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| Report of: | Monitoring Officer |
| Contact Officer: | Ian Curran |
| Telephone No: | 01785 619220 |
| Portfolio Leader: | Leader of the Council |
| Key Decision: | No |
| Report Track: | Cabinet: 18/09/14 |

CABINET
18 SEPTEMBER, 2014
ASSETS OF COMMUNITY VALUE

1 Purpose of Report

- 1.1 To set out and approve the arrangements to be adopted in processing nominations for Assets of Community Value.

2 Recommendations

- 2.1 That Cabinet note the Council's obligations under the Localism Act, 2011 in relation to Assets of Community Value.
- 2.2 That the Monitoring Officer, or in his absence the Deputy Monitoring Officer, (in consultation with the Leader of the Council and members of the ward in which the asset is located, where practicable) be authorised to determine any application to list any building and/or other land as an asset of community value, and/or claim for compensation arising from an asset being listed..
- 2.3 That the Corporate Director be authorised to determine any review of any decision made under 2.2 above.
- 2.4 That Cabinet note the decision of the Leader of the Council to list the asset known as Pied Piper Public House.

3 Key Issues and Reasons for Recommendation

- 3.1 The Localism Act, 2011 gives certain bodies the right to nominate certain buildings and/or land in the District as Assets of Community Value.
- 3.2 The Council is obliged to administer a scheme to receive such nominations and compile a list of such assets.

- 3.3 If an asset is placed on the list, the owner will be restricted from selling the asset until certain time limits have elapsed and the nominating body has been given the opportunity to bid for the asset.
- 3.4 Owners will be able to claim compensation for any losses arising from the decision to list the asset as one of community value.
- 3.5 Owners must be given an opportunity to request a review of any decision to list an asset, or decision to refuse compensation.
- 3.6 The Council has already received a nomination to list the Pied Piper Public House, and the Leader has used his executive authority to accept the nomination due to the need to determine such matters within the statutory timescale.

4 Relationship to Corporate Priorities

- 4.1 The proposals set out in the report will contribute to enabling communities to have a say in future use of community assets.

5 Report Detail

- 5.1 The Localism Act, 2011 places a duty on the Council to administer a scheme and maintain a list of land in the area which is of community value. The Council cannot add land to this list itself, it must be nominated by a qualifying community interest group (i.e. a relevant parish council or a voluntary/community body with a local connection). Once a nomination is received the property must be assessed by the Council to determine whether the asset has community use value. The legislation set outs land which may not be listed (including residential property). Owners have the right to ask for an internal review of any decision to list property and if they are not satisfied with the outcome of this review they can then appeal to an independent body. Nominating community interest groups have no right of appeal.
- 5.2 For any property included on the list, owners must notify the Council if they intend to make a 'qualifying disposal'. This includes transfer of the freehold or granting or assignment of a qualifying lease which gives vacant possession of the land or other buildings in question. The sale must be postponed for six weeks to allow community interest groups to consider whether they wish to bid for the property.
- 5.3 If a community interest group does wish to bid, then a further moratorium of six months will be placed on the sale to enable the group to prepare its bid and raise funding. At the end of this period, the community group does not have to bid, but if it does the owner is not obliged to sell to them. Within the moratorium period the owner can sell to any community interest group but not to any other person.

