

# FOR PUBLICATION

## CONSIDERATION OF THE COMMUNITY RIGHT TO BID (ASSETS OF COMMUNITY VALUE) NOMINATION OF THE WELLINGTON HOTEL (J490L)

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MEETING: DEPUTY LEADER & EXECUTIVE MEMBER FOR PLANNING

DATE: 4<sup>th</sup> March 2015

REPORT BY: POLICY MANAGER

WARD: BARROW HILL AND NEW WHITTINGTON

COMMUNITY ASSEMBLY: NORTH

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FOR PUBLICATION

BACKGROUND PAPERS FOR PUBLIC REPORTS:

Non-statutory Advice Note –

<http://www.communities.gov.uk/publications/communities/righttobidadvicenote>

Impact Assessment -

<http://communities.gov.uk/publications/communities/righttobidia>

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### 1.0 PURPOSE OF REPORT

1.1 To consider the nomination of the Wellington Hotel by the Friends of the Wellington campaign group as an Asset of Community Value.

### 2.0 RECOMMENDATION

2.1 That the Chesterfield Borough Council lists the Wellington Hotel as an asset of community value.

### 3.0 **BACKGROUND**

- 3.1 The Localism Act 2011 created the Community Right to Bid (Assets of Community Value). The Assets of Community Value regulations introduce a new right for community or voluntary bodies to request that a local asset (buildings or land) should be listed as an “Asset of Community Value).
- 3.2 This new right covers both public and private assets and is designed to facilitate a “Community Right to Bid” for assets deemed to be of community value.
- 3.3 The regulations also set out new duties and responsibilities for local authorities including keeping a list of assets of community value, scheme operation and regulation and payment of compensation.
- 3.4 The regulations came into force on the 20<sup>th</sup> September 2012, with a non-statutory advice note being issued to local authorities in October 2012. This legislation applies to district and unitary authorities.
- 3.5 Chesterfield Borough Council received its third nomination for listing under the right on the 12<sup>th</sup> January 2015. This nomination relates to the Wellington Hotel, 162 High Street, New Whittington.

### 4.0 **NOMINATOR AND ASSET QUALIFICATION FOR THE RIGHT**

- 4.1 The right to make a nomination and subsequently to bid can be used by:
- A local voluntary or community group that is not incorporated but has at least 21 members who are locally registered to vote in Chesterfield Borough or a neighbouring authority.
  - A Parish or Town council
  - A Charity
  - A neighbourhood forum designated as such for planning purposes under the Town and Country Planning Act 1990
  - A company limited by guarantee or an industrial or provident society which does not distribute any surplus it makes to its members
  - A community interest company.
- 4.2 The nomination of the Wellington Hotel was made by an unincorporated community group – The Friends of the Wellington. The group has twenty eight members all of whom are registered to vote within Chesterfield Borough. The group therefore qualifies for the right.
- 4.3 Under the Community Right to Bid some categories of land and buildings are exempt. These include:

- Residential premises, including sites for mobile homes and boats. For a building which is or includes residential premises this will include land held with the residence owned by a single owner. This could go beyond immediate gardens, outbuildings, yards etc. and extend to all land held by that owner. Every part of the land must be able to be reached from the residence without having to cross land which is not held by the single owner unless the intervening land is a railway, road, canal or river.
- Caravan sites - Land for which a site licence is required under Part 1 of the Caravan Sites and Control of Development Act 1960.
- Operational land - as defined in Part 11 of the Town and Country Planning Act 1990. This is land used for transport infrastructure and some other related purposes by specified bodies with statutory powers. For example land held by railways or highway authorities.

4.4 The Wellington Hotel does not meet the criteria for exemption from the right.

## 5.0 **ASSET OF COMMUNITY VALUE CRITERIA**

5.1 Chapter Three of the Localism Act 2011 states that land or buildings within the local authority's area are of community value if in the opinion of the authority it is:

- (a) An actual current use of the building or other land that is not an ancillary use furthers the social wellbeing or social interests (which include cultural, sporting or recreational 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.

## 6.0 **LOCATION OF THE ASSET AND AVAILABILITY OF FACILITIES AND AMENITIES**

6.1 The Wellington Hotel is located in the Barrow Hill and New Whittington ward in the north-east of the borough on High Street. This road acts as a link out towards the M1 motorway and inwards towards the Whittington Moor roundabout.

6.2 In 2009 the council produced a Community Infrastructure Study to support the preparation of the Local Development Framework. Although this did not look at provision of pubs it did consider other community infrastructure and concluded that there were no significant shortfalls in provision within this area.

6.3 The following data has been drawn from the Community Infrastructure Study (updated with recent survey data where appropriate), surveys of the

district and local centres and trading standards data. A map of the location and facilities is attached at Appendix A.

