

APPENDIX

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| Committee(s) | Dated: |
| Planning & Transportation Policy & Resources | 25/10/2016 17/11/2016 |
| Subject: Application for designation of the Still & Star Public House as an Asset of Community Value | Public |
| Report of: Director of the Built Environment | For Decision |
| Report author: Peter Shadbolt, Department of the Built Environment | |

Summary

Part 5 Chapter 3 of the Localism Act 2011 introduced new provisions for the designation of certain buildings or land as Assets of Community Value (ACV).

The legislation allows local community groups to nominate buildings or land as ACVs and requires local authorities, including the City Corporation, to make ACV designations if, in the opinion of the authority, the nominated building or land furthers the social wellbeing and social interests of the local community, and it is realistic to think that there can continue to be use of the building or land which furthers the social wellbeing or social interests of the local community. The landowner has a right to request a review of a decision to designate and a right to independent appeal. There is also provision for compensation to be claimed for loss arising out of the designation and the costs incurred in progressing a successful appeal. There is no right of appeal for applicants seeking designation.

Once designated, statutory limitations are placed on a landowner's ability to sell the building or land, with a 6 month moratorium period during which the landowner cannot agree a sale, to enable the local community to put together a bid to purchase, although there is no requirement on the landowner to sell to the local community at the end of the moratorium period.

The City Corporation has received a nomination from the Campaign for Real Ale (CAMRA) to designate the Still & Star public house, 1 Little Somerset Street as an ACV. This is the first such application that has been made to the City Corporation. CAMRA has provided evidence of the historic use of the pub, dating back to 1820, and of current local resident community, City worker and visitor use of the public house, in support of its nomination. This evidence is supplemented by a significant number of objections to the potential demolition of the Still & Star arising from a planning application for a new office-led development on a wider site (16/00406/FULMAJ). The Still & Star has taken part in annual City of London Community Fair events as being representative of a community pub. The landowner has objected to the nomination on the grounds that the Still & Star does not serve the local resident community and it is unrealistic to expect future community use given the intention to redevelop the site.

The weight of the evidence submitted suggests that the Still & Star does currently further the social wellbeing and interests of the wider City community (local resident, worker and visitor). It is considered that the Still & Star meets the statutory tests for designation as an Asset of Community Value. Although an application has been received for the wider redevelopment of this site, it would not be appropriate to take this into account when determining this ACV nomination, as to do so would pre-judge the future determination of the planning application by the Planning & Transportation Committee.

Within the City Corporation responsibility for the determination of ACV nominations has never been specifically delegated to a committee and therefore currently rests with the Policy & Resources Committee. However, the issues raised are considered relevant to the terms of reference of the Planning & Transportation Committee and as such Planning and Transportation Committee is asked to consider the evidence and provide advice to Policy & Resources Committee for that Committee's determination.

Recommendations

- A. Planning and Transportation Committee is asked to:
 - (i) Recommend to Policy and Resources Committee that it lists the Still and Star public house as an Asset of Community Value.
 - (ii) Recommend to Policy and Resources Committee that it report to Court of Common Council recommending that, in future, decisions on whether to list land or buildings as Assets of Community Value be delegated to Planning and Transportation Committee.

- B. Policy and Resources Committee is asked to:
 - (i) Resolve to list the Still and Star public house as an Asset of Community Value.
 - (ii) Instruct officers to report to its next meeting regarding arrangements for future decisions on whether to list land or buildings as Assets of Community Value, including arrangements for review by a senior officer.

Main Report

Background

1. Part 5 Chapter 3 of the Localism Act 2011 introduced provisions for the designation of certain buildings or land as Assets of Community Value (ACV). Detailed regulations, the Assets of Community Value (England) Regulations, were published in 2012 and non-statutory guidance issued by the Government in the same year.
2. The Act and Regulations give local groups the right to nominate a building or other land for listing by the local authority as an ACV. Detailed provisions are set out detailing the eligibility of a local group to nominate, broad criteria for determining a nomination and the implications of nomination for the landowner. If a local authority receives a valid application and the land or building 'in its

opinion' furthers the social wellbeing or social interests of the local community and will continue to further these interests in the future, then the local authority must designate the building or land as an ACV. ACV status is time limited and will lapse after 5 years.