- 5.4 Listed assets will remain listed for five years and details will be added to the land charges register, and a restriction entered at the Land Registry, to prevent any sale taking place without compliance. Owners will be able to apply to the Council for compensation for any costs incurred in relation to land which would not have been incurred if the land had not been listed.
- 5.5 The Council must administer the scheme and maintain the register. The requirements are largely set in legislation and there is little flexibility with the process. A flowchart of the process is attached as Appendix 1 to this report.
- 5.6 The administration and co-ordination of this function will be carried out by Democratic Services but it will be necessary to involve other officers in the process.
- 5.7 The key decision areas during the process are:
- (a) Determination of whether the nominated property is an asset of community value
 - (b) Determination of any review requested of the decision to list an asset (must be carried out by an officer of appropriate seniority who did not take part in the decision to be reviewed)
 - (c) Determination of any claim for compensation
 - (d) Determination of any review requested of the decision on the granting of compensation (must be carried out by an officer of appropriate seniority who did not take part in the decision to be reviewed)
- 5.8 It is recommended that each of these functions be delegated to a specific officer. The legislation requires that reviews must be carried out by an officer of appropriate seniority who did not take part in the decision to be reviewed meaning that this cannot be a Member decision. Taking this into account it is recommended that functions 5.7 (a) and (c) above be delegated to officers to prevent the potential for an officer recommending that a Member decision be reversed. Also the decision on whether to list an asset must be made within 8 weeks of the nomination which would be difficult to achieve should a committee decision be required. It is, however, recommended that the officer making a decision under (a) or (c), where practicable, does so after consultation with the Leader of the Council and local Ward members.
- 5.9 It is recommended that functions (a) and (c) be delegated to the Monitoring Officer, or in his absence the Deputy Monitoring Officer, and functions (b) and (d) be delegated to the Corporate Director.
- 5.10 The Council has already received a nomination in respect of Pied Piper Public House, dated 25 July, 2014. Such nominations should be considered within 8 weeks of receipt. Having regard to these timescales, in accordance with section 22A of the Council's Constitution, the Leader has made the decision to accept this listing. Details of the nomination and decision are attached for information.

6 Implications

6.1 Financial

The content of this report does not have any financial implications. It is anticipated that there will not be many nominations received and as such any that are received can be dealt with from within existing resources. This may need to be reviewed if there were a sudden influx of nominations.

There may be compensation costs arising in the future should land be listed and a claim be made. These are impossible to predict at this stage. The Government has advised that they have reflected the estimated costs of compensation within the new burdens funding. In addition, the Government will meet the costs of compensation payments of over £20,000, either in one payment or lots of smaller payments, in any one financial year.

6.2 Legal

The legal implications are detailed in the main body of the report.

6.3 Human Resources

None

6.4 Section 17 (Crime Prevention)

None

6.5 Human Rights Act

None

6.6 Data Protection

None

6.7 Risk Management

None

6.8 Equality & Diversity

The District Council considers the effect of its actions on all sections of our community and has addressed all of the following Equality Strands in the production of this report, as appropriate:-

Age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, sexual orientation.