### **Public House Provision**

Within 400m (around a five minute walk) of the Wellington Hotel there are four alternative drinking establishments – the Miners Arms, the Rising Sun, the Forge and the New Whittington Social Club.

A fifth establishment – the Angel (200m away from the Wellington), closed as a public house recently and the one public house within 1000m (equivalent to approximately a 15 minute walk) of the Wellington Hotel – the White Horse has been converted into a Tesco Express.

### **Community Space/ Function Room Provision**

Within 400m of the Wellington Hotel there are two alternative community spaces – St. Barnabas Church and New Whittington Primary School. Both venues have bookable function rooms and facilities.

## **7.0 THE WELLINGTON HOTEL NOMINATION**

7.1 The completed Community Right to Bid nomination form for the Wellington Hotel is attached at Appendix B.

7.2 Below is a summary of how the Friends of the Wellington believe that the Wellington Hotel meets the asset of community value criteria:

- The Wellington Hotel is accessible to the whole community with a wide frontage with no steps, level access throughout the public areas of the pub and ramped access to an enclosed beer garden and children's play area
- The Wellington Hotel contributes directly to the local economy via direct employment and the sourcing of products and services from New Whittington and the wider Borough
- The Wellington Hotel has a wider community impact in terms of reducing social isolation and anti-social behaviour, delivering meals to local residents with mobility difficulties, hosting a variety of community events and providing a free meeting space of a variety of local clubs and societies
- In 2012 the Wellington Hotel was awarded runner up in Marston's PLC's regional community pub of the year awards

7.3 In addition to the Community Right to Bid nomination form, the Council received a petition signed by over 1,800 people requesting that:

- a) The council adds the Wellington as an asset of community value
- b) An immediate Article 4 Direction is issued

The three elected members for Barrow Hill and New Whittington ward have also expressed their support for the aims of the petitioners.

- 7.4 As the petition had over 1,000 qualifying signatures a full Council debate was triggered in line with the Council's petitions policy and procedures. The full Council debate took place on the 11<sup>th</sup> February 2015 with over seventy local residents attending to show their support. The points raised at 7.2 were re-iterated along with the following additional points:
- The Wellington is a thriving and viable community pub
  - No other pub in the village gives the same value to the community – it is a community hub
  - It is the only pub in the village to offer hot food on-site and via delivery to residents who are less mobile
  - The Wellington plays a vital role in reducing isolation for older people

Several elected members, particularly those representing New Whittington and neighbouring areas spoke in support of petitioners and the important role that the Wellington plays in the community.

It was resolved that:

1. The Council receives and notes the petition from the Friends of the Wellington Campaign group as part of the evidence supporting the requests made for :
  - a) The wellington to be added to the list of Assets of Community Value;
  - b) An Immediate Article 4 Direction to be issued.
2. That the Executive Member for Planning takes into account the petition and also the representations made at both the Council and the Planning Committee (scheduled for 23<sup>rd</sup> February 2015) before arriving at a final decision on both matters.

- 7.5 As part of the Community Right to Bid procedures, Chesterfield Borough Council contacted the owner of the Wellington Hotel (New River Retail), the operating brewery (Marston's PLC), the current pub landlord and the charge of the property (Hatfield Philips Agency Services Limited) for comment on the nomination. The Co-operative Food Group Limited were also informed of the nomination as they had started pre-planning conversations with the Council regarding the site.

- 7.6 The deadline for comment on the nomination was Monday 9<sup>th</sup> February 2015. No comments were received by this date.

## 8.0 **ASSET CONSIDERATION**

- 8.1 In order to assist with the consideration of the Community Right to Bid nomination an officer site visit took place on the 3<sup>rd</sup> February 2015. The visit

included the Wellington Hotel and the four alternative public houses and the two buildings identified as community spaces within 400m of the site.