3. The City Corporation is required to maintain a public register of all buildings or land designated as ACV, and a list of all buildings or land where ACV status has been rejected.
4. The landowner can request that the local authority review its decision to list a building. This review must be carried out by an officer of the authority, of appropriate seniority and who was not involved in the initial listing decision. If the landowner is not satisfied by this review, they can seek an independent appeal through the First-Tier Tribunal.
5. Once designated, statutory limitations are placed on the owner's ability to sell the building or land. An owner has to give notice to the local authority of their intention to sell, to enable the local community to express an interest in bidding to purchase the building or land. There is then a 6 month moratorium period during which the landowner cannot agree a sale to enable the local community to put together a bid. At the end of this moratorium period there is no requirement on the landowner to sell to the community group and the sale can be made at market value to anyone.
6. The landowner can seek compensation for loss of earnings or delay caused by the designation, including additional costs incurred as a result the moratorium and for legal expenses incurred in a successful appeal to the First-Tier Tribunal. Non-statutory guidance indicates that the first £20,000 of compensation costs should be met by the local authority through financial provision already made under Government new burdens funding. The Government would meet the costs of compensation payments of over £20,000 in a financial year.
7. Changes to the General Permitted Development Order in 2015 removed the permitted development right for the change of use of pubs to other retail uses and introduced a requirement that landowners seek planning permission for the demolition of pubs which are either listed as ACV or where a nomination has been received for ACV status. Thus ACV status becomes a material planning consideration to be weighed against other material considerations in the determination of a planning application impacting on a public house.

Current Position

8. On 19th September 2016, the City Corporation received an application from the Campaign for Real Ale (CAMRA) – East London & City Branch for the designation of the Star & Still public house, 1 Little Somerset Street, as an Asset of Community Value. The application is available on the City Corporation's website at: <http://www.cityoflondon.gov.uk/services/environment-and-planning/planning/planning-policy/Documents/still-star-acv-submission-20160919.pdf> .

9. The City Corporation is required to determine this application within a period of 8 weeks from the date of receipt, but has agreed an extension of this time period with the applicant to allow for its consideration by the Planning & Transportation Committee and determination by Policy & Resources Committee.
10. This is the first request received by the City Corporation. In accordance with the Regulations, the landowner and the current landlord of the pub have been formally notified of the nomination. Ward members for Portsoken and Tower Wards have also been informed. The nomination has been placed on the City Corporation's website. There is no requirement within the legislation for the City Corporation to further publicise the nomination or seek comments.

Assessment of Community Value

11. The Localism Act and Regulations set out criteria to determine whether the nominating body is representative of the local community and broad criteria for determining whether the nominated asset is of community value.

Eligibility of CAMRA to nominate an ACV

12. Regulations allow nominations to be made by a range of community bodies, including neighbourhood forums, parish councils, groups of more than 21 individuals, charities and companies limited by guarantee which do not circulate any surplus to members.
13. The nomination has been submitted by the CAMRA East London & City Branch. CAMRA is a company limited by guarantee which does not distribute any surplus to its members. The East London & City Branch exists to campaign for and support pubs and real ale in the E and EC post codes and has a total of 1,581 members resident within these post codes. CAMRA meets the regulatory requirements as an eligible body to submit nominations for ACV under the Regulations. The nomination is therefore valid.

Evidence that the Pub is a Community Asset

14. Under Section 88 (1) and (2) of the Localism Act 2011, a building or other land in a local authority's area is land of community value if in the opinion of the authority:
 - a. an actual current use of the building or other land that is not an ancillary use 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.
15. The Still and Star is in current use as a public house. The pub was established by 1820 and appears to have been in continuous use as a public house from that date. Landlord accommodation is provided above the pub on the first and second floors, but this is ancillary accommodation linked to the pub and is not a separate residential unit.

