

Report of **Asset Management Service**

Report to **Head of Asset Management**

Date: **4th November 2015**

Subject: **Community Right to Bid Nomination for The Chemic Tavern, 9 Johnston Street, Woodhouse, Leeds, LS2 9AY**

Are specific electoral Wards affected?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
If relevant, name(s) of Ward(s): Hyde Park and Woodhouse		
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 Chemic Tavern 9 Johnston Street, Woodhouse, Leeds, LS2 9AY to the List of Assets of Community Value.
2. The Council has received a nomination from The Friends of the Chemic Tavern which is an unincorporated community group. They are eligible to nominate the property, but not trigger the moratorium period, bid for the property or legally purchase the property.
3. The nomination includes the property, The Chemic Tavern, the car park and the beer garden. The property is made up of two rooms; the main bar area and the back room which is used for live events and is available for private function hire.
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 Chemic Tavern, 9 Johnston Street, Woodhouse, Leeds, LS2 9AY 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 21st 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 whomsoever they see fit.
- 2.2 Part 5 Chapter 3 of the Localism Act 2011 section (90) states if a local authority receives a community nomination, the authority must consider the nomination. The authority must accept the nomination if the land nominated is in the authority's area, is of community value and if the nomination is made by an eligible group.
- 2.3 On the 6th April 2015 the law changed removing the permitted development rights for pubs listed as Assets of Community Value. The new law requires a full planning application to be submitted for a change of use or demolition if the pub is listed as an Asset of Community Value.
- 2.4 There has been a national campaign by CAMRA to list pubs as Assets of Community Value. This has resulted in approximately 461¹ 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 nomination is for The Chemic Tavern and car park which is located within the Hyde Park and Woodhouse ward (please see the red line boundary plan at appendix 1). Ward Members and Area Support (Citizens and Communities) have

¹ Data taken from CAMRA website and correct as of 10th November 2014

been made aware of the nomination and to date no responses have been received.

- 2.6 The freehold interest in the property and car park is owned by Punch Partnership (PML) Limited. Both the property and car park are leased to DBBA Ltd who manage The Chemic Tavern. DBBA Ltd initially had a short term lease from 14th February 2013 to 31st May 2013, following which a 5 year lease commenced. Negotiations with Punch Partnerships (PML) Limited are ongoing regarding an extension to their current lease.
- 2.7 To date no objection to the nomination listing has been received from the landowner, Punch Partnership (PML) Limited.
- 2.8 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 either of the criteria stated at 2.7 or 2.8 is met, then the Council must 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 and supplementary information received from The Friends of the Chemic Tavern and a site visit to the nominated pub.
- 3.2 The nomination for The Chemic Tavern was received on 18th September 2015 from The Friends of the Chemic Tavern, which is a locally based unincorporated community group with at least 21 members eligible to vote in the Leeds area. This

has been subsequently checked with the Leeds City Council Electors team and it can be confirmed that The Friends of the Chemic Tavern complies with paragraph 89(2)(b)(iii) of the Localism Act 2011 in being an eligible organisation within the local area.

- 3.3 As an unincorporated community group with a local connection, The Friends of the Chemic Tavern is eligible to submit a nomination to register a property as an Asset of Community Value but not to trigger the moratorium in order to make a bid for the property. Therefore, The Friends of the Chemic Tavern cannot purchase the nominated property if it is marketed for sale.
- 3.4 The Friends of the Chemic Tavern is a local community group, their aims are:
- To preserve the use of The Chemic Tavern as a public house.
 - To represent the views of The Chemic Tavern users to local, regional and national bodies.
 - To be the voice for The Chemic Tavern users in any other matters agreed by The Friends of the Chemic Tavern
- 3.5 The Friends of the Chemic Tavern confirm in their constitution, '*The Friends of the Chemic Tavern is non-profit distributing, i.e. any surplus is not distributed to members, but is wholly applied to activities in support of the aims of the Association. The income and property of The Friends of the Chemic Tavern shall be applied solely towards the Aims of the Supporters [Friends of the Chemic Tavern]*'.
- 3.6 The land registry checks have identified 3 registered titles in the nominated area. YY19816 The Chemic Tavern and YWE73540 the car park confirm the freehold for both registered titles is Punch Partnership (PML) Limited. WYK850597 is a leasehold on YWE73540, the car park, from Punch Taverns (PML) Limited to CS Pubs Limited, Ruth Edwards and Dawn Edwards. The 10 year lease commenced on the 5th April 2007.
- 3.7 Ruth Edwards and Dawn Edwards were the previous tenants of The Chemic Tavern before the current occupiers DBBA Ltd. They were also directors of CS Pubs Limited which dissolved on the 2nd April 2014. The above lease between Punch Taverns (PML) Limited, Ruth Edwards and Dawn Edwards was terminated on the 14th February 2013.
- 3.8 The current occupier, DBBA Limited, has confirmed their lease includes both The Chemic Tavern and the car park from Punch Partnerships (PML) Limited from the 31st May 2013 for a term of 5 years following a short term lease from the 14th February 2013.
- 3.9 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?