6.9 Best Value

None

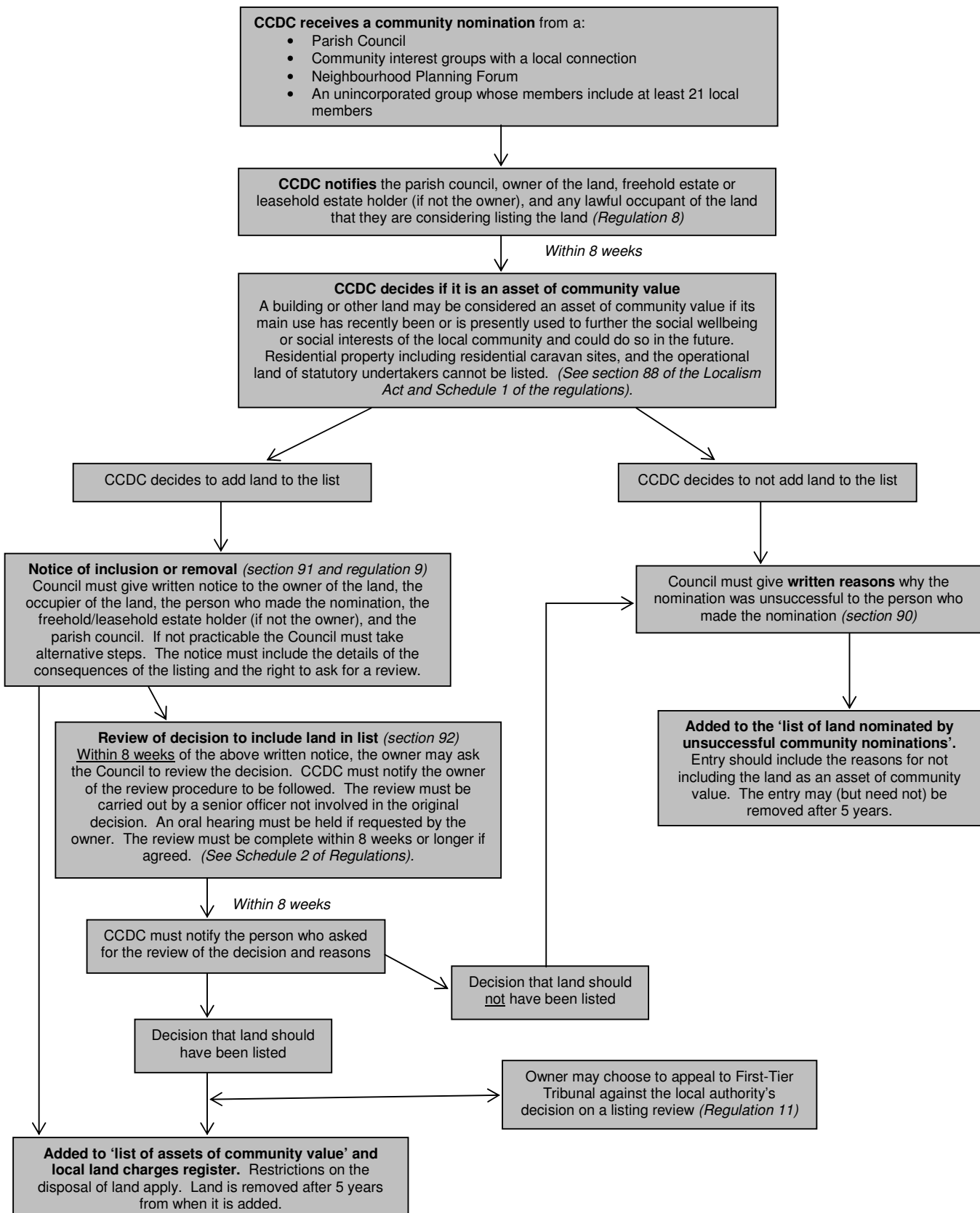
7 Appendices to the Report

- Appendix 1 Process Chart for Community Nominations
- Appendix 2 Decision Notice under section 91 of the Localism Act 2011, Community nomination and supporting documents in respect of Pied Piper Public House, 114 Pye Green Road, Cannock