16. The CAMRA nomination sets out a range of information to support the case that the Still and Star furthers the social wellbeing and social interests of the local community:
- a. The pub has played a key role in the life and function of the city for almost 200 years, providing a link to the cultural evolution of Aldgate and representing a rare surviving example of a 'slum pub' (a residential house converted to a pub around the time of licensing deregulation);
 - b. The pub is described by CAMRA as a public wayfinder in the area and has a large catchment area incorporating residential areas and commercial buildings in the City;
 - c. The pub is an essential part of the City's tourist and visitor appeal and has hosted numerous pub crawls, summer BBQs and other events;
 - d. It has a loyal following of local residents and regulars, including people who work in the locality or visit the pub on the way home, with a darts team playing in a local league and taking part in regular competitions.
17. The nomination was triggered by the submission of a planning application for an office-led development on a wider site, which would require the demolition of the public house (16/00406/FULMAJ). This application will be brought before the Planning & Transportation Committee for determination in due course. A previous permission on a part of the site at 11-13 Aldgate High Street provided an office-led scheme but did not impact on the Still & Star public house except in relation to its setting. Over 260 neighbour, resident and interested party objections have been received to the proposed development, with a substantial proportion of these raising objections to the potential demolition of the Still & Star. Eighty-seven objections directly raise the issue of the potential loss of the pub as a social and community asset, and 226 object to the loss of a valued heritage asset. Whilst these are objections to a planning application and not directly addressing the ACV nomination, they do demonstrate a concern that a possible social and community asset could be lost and it is therefore appropriate to take them into account in determining the ACV nomination.
18. The Still & Star has participated in the 2014 and 2015 City of London Community Fairs, providing licensed catering to the event. The Still & Star was invited to participate as an example of a community pub providing services to a local resident and wider business community. The City Corporation's Equality and Inclusion in the City of London, Annual Performance Summary 2015, identifies the Still & Star as one of a number of 'community groups and local organisations' that attended the 2nd annual City of London Community Fair in 2015.
19. Although there is no requirement in Regulation to seek comments on the proposed nomination, the landowner has submitted comments objecting to the proposed nomination as failing to comply with the requirements set out in section 88 (1) and (2) of the Localism Act. The landowner's main comments are:
- a. The definition of local community should relate to those residing in the local area, i.e. residents in the vicinity of the pub. The CAMRA nomination demonstrates that the users are not local residents but largely City workers and tourists;
 - b. The pub is not open at weekends and cannot be said to be serving the social well being and interests of the local community;

- c. There is little evidence presented of local community use of the pub and more detailed evidence should be provided;
- d. There is no realistic prospect for the continued use of this building as a pub given the owner's intention to redevelop the site and provide a mixed use office-led development.

19. A Ward Member for the area concerned has advised that his impression was that there was little, if any, apparent local resident engagement with the proposed nomination..

Assessment of Evidence

20. The Legislation and Regulations do not provide detailed guidance or criteria by which to judge a nomination. Experience and First-Tier Tribunal determinations elsewhere in England do not set a precedent to determine the evidence required.
21. To be declared an ACV, the nomination must satisfy both tests contained in the Act (paragraph 13 above). Regarding the first test, CAMRA's evidence that the pub is actively used by local residents is not compelling, with no specific indication of local resident use. There are 2 other local pubs within 100m of this site which could meet local resident needs. However, CAMRA's evidence and the objections received to the current planning application do highlight significant support from a wider City worker and visitor community that the pub is an important social asset. There is a significant body of objection to the application on the grounds that the pub has performed an important social function in this area since 1820. The CAMRA nomination references the local darts team and the regular summer BBQs and other social events that take place. The Still & Star has participated in the City Corporation's annual Community Fair as an example of a community pub. The landowner has objected to the nomination based on the lack of local resident use of this facility and the weekend closure, but has not presented any supporting evidence or justification as to why the City's wider working and visitor communities should not be considered. The weight of evidence submitted and the objections received through the planning application do suggest that the pub is currently contributing to the social wellbeing and social interests of the wider City community.
22. In terms of the second test, there is an undetermined planning application for an office-led mixed use scheme on this site, which would necessitate demolition of the Still & Star. The landowner has argued that this is evidence that the public house cannot realistically continue to further the social wellbeing and interests of the local community. This planning application has yet to be determined, and that determination will be made by the Planning & Transportation Committee in due course. Although the presence of the planning application must be acknowledged in consideration of the ACV nomination, to accept the landowner's reasoning would require the Committee to pre-judge a future decision which will need to be made taking into account a wider range of planning factors. In advance of this planning determination, there is no clear evidence that the Still & Star will not continue to operate and provide for the social wellbeing and interests of the City's community.

23. The above considerations lead to a conclusion that the Still & Star public house performs a social function that furthers the social interests of the City's community and should be designated as an Asset of Community Value.

