For property or land to be added to the List of Assets of Community Value, the nominator must be able to demonstrate and satisfy all the listing criteria as laid down in the legislation. The legislation states that buildings or land with a current use is considered to be of community value if, in the opinion of the authority, there is:
- a) an actual current use of the building or other land that is not an ancillary use which furthers the social wellbeing or social interests of the local community, and;
  - b) 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.'
- 2.8 For buildings or other land that do not have a current use, the legislation states that land is of community value, if in the opinion of the authority
- a) there is a time in the recent past when an actual use of the building or other land that was not an ancillary use furthered the social wellbeing or interests of the local community, and
  - b) it is realistic to think that there is a time in the next five years when there could be non-ancillary use of the building or other land that would further (whether or not in the same way as before) the social wellbeing or social interests of the local community.
- 2.9 It is important to note that if both of the criteria stated at either 2.7 or 2.8 are met, then the Council is obliged to add the nominated asset to the List of Assets of Community Value.

### **3 Main issues**

- 3.1 This report has been based on an assessment of the nomination form only as no landowner objection has been received.
- 3.2 The nomination for The Cardigan Arms was received on 23<sup>rd</sup> February 2015 from CAMRA Leeds Branch, which is an unincorporated group. CAMRA Leeds Branch does not distribute any surplus it makes to its members, and any surplus CAMRA Leeds Branch makes is partly applied for the benefit of the Council's area. CAMRA Leeds Branch has provided evidence, which has been verified by the Council's Electoral Services, they have a minimum of 21 local members. Their activities are wholly or partly concerned within the Council's area. CAMRA Leeds Branch therefore complies with the requirements for voluntary and community bodies, and has a local connection for the purposes of Regulations 4 and 5 of The Assets of Community Value (England) Regulations 2012, and therefore CAMRA Leeds Branch's nomination is a valid "community nomination" for the purposes of Section 89 of the Localism Act.

- 3.3 As an unincorporated group, CAMRA Leeds Branch is eligible to submit a nomination to register a property as an Asset of Community Value but not trigger the moratorium in order to make a bid for the property.
- 3.4 The nomination states the Leeds branch of CAMRA has been campaigning for drinkers' rights in the city for over 40 years. It is part of a national organisation that has over 160,000 members. It is passionate about saving pubs, especially those that are a real community asset and/or of historic value.
- 3.5 For a property to be added to The List of Assets of Community Value, the nominator must demonstrate that a current non-ancillary use furthers the social interests and social wellbeing of the local community and that it is realistic to think that it can continue to do so whether or not in the same way.

***Does a current non-ancillary use further the social interests or social wellbeing of the local community?***

- 3.6 The nomination form details that The Cardigan Arms was constructed in 1893-5. The proprietor of the pub employed architect Thomas Winn to design the pub who also designed the Adelphi and Rising Sun.
- 3.7 The pub has a complex traditional layout of 3 lounges off a central L shape drinking lobby, a separate bar which was formerly a 'ladies only' section (which is still etched on the glass on the side door panel), an upstairs function room known as the 'Harmonic Room' accessed by a central open staircase from the central lobby.
- 3.8 CAMRA Leeds Branch state the internal décor and fittings have been retained including; fine woodwork, etched glass, mosaic panels, original ceiling moulds and wall coverings. The outbuildings to the rear include a stable block and shell of the small tower brewery. When owned by Tetleys they designated The Cardigan Arms as one of their 'Heritage Inns'.
- 3.9 The Cardigan Arms is one of only nine heritage pubs listed by CAMRA as being of national importance due to its historic interior. It also features in the recent book 'Yorkshire's Real Heritage Pubs' by Dave Gamston.
- 3.10 The CAMRA Leeds Branch feel strongly that The Cardigan Arms should be retained and trade in its current format. CAMRA Leeds Branch further state, 'this pub plays an invaluable role at the heart of the Kirkstall community, providing a safe, regulated and sociable environment in which people can enjoy a drink responsibly and interact with people from different backgrounds'.
- 3.11 CAMRA Leeds Branch has the support from the All Parliamentary Save the Pub Group; its Chairman is Leeds North West MP Greg Mulholland.
- 3.12 To date no objection has been received from the landowner.
- 3.13 The important historical value of The Cardigan Arms is evident from the nomination form.
- 3.14 It is considered by the Leeds City Council case officer that the current use does further the social interests and social wellbeing of the local community. Pubs are

places where people go to drink and socialise. The setting of a pub is a social setting. To argue to the contrary would be to paint a picture of a pub being a place where people went to consume alcohol alone without interacting with other patrons. It is considered that such circumstances would be rare, and nothing has been provided to suggest that The Cardigan Arms is such a place. If the local community solely intended to consume alcohol, it is considered more likely they would do so in their own home, taking advantage of the lower prices available in shops and supermarkets. The fact that people are visiting a social environment supports the fact that they do so to further their social interests and social wellbeing.