Previous Consideration

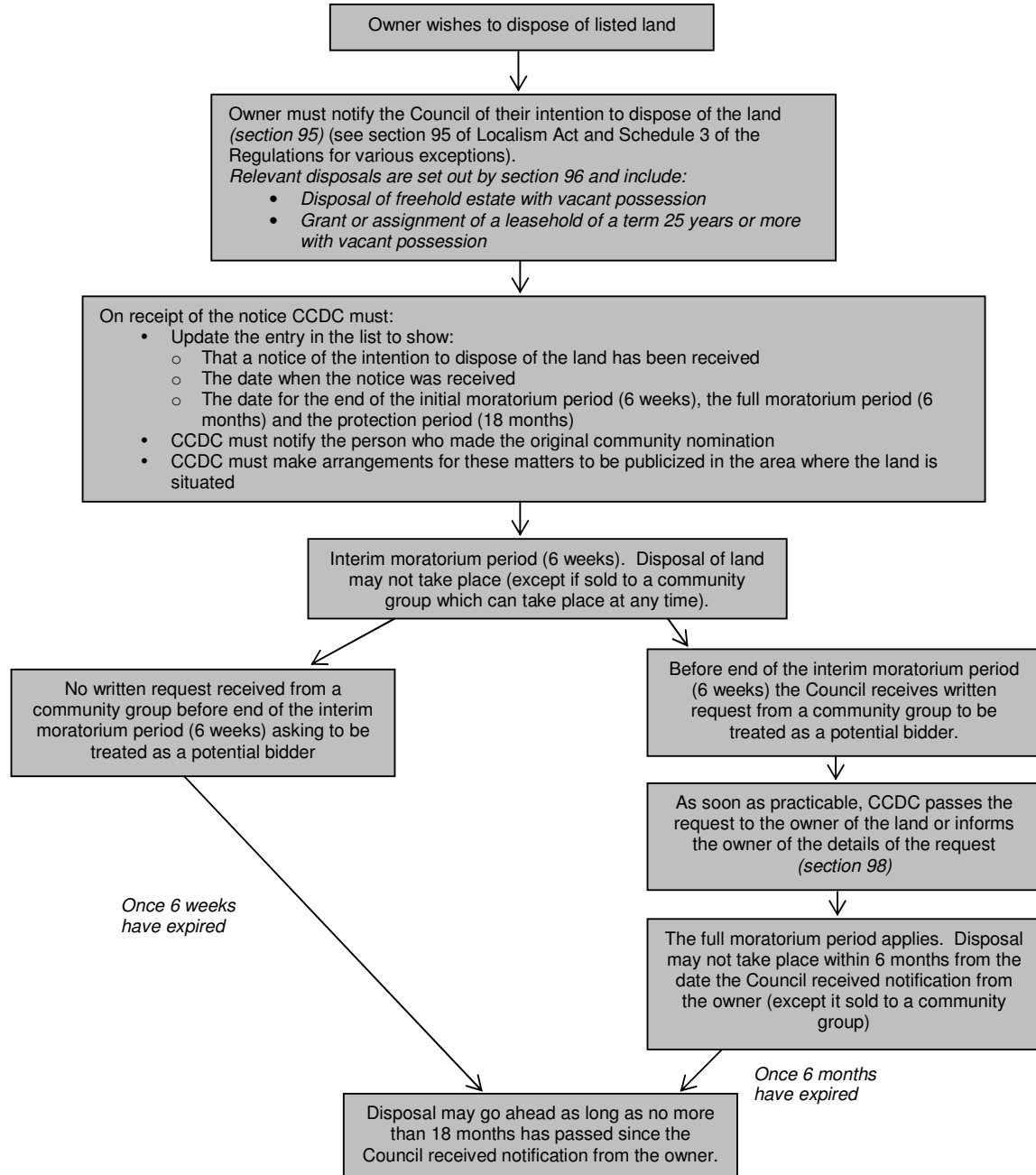
Background Papers

Assets of community value - Process chart for community nominations



The Council must publish both the list of assets of community value and the list of land nominated by unsuccessful community nominations. They must be free for inspection and one free copy must be provided to any person. (Section 94)

Assets of community value - Process chart for disposal of listed land



The owner or former owner of listed land is entitled to compensation from CCDC of such amount as CCDC may determine when that person has incurred loss or expense which would not have been incurred if the land had not been listed. (Section 99 and Regulation 14)

The following types of claim can be made:

- Any period of delay in entering into a binding agreement to sell which is wholly caused by being prohibited to dispose of land during the 6 week period, or where the prohibition continues for six months any part of that 6 month period.
- A claim for reasonable legal expenses incurred in a successful appeal to the first tier tribunal against compensation offered or paid.

Claims must be made in writing before 13 weeks after the loss or expense was incurred, state the amount of compensation sought, and be accompanied by supporting evidence.

The person making the claim can request a review of the decision under regulation 16. This compensation review must follow the procedure in schedule 2 of the regulations (similar to the listing review procedure).

Where a local authority has carried out a compensation review, the person who requested the review may appeal to the First-Tier Tribunal (Regulation 17).

Cannock Chase District Council**Community nomination in respect of****Pied Piper Public House, 114 Pye Green Road, Cannock**

Notice under section 91 of the Localism Act 2011

1 Nomination

On 25th July 2014 the Council received a nomination under section 89 of the Localism Act 2011 ('the Act') to list the Pied Piper Public House, 114 Pye Green Road, Cannock as an asset of community value. The nomination was made by the Pied Piper Community Group. A copy of the nomination is attached at Appendix 1 and plan showing the boundaries of the nominated land is attached at Appendix 2.

