

OVERVIEW AND SCRUTINY PANEL

3 OCTOBER 2016 - 2.30PM



PRESENT: Councillor Yeulett(Chairman), Councillor Mrs Hay(Vice-Chairman), Councillor Booth, Councillor Buckton, Councillor Count, Councillor Mrs Davis, Councillor Mrs Laws, Councillor Mason and Councillor Mrs Mayor.

APOLOGIES: Councillor Pugh

OFFICERS IN ATTENDANCE: Jane Bailey (Member Services and Governance), Richard Cassidy (Corporate Director), Anna Goodall (Head of Legal and Governance), Jenny Harris (Legal) and Dan Horn (Head of Housing and Community Support)

ALSO IN ATTENDANCE: Councillor King (Portfolio Holder), Ann Baxter and Kevin Baxter (Owners of the Carpenters Arms Public House, Coates)

OSC17/16 ASSET OF COMMUNITY VALUE, THE CARPENTERS ARMS, COATES

Councillor Yeulett presented the meeting to consider an appeal lodged by the owner of the Carpenters Arms Public House relating to a Cabinet Decision on 11 August 2016 to nominate The Carpenters Arms Public House, Coates as an Asset of Community Value. He stated that members have read the report and are familiar with the details and based on the information today will make a decision as to whether to endorse the decision made or refer the decision back to Cabinet for reconsideration.

Councillor Yeulett welcomed Ann Baxter and Kevin Baxter and invited them to present their case to the panel.

Ann Baxter stated that The Carpenters Arms is a small village pub. The pub was previously repossessed and closed for more than a year and that she paid a £30,000 down payment, a £40,000 investment from Kevin Baxter and a £49,000 mortgage to buy the property. She added that the pub was in need of a lot of work as it had previously been run down for many years and that work is still in progress as and when they have the money to do it.

Ann Baxter stated that they do everything that they can to attract the village residents, they have decorated throughout, installed a log burner, range of beers and ales, free Wi-Fi, coffee machine, karaoke nights, charity nights, pool table, free jukebox on a Monday. She added that it is a sad fact that whatever they try to attract local people, only a handful actually use the pub and they have to rely on family and friends and a small passing trade. She added that for this reason she cannot see why the pub would be defined as an Asset of Community Value.

Ann Baxter stated that the pub is on a walk-way to the shops and there is another pub across the road. She stated that they are hoping to get the kitchen up and running in order to be able to offer food in the near future and hope that will attract more custom. However the pub across the road also offer food and has good facilities.

Ann Baxter informed members that she has no intention of closing or selling the business and that her intentions are to pass it to her nephew, Wayne Baxter, who is the current licensee. She explained that the lady who put the pub forward thought that she was doing a good thing and now realises that it is not therefore CAMRA have requested that the application be withdrawn.

Kevin Baxter stated