- 3.10 The Friends of the Chemic Tavern state that The Chemic Tavern is the last traditional pub in Woodhouse following the closure of the Bricklayer's Arms, Marquis of Lorne and The Swan with Two Heads in recent years. Within walking distance, The Globe and The King's Arms on Meanwood Road have also closed.
- 3.11 The Chemic Tavern is open Monday to Thursday 2pm to 12pm, Friday and Saturday 12pm to 1am and Sunday 12pm to 11.30pm. There are two rooms in the pub; the main bar and the back room which is used for events and available for private room hire. There is no charge to book the back room and there is use of the stage and sound PA system. There is no food served in the pub apart from bar snacks but they do allow customers to eat fish and chips from the shop next door in the bar.
- 3.12 The Chemic Tavern is an established pub, a well-known venue for live music and events for the past 30 years. The Friends of Chemic Tavern provide a long list of live music events which have taken place at the pub including, Theatre in the Dales performances, Caring Together in Woodhouse and Little London socials and meetings, Unity Day fundraisers and annual funday.
- 3.13 The Chemic Tavern website lists a long schedule of weekly live events which take place in the pub including, quiz night, Irish folk session, open mic night, blues night, ukulele club, Itinerant waiters club, Words on Tap/ Word Club poetry night, and the french breton jam session. This list is not exhaustive.
- 3.14 The current occupiers see The Chemic Tavern as more than a pub, it is community venue which hosts a wide range of community events including Cloth Cat music courses, Woodhouse Ridge Action Group, Woodhouse festival meeting groups, knitting group, Community Library (free book exchange) and Sunday Afternoon Project (music for young people).
- 3.15 The current occupiers have also stated The Chemic Tavern is used by a local care home/supported living, they visit the pub with different service users up to five days a week for tea and coffee. It provides a safe environment for them to visit away from the care home.
- 3.16 There is a beer garden to the side of the property and car park (within the nominated area) which includes a community garden. The garden is maintained by the occupiers and members of the local community. There is no charge for the produce but people are asked to leave a donation to help with the continuation of the garden.
- 3.17 Both The Friends of the Chemic Tavern and the current occupiers have explained how the local community rallied a Go-Fund campaign to raise money to help with the increased business rates. In total £5,300 was raised which they claim demonstrates the importance of The Chemic Tavern in the local community.
- 3.18 It is clear from the information provided The Chemic Tavern is used by a wide range of people and is an important venue within the local community. Therefore,

it is considered by the Leeds City Council case officer that a current non-ancillary use does further the social interests and social wellbeing of the local community.

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)?

- 3.19 The Chemic Tavern is currently open and trading as a public house. 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.
- 3.20 The Friends of the Chemic Tavern state in the nomination form, *'The owners of the building [Punch Taverns] are confident in the viability of it remaining a community focussed public house.... Punch Taverns have committed to a minimum of three years contract and are hopeful that the present tenants will extend beyond this time'*. It is important to note this has not been confirmed by the landowner, to date there has been no response or objection to the nomination.
- 3.21 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 Executive Member for Communities was briefed on the 4th November 2015.
- 4.1.3 Hyde Park and Woodhouse Ward Members and have been informed of the nomination, to date no comments have been received.

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 Chemic Tavern, 9 Johnston Street, Woodhouse, Leeds, LS2 9AY to the List of Assets of Community Value.

7 Background documents²

- 7.1 None

² 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.