2 Law and Statutory Guidance

Under section 87 of the Act the Council must maintain a list land of community value in its area. A building or other land is of community value if in the Council's opinion an actual current use of the building or other land that is not ancillary use, furthers the social wellbeing or social interests of the local community, and 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. A building or other land is also of community value if it is not currently used as above, but there is a time in the recent past when it was so used, and it is realistic to think there could be such use in the next five years.

Under section 89 the Council can only include land in its list of assets of community value in response to a community nomination or where permitted by regulations. A community nomination in England can only be made by either a parish council in respect of land within its area or by a person that is a voluntary or community body with a local connection. Where a valid community nomination is made the Council must consider it and must accept the nomination if the land is within its area and is of community value

3 Decision and Reasons

The Council accepts the nomination by Pied piper Community Group and includes the Pied Piper Public House, 114 Pye Green Road, Cannock in its list of assets of community value.

The reasons for this decision are as follows:

- 1 The Pied Piper Public House, Cannock lies within the District of Cannock Chase.

- 2 Pied Piper Community Group is a body eligible to make the application under Section 89 of The Act.
- 3 The Nomination made by Pied Piper Community Group meets the requirements of The Assets of Community Value (England) Regulations 2012 ("The Regulations").
- 4 The Pied Piper Public House does not fall within a description of land which may not be included in the list as specified in Schedule 1 of The Regulations
- 5 The current use or the use in the recent past of the Pied Piper Public House as a public house is not an ancillary use and that this use furthers or furthered the social wellbeing and social wellbeing of the local community and it is of community value.
- 6 It is realistic to think that there is a time in the next five years when there could be non-ancillary use of the Pied Piper Public House that would further (whether or not in the same way as before) the social wellbeing or social interests of the local community.

4 Next Steps

The Pied Piper Public House, 114 Pye Green Road, Cannock will be included in the list of assets of community value maintained by the Council under section 87 of the Act.

In accordance with section 91 of the Act the Council will send this notice to:-

- (a) the owner of the land
- (b) the occupier of the land if the occupier is not the owner
- (c) Pied Piper Community Group as the nominee body

5 Consequences of Listing

The land will remain on the list of assets of community value for a period of 5 years from the date of this notice unless removed with effect from some earlier time in accordance with the provision of the Regulations.

Inclusion of the land in the list of community assets is a local land charge under the Local Land Charges Act 1975.

The Council is required under Schedule 4 of the Regulations to apply to the Land Registry for a restriction to be added to the registered title of the land that "No transfer or lease is to be registered without a certificate signed by a conveyancer that the transfer or lease did not contravene section 95(1) of the Localism Act 2011".

Under section 95 of the Act an owner must notify the Council by writing to Democratic Services, Cannock Chase District Council, Civic Centre, Beecroft Road, Cannock WS11 1BG if they wish to enter into a relevant

disposal of the land. Relevant disposal is defined in section 96 and (subject to exemptions in section 95(5) and Schedule 3 of the Regulations) means, a freehold disposal or the grant or assignment of a qualifying leasehold interest, with vacant possession.

A moratorium period is triggered by notification under section 95 to allow any community interest group to submit a written request to be treated as a potential bidder for the land. Owners are advised to refer to the Part 5 Chapter 3 of the Act and the Regulations in full and to seek legal advice if they wish to dispose of the land. A disposal of listed land which contravenes the requirements of Act and Regulations will be ineffective.

6 Right of Review

In accordance with section 92 of the Act the owner of the land is entitled to request a review of this decision. The review will be carried out by a senior officer of the Council nominated by the Corporate Director. A request must be made in writing and received by the Council within 56 days of the date of this notice or such longer period as the Council may agree in writing. Please ensure that the request explains on what grounds the decision should be reviewed.

If a request is made the Council will complete the review within 56 days of receiving the request or such longer period as is agreed with the owner in writing. A request must be addressed to the Corporate Director, Cannock Chase District Council, Civic Centre, Beecroft Road, Cannock WS11 1BG.

7 Right to Compensation

In accordance with paragraph 14 of the Regulations an owner or former owner of the land is entitled to claim compensation from the Council of such amount as the Council may determine, where they have 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.