City Corporation Procedure for ACV Nomination

24. Within the City Corporation responsibility for the determination of ACV nominations has not been specifically delegated to a committee and therefore currently rests with the Policy & Resources Committee. Although the Planning & Transportation Committee is not the responsible Committee for determining this nomination, the issues raised are considered to have some overlap with matters within their terms of reference and therefore Planning and Transportation Committee is asked to consider the evidence in this report and provide its advice to Policy & Resources Committee for that Committee's determination.

25. Policy and Resources Committee is asked to determine the application in accordance with the recommendation of Planning and Transportation Committee. A separate report will be brought forward to a future meeting of the Policy & Resources Committee to recommend to Court changes in committee Terms of Reference and Chief Officer delegations to deal with future ACV nominations and potential local authority review. The Planning & Transportation Committee may wish to comment to Policy & Resources Committee on the appropriate distribution of responsibilities between committees, and delegation to Planning and Transportation Committee is identified in the recommendations as an appropriate option.

Corporate & Strategic Implications

26. The recommendation to designate the Still & Star Public House as an Asset of Community Value accords with Corporate Plan aims to provide modern, efficient and high quality local services, including policing, within the Square Mile for workers, residents and visitors, and to provide valued services, such as education, employment, culture and leisure, to London and the nation.

27. The proposal accords with the Department of the Built Environment's Business Plan to deliver an inclusive future world class sustainable city that offers diverse culture, amenities and leisure that make the City more than a business centre; and high quality architecture and public realm that responds to new development and enhances the historic environment.

Implications

28. The proposal to designate the Still & Star Pubic House as an ACV will impact on the owner of the building, through a requirement to seek planning approval for demolition of the pub and through a requirement for a 6 month moratorium prior to any future sale. Although the designation will be a material consideration in the determination of any future planning application, any such application would need to be determined on the basis of its individual merits and its accordance with the Development Plan. Designation would not fetter the Planning & Transportation Committee's consideration of the wider merits or otherwise of an application.

29. The Localism Act and Regulations make provision for the possible payment of compensation by the local authority to the landowner of such amount as the local authority may determine for any incurred loss or expense in relation to the land which would be likely not to have been incurred if the land had not been listed as an ACV. Specific reference is made in Regulation to compensation arising from a delay in entering into an agreement to sell (due to the moratorium) and for reasonable legal expenses incurred in a successful appeal to the First-Tier Tribunal, but Regulation also permits any other claim in respect of loss or expense. Non-statutory guidance on ACVs issued by DCLG in 2012 indicates that central Government will meet the costs of compensation claims of over £20,000 in any financial year.

Health Implications

30. There are no health implications arising from the nomination of the Still & Star public house as an Asset of Community Value.

Conclusion

31. The City Corporation is required by the Localism Act 2011 to consider this nomination and if, in its opinion, the pub furthers the social wellbeing or social interests of the local community and will continue to further these interests in the future, then the City Corporation must designate the building as an ACV. ACV status is time limited and will lapse after 5 years.

32. CAMRA has provided evidence of the apparent continued use of this building as a public house since 1820 and evidenced its use by the local community, the wider City working community and its attraction to tourists. A separate planning application has been received for the redevelopment of the public house and surrounding buildings which has generated over 260 objections, 87 of which identify the pub as a community asset and 224 refer to the loss of a valued heritage asset. The City Corporation has, in 2014 and 2015, invited the Still & Star to participate in the City's annual Community Fair, as being representative of a community pub.

33. The landowner has objected to the nomination on the grounds that the pub does not further the social interest or social wellbeing of the local resident community and will not perform such functions in the future due to the intention to redevelop the site for an office-led development, subject to the grant of planning permission.

34. Despite the landowner's objection, there is evidence to support the argument that the pub furthers the social interests and wellbeing of the local community in the City. It is not appropriate to consider the implications of the current planning application for redevelopment of the site as this would pre-judge the future determination of this case by the Planning & Transportation Committee. The Planning & Transportation Committee is asked to recommend to the Policy & Resources Committee that the Still & Star public house be designated as an Asset of Community Value.

Appendices

None

Background Papers

The Still & Star Public House – Asset of Community Value Nomination, CAMRA

Letter from Fladgate LLP on behalf of 4C Hotels (2) Ltd

Bundle of 263 objections to planning application 16/00406/FULMAJ

Comments from Ward Member for Portsoken

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