- 8.2 During the site visit to the Wellington Hotel officers were able to discuss the current usage with staff members and customers. It was confirmed that the Wellington Hotel is the only public house within the village that serves food, a service which many older people in the area access. There is also a food delivery service for local residents unable to visit the pub in person due to ill health and/or mobility issues. This service is also used by local residents when there is adverse weather.
- 8.3 The Wellington Hotel is used by a variety of local groups including the local allotment society, sports clubs/teams, friendship groups etc. for meetings at no cost. There is alternative meeting space provision at both New Whittington Primary School and St. Barnabas Church Hall, however hire charges would be applicable. The other four public houses in the village could potentially provide similar free informal meeting space.
- 8.4 The Wellington Hotel offers a range of entertainment including quiz nights, live music and special events. Darts, dominoes and pool are available and there is a ladies league darts team. Three of the alternative public houses offer similar provision but they do not currently host any league teams.
- 8.5 Accessibility at the Wellington Hotel for disabled people, people with mobility issues and who use buggies etc. is considered to be good. There are wide doors at the main entrance to the public house and level access. There is also ample off-street car parking and a bus stop outside the venue. Three of the four alternative public houses in the village had significantly inferior accessibility to the Wellington Hotel, only the New Whittington Miners Welfare offered a similar level of access however there is a membership fee and criteria. The Wellington Hotel is the only public house that currently has an enclosed, accessible family friendly beer garden with a play area.
- 8.6 The information provided by the Friends of the Wellington Group and via the officer site visit indicate that the Wellington Hotel does meet section A *“An actual current use of the building or other land that is not an ancillary use furthers the social wellbeing or social interests (which include cultural, sporting or recreational interests) of the local community”* of the Asset of Community Value criteria.
- 8.7 The level of support shown for the Wellington Hotel by the local community (the Friends of the Wellington and the 1800 plus petition signatories) and current usage levels indicate that there could be a viable future for the Wellington Hotel as a public house. Therefore section 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” of the Asset of Community Value criteria could also be applied.*

## 9.0 **RISK MANAGEMENT**

### 9.1

<b>Risks</b>	<b>Impact</b>	<b>Likelihood</b>	<b>Mitigating Actions</b>	<b>Residual Impact</b>	<b>Residual Likelihood</b>
If the asset is listed – there is likely to be an Appeal requested by the owner.	Medium	Very likely	<ul style="list-style-type: none"> <li>• Robust consideration of the asset nominated.</li> <li>• Procedures in place for a review of the original decision.</li> <li>• Ongoing communication with the owners.</li> <li>• Procure specialist legal advice.</li> </ul>	Low	Likely
If the asset is listed - First-tier tribunal proceedings requested by the owner.	High	Very likely	<ul style="list-style-type: none"> <li>• Robust consideration of the asset nominated.</li> <li>• Procedures in place for a review of the original decision.</li> <li>• Ongoing communication with the owners.</li> <li>• Procure specialist legal advice.</li> </ul>	Medium	Likely
If the asset is listed - Request for compensation by the owners for costs incurred during litigation and loss of income from lease/sale due to delays.	High	Very likely	<ul style="list-style-type: none"> <li>• Ongoing communication with the owners.</li> <li>• The £20k compensation in any one year has to be funded by the Council; the remainder can</li> </ul>	High	Likely

			be claimed back from DCLG.		
If the asset is not listed – reputational damage to the Council and negative impact on community relations in the local area.	Medium	Very likely	<ul style="list-style-type: none"> <li>• Robust consideration of the asset nominated.</li> <li>• Ongoing communication with the local community</li> </ul>	Low	Possible

## 10.0 **EQUALITIES CONSIDERATIONS**

10.1 The Department for Communities and Local Government impact assessed the Community Right to Bid proposals. This included equalities impact screening. No significant impact has so far been identified for any of the protected groups identified in the Equality Act 2010, however the equalities impacts of this right will be kept under review.

10.2 Equality analysis was undertaken for the nomination with issues including accessibility, use by protected groups and social inclusion issues forming part of the asset consideration. The loss of the Wellington Hotel as a public house could disproportionality affect older people and people with disabilities due to accessibility issues and the range of services offered at the Wellington in comparison to other pubs in the area.

## 11.0 **LEGAL CONSIDERATIONS**

11.1 We have no further information about the arrangements between the owners of the Wellington Hotel – New River Retail Ltd and the Co-operative Food Group. However, the existence of a possible contract between or arrangements between these two parties is not relevant to consideration of whether or not the land meets the definition of a community asset nor whether or not the nomination should be accepted.

11.2 If the land was listed a contract and lease would be significant because a disposal will be exempt from the right under the legislation if it results from a legally enforceable option to buy or right of pre-emption. In addition a lease for less than 25 years is a non-qualifying lease under the law and does not trigger the statutory 6 month moratorium period (designed to allow time for the community group to seek to purchase the asset).



12.0 **RECOMMENDATION**

12.1 That the Chesterfield Borough Council lists the Wellington Hotel as an asset of community value.

13.0 **REASON FOR RECOMMENDATION**

13.1 The Wellington Hotel is considered to meet both sections A and B of the Asset of Community Value criteria.

D. M. REDDISH  
POLICY MANAGER

Further information on this matter can be obtained from Donna Reddish (Extension 5307).

Officer recommendation supported/not supported/modified as below or Lead Members' recommendation/comments if no Officer recommendation.

Signed

Lead Member

Date

Consultee Lead Member/Support Member comments (if applicable)