A claim for compensation must be made in writing within 91 days of the loss or expense being incurred (or as the case may be) finish being incurred; must state the amount of compensation sought for each part of the claim and be accompanied by supporting evidence for each part of the claim.

If a claim is made the Council will consider the claim as expeditiously as possible. A request must be addressed to Democratic Services, Cannock Chase District Council, Civic Centre, Beecroft Road, Cannock WS11 1BG.

8 Additional Help

Further information about assets of community value is available from the website <http://mycommunityrights.org.uk/community-right-to-bid/> If you need any additional support in relation disposal of the land, the right of review or right to compensation you are advised to seek independent legal advice.

Signed:

Dated:

Leader of the Council

RE: Pied Piper Public House, 114 Pye Green Road, Cannock, Staffs, WS11 5RZ.

To whom it may concern,

I am writing to you regarding listing the above Public House as an Asset of Community Value

The Ministerial Foreword in the Governments own guidance for local authorities on assets of community value begins: " **from local pubs and shops to village halls and community centres, the past decade has seen many communities lose local amenities and buildings that are of great importance to them**"

Community pubs represent the very essence of a community asset, providing a meeting place where social networks are strengthened and extended and where people can mix with others from different backgrounds to their own. Pubs host a wide variety of community-oriented events and activities that add considerably to local civic life.

As well as injecting an average of £80,000 into their local economy each year, pubs play a key role in raising money for local charities – it is estimated that the average pub raises around £3000 a year for charity.

The Institute of Public Policy Research (IPPR) has used 'Social Return on Investment' methodology to quantify the wider social value which pubs generate for their communities, which cannot be captured in financial terms. These wider community benefits range from the amount of money a pub raises for charity to the reduced risk of social isolation through opportunities for pub-goers to make new friends and strengthen community ties. The IPPR's research found that each pub generates between £20,000 and £120,000 of wider social value to their communities.

The pub has remained open since it very first opened its doors apart from refurbishments. It is currently used by community groups such as the Cannock Lions Charity and Brunswick House. It provides free use of the function room for charity events.

The pub is the only one in the local vicinity that offers a large rear beer garden and an enclosed seating area to the front. It has parking for 30 cars and as previously mentioned has a function room which is used for parties, weddings etc.

The pub offers real ales, hot drinks and a variety of non-alcoholic beverages at competitive prices in todays market.

The pub has two pool teams, one football team (AFC Piper) who won the division four cup final 2014 and a darts team. There are also gatherings of bikers and cyclists on a regular basis.

There is a good liason between the pub and local businesses such as the chip shop and hairdressers both located next to or backing onto the pub.

The catchment area of the pub is vast. It is 2 miles to get there for me every day and some people travel from Wolverhampton to play in the football team.

The pub is situated on a busy road surrounded by housing estates housing thousands of adults of which a high percentage are workers. The pub has always been popular with cyclists who use it after cycling around Cannock chase which is only a good stone throw away. It is also situated 100-200 yards from a sports field which the football team use and when they play at home both teams come back and use the pub to get changed out of their strip. It is also located ¼ mile from Cannock Golf Course. It is only a 5 minute walk from Cannock bus station

The rear beer garden has a few large Oak trees.

As previously mentioned the pub hosts events for charities and local schools including SNAP and St. Lukes Primary School. It also provides meeting facilities for local community groups and charities for free.

There are many places that advertise in the pub including local business people and the Prince of Wales centre, CAMRA, Cannock Chase Horse Riding and the pub also lets the community advertise on their Facebook page

One of the main reasons people use the pub is because it is a caring environment in which both young and old people feel welcome and safe. For example one of the customers always had to have his carer with him but after coming here with him for a few weeks she felt happy enough that he would be safe and looked after and just dropped him off and picked him up knowing she would get a call if needed. This is the atmosphere that has attracted the use of the facilities by nearby Brunswick House

The pub has its sports teams as mentioned which the pub sponsor and also shows live sports on both SKY and BT SPORT as well as offering FREE WIFI

The Landlady approached Marstons regarding putting a childrens play area in the rear garden at her own expense and was refused. She also approached the local TARA group regarding having the pub as a meeting place for the local neighbourhood watch who said that in this area they do not allow it to be held in Public Houses although she had it at her old pub.