***Is it realistic to think that there can continue to be a non-ancillary use that will further the social interests or social wellbeing of the local community (whether or not in the same way)?***

- 3.15 The Cardigan Arms is currently open. Nothing has been provided to suggest there are plans to change use or close. Therefore, it is realistic to think the current use will continue and that such use is eligible.
- 3.16 CAMRA Leeds Branch state The Cardigan Arms caters to a large range of people. It is a meeting point for various social groups and committees, including supporting local musical talent.
- 3.17 The criteria for listing as set out in paragraph 88(1) of the Localism Act 2011 is considered to have been met and the nominated land should be added to the List of Assets of Community Value.

## **4 Corporate Considerations**

### **4.1 Consultation and Engagement**

- 4.1.1 The Council's role is to assess the community nomination against the criteria set out in the Localism Act 2011, therefore no consultation and engagement is necessary.
- 4.1.2 The Leader of the Council and the Executive Member for Transport and Economy were briefed on 17<sup>th</sup> April 2015.
- 4.1.3 Kirkstall ward members have been informed of the nomination. Councillor Illingworth and Councillor Yeadon have responded supporting the nomination. Both raise the point that a number of heritage pubs have been lost in Kirkstall including the Rising Sun and The George, which are now causing environmental concern.

### **4.2 Equality and Diversity / Cohesion and Integration**

- 4.2.1 Equality, diversity, cohesion and integration considerations do not form part of the eligibility criteria upon which nominations are assessed. However, consideration has been given to ensure that all people have an equal opportunity to nominate assets of community value.

### **4.3 Council policies and City Priorities**

- 4.3.1 The Council has an obligation under the Localism Act 2011 to assess nominations under Community Right to Bid.

### **4.4 Resources and value for money**

- 4.4.1 The Localism Act contains a right to appeal for private landowners, ultimately with them being able to take the Local Authority to a first tier tribunal if they are dissatisfied with a decision on a nomination and are still dissatisfied after a formal internal appeal. If a first tier tribunal finds in the landowners favour, the Local Authority is liable for all costs of the tribunal.
- 4.4.2 The Act also gives the landowner a right to compensation if they incur costs or loss of value directly from complying with the Assets of Community Value legislation. This compensation is payable by the Local Authority.

### **4.5 Legal Implications, Access to Information and Call In**

- 4.5.1 The City Solicitor confirms that the conclusions and recommendations in this report represent a reasonable and proper application of the statutory criteria for determining whether the nominated property is an asset of community value.
- 4.5.2 The Head of Asset Management has authority to take the decisions requested in this report under Executive functions 2(o) (specific to the Director of City Development) of the Director of City Development's sub delegation scheme.
- 4.5.3 The proposal constitutes a significant operational decision and is therefore not subject to call in.

### **4.6 Risk Management**

- 4.6.1 The report has potential risk implications as the landowner is able to request an internal review which could ultimately lead to a first tier tribunal.

## **5 Conclusions**

- 5.1 In order to be included on the List of Assets of Community Value, all listing criteria, as laid down in Part 5 Chapter 3 of the Localism Act 2011, must be satisfactorily met.
- 5.2 The property has a current use that furthers the social interest of the local community and it is realistic to think that such a use can continue. Therefore the criteria as set out in section 88(1) of the Localism Act 2011 is considered to have been met and the nominated land should be added to the List of Assets of Community Value.

## **6 Recommendations**

- 6.1 The Head of Asset Management is recommended to add The Cardigan Arms, 364 Kirkstall Road, Leeds LS4 2HQ to the List of Assets of Community Value.

## **7 Background documents<sup>2</sup>**

7.1 None.

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<sup>2</sup> The background documents listed in this section are available to download from the Council's website, unless they contain confidential or exempt information. The list of background documents does not include published works.