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Report of: Laraine Manley

Report to: Jack Scott, Cabinet Member for Community Services and Libraries

Date of Decision: 25 January 2017

Subject: Asset of Community Value Nomination – The Cherry Tree, 2 Carter Knowle Avenue, Sheffield, S11 9FU

Is this a Key Decision? If Yes, reason Key Decision:-	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
- Expenditure and/or savings over £500,000	<input type="checkbox"/>	
- Affects 2 or more Wards	<input type="checkbox"/>	
Which Cabinet Member Portfolio does this relate to? Community Services & Libraries		
Which Scrutiny and Policy Development Committee does this relate to? Safer & Stronger Communities		
Has an Equality Impact Assessment (EIA) been undertaken?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
If YES, what EIA reference number has it been given? <i>(Insert reference number)</i>		
Does the report contain confidential or exempt information?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
If YES, give details as to whether the exemption applies to the full report / part of the report and/or appendices and complete below:-		

Purpose of Report:


This report is to provide the Cabinet Member with sufficient information to enable him to make a decision as to whether The Cherry Tree, 2 Carter Knowle Avenue, Sheffield, S11 9FU should be listed as an Asset of Community Value pursuant to Part 5, Chapter 3 of the Localism Act 2011.

Recommendations:

To refuse the registration of The Cherry Tree, 2 Carter Knowle Avenue, Sheffield, S11 9FU as an Asset of Community Value.

Background Papers:

(Insert details of any background papers used in the compilation of the report.)

Lead Officer to complete:-		
1	I have consulted the relevant departments in respect of any relevant implications indicated on the Statutory and Council Policy Checklist, and comments have been incorporated / additional forms completed / EIA completed, where required.	Finance: <i>(Insert name of officer consulted)</i> Mike Thomas
		Legal: <i>(Insert name of officer consulted)</i> David Sellars
		Equalities: <i>(Insert name of officer consulted)</i> Michelle Hawley
	<i>Legal, financial/commercial and equalities implications must be included within the report and the name of the officer consulted must be included above.</i>	
2	EMT member who approved submission:	Laraine Manley
3	Cabinet Member consulted:	Jack Scott, Cabinet Member for Community Services and Libraries
4	I confirm that all necessary approval has been obtained in respect of the implications indicated on the Statutory and Council Policy Checklist and that the report has been approved for submission to the Decision Maker by the EMT member indicated at 2. In addition, any additional forms have been completed and signed off as required at 1.	
	Lead Officer Name: Dawn Shaw 	Job Title: Head of Libraries and Community Services
	Date: 9.1.17	

1. SUMMARY

- 1.1 This report is to provide the cabinet member with sufficient information to enable him to make a decision as to whether The Cherry Tree, 2 Carter Knowle Avenue, Sheffield, S11 9FU should be listed as an Asset of Community Value pursuant to Part 5, Chapter 3 of the Localism Act 2011.

2. MAIN BODY OF REPORT

The Localism Act 2011 gave Local Authorities a statutory duty to receive and determine nominations for land and buildings in the local authority area to be classified as an Asset of Community Value.

An application has been received and assessed against the statutory criteria.

In order for an asset to be listed certain statutory criteria must be fulfilled.

The initial part of the assessment assesses whether the group nominating the asset and the asset itself meet the statutory criteria of eligibility. Once this has been established there needs to be consideration of the community value of the land or buildings.

The essence of the legislation is that land is of community value if in the opinion of the local authority an actual current use or recent past use, that is not an ancillary use, furthers the social well-being or social interests of the local community and its 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 well-being or social interests of the local community.

Appended to this report is Part 1 and Part 2 of the assessment form, based on the Council's interpretation of the statutory criteria for listing, completed by the AOCV officer panel to support the recommendations below.

3. REASONS FOR RECOMMENDATIONS

- 3.1 The legislation and the guidance issued by the Government do not provide a clear definition of what an asset of community value should be. The view taken by the City Council is that the property should be a hub or focal point for a significant proportion of an identifiable community, in order to justify registration as an asset of community value. That usage should also be more than ancillary to the principle use of the property.

It is clear that there is a local community for the purpose of this nomination.

The nomination has been made by the Carter Knowle & Millhouses Community Group, an unincorporated body. The group maintains an email network covering the area, with regular bulletins on a variety of subjects including local events and issues affecting the area. They also print and deliver a newsletter 3-4 times per year to over 2000 households across the area as well as to shops and businesses. They also hold meetings on the same frequency which are open to all residents without charge. The nomination was supported by an overwhelming majority of over 50 responses to various notifications and was unanimously supported at a meeting attended by over 40 people. The nomination is also supported by two other community groups in the area.

The nomination has failed to provide details to demonstrate that the pub acts as a focal point or hub for a significant proportion of the community.

The nomination details that the pub 'enables local people to meet and socialise' encouraging 'community cohesion' but does not provide any details of groups that regularly meet there or testimonials from any regulars.

The nomination states the pub has offered to host social and educational sessions for people locally who are isolated or lonely but there is nothing to suggest that anything of this nature currently takes place at the property. There are no details of events such as named local hobby groups or local sports teams that use the property. The nomination states that it is a very popular pub.

As part of the assessment process the owner of the pub has been sent the nomination form. In response to the nomination the owner of the pub has provided a written response which states that the pub is neither busy nor popular and this is borne out by the trading figures. The owner also believes there will be no impact on the community if usage of the Property as a public house ceases because the local residents already prefer to go elsewhere.

The nominator has been provided with the owner's written response but in the view of the assessment panel has not provided any information to satisfactorily rebut these representations by the owner.

In response to the owner's objection the nominator states that they have tried to show that there is a receptive and desirous community, which has showed its support for the Cherry Tree and the local responses to the Planning Application clearly show that residents wish to retain the Cherry Tree as a local amenity. Whilst there is clearly support for this nomination and interest in the planning application, there is a lack of detailed support for the community function currently provided by the pub

such as testimonials from users/groups that benefit from the current usage of the pub.

In response to the owner's objection, the nominator believes the owners have allowed the Cherry Tree to become run down with a view to selling it off and that they have deliberately undermined the trading potential of the Cherry Tree in order to pursue a higher value "alternative use" option for the pub. Irrespective of whether this is true or otherwise, it has no impact on the ACV nomination which is decided based on the information available. The nominator believes the current use justifies ACV nomination. When a property has been run down such as alleged here, a nominator could rely on a recent past use for the purposes of the nomination, but this has not been put forward as a reason for listing as an ACV.

A significant proportion of the usage detailed in the nomination is considered to be ancillary to a commercial pub business, such as:

- Having a food menu enjoyed by the local community;
- Having a beer garden which is enjoyed by local people;
- Hosting weekly quiz nights which bring the community together.

In respect of future use the nominator states that the pub is under threat and therefore the proposed future use is to continue as a public house. The owner states that continued use as a pub is the nominator's preferred outcome whereas the facts are that an agreement for lease is already in place with the Co-Op and conditional only on planning permission being obtained. A planning application has already been submitted to the Council (Ref: 16/02791/FUL).

In conclusion, it does not appear that this property's actual and current use furthers the social wellbeing and interests of the local community sufficiently to satisfy the statutory tests set out in sections 88 a) to d) of the Localism Act 2011.

4.0 RECOMMENDATIONS

- 4.1 To refuse the registration of The Cherry Tree, 2 Carter Knowle Avenue, Sheffield, S11 9FU, as an Asset of Community Value.