Many businesses use the car park (even as a meeting place to pick people up from in a morning) as well as local residents and patrons.

Hopefully the number of signatures that I have gathered over the last two days shows the important part that this pub plays within the local community

I await your hurried response.

Best Regards,

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SECTION 2 – ABOUT THE ORGANISATION MAKING THE NOMINATION

Please tick any that apply)

| | |
|---|-------------------------------------|
| Unincorporated body (see next section) | <input checked="" type="checkbox"/> |
| Neighbourhood forum | <input type="checkbox"/> |
| Parish Council | <input type="checkbox"/> |
| Charity | <input type="checkbox"/> |
| Community Interest Company | <input type="checkbox"/> |
| Company limited by guarantee | <input type="checkbox"/> |
| Industrial and provident society | <input type="checkbox"/> |

Number of members registered to vote locally (unincorporated bodies only)
 In the case of an unincorporated body, at least 21 of its members must be registered to vote locally. *Please use CAMRA's Unincorporated Body Nomination Form to demonstrate support from local people.*

| | |
|---|-------------------------------------|
| We are enclosing evidence that at least 21 locally registered voters support the registration of this pub as an asset of community value <i>(please tick box)</i> | <input checked="" type="checkbox"/> |
|---|-------------------------------------|

SECTION 3 – MORE ABOUT YOUR ORGANISATION AND DEMONSTRATION OF LOCAL CONNECTION

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| <p>Please explain a bit more about the organisation (such as how and why it was formed – perhaps that was purely to list this pub which is fine).</p> <p>Please also demonstrate that your organisation has a local connection (i.e. that everybody concerned lives locally)</p> | <p>WE ARE ALL CUSTOMERS OF A MUCH LOVED AND FINANCIALLY SUCCESSFUL PUB. WE WANT TO KEEP THE PUB AT THE HEART OF OUR COMMUNITY.</p> <p>SEE PETITION</p> |
| <p>If the Group is constituted, its surplus must be wholly or partly applied for the benefit of the Borough's area or a neighbouring authority's area. Please provide evidence of this if you can.</p> | <p>N/A</p> |
| <p>If the Group is constituted, please provide evidence here.</p> | <p>N/A</p> |

SECTION 4: ABOUT THE ASSET YOU WANT TO LIST

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|---|--|
| Name of asset | PIED PIPER |
| Address and postcode of the asset | PIED PIPER PUBLIC HOUSE 114, RYE GREEN ROAD, CANNOCK STAFFS. WS11 5RZ |
| Description of what exactly should be listed (try to be specific about the boundaries of the land you're nominating, the approximate size and position of any buildings on the land and remember to include anything in addition to the building itself which you believe should be listed such as the car park, beer garden or any integral residential quarters such as accommodation above the pub) | ALL PREMISES WITHIN THE COURTYARD OF THE PROPERTY FOR THE PURPOSE OF A LICENSED PREMISE |
| Land registry title number | SF352076 |
| Link to any photos or building plans of the property (if you're attaching these to the application please confirm that here) | |
| Any information you have about the freeholders, leaseholders and current occupants of the site (if known) | MANSTONS PLC |

Reasons for nomination: why do you believe the asset is of community value (including all relevant information from CAMRA's "Why Councils should list pubs as assets of community value" document, in particular:

- Evidence that the pub can remain viable
- Evidence of interest in keeping the pub open
- Evidence that the asset furthers the social wellbeing or social interests of the local community, or has done so in the recent past)

SEE LETTER FROM

| | | | |
|-----------------------------------|----------|-----------------|------------------------|
| H.M. LAND REGISTRY | | TITLE NUMBER | |
| | | SF352076 | |
| ORDNANCE SURVEY PLAN REFERENCE | SJ9811 | SECTION B | Scale 1/1250 |
| COUNTY STAFFORDSHIRE | DISTRICT | CANNOCK CHASE | © Crown copyright 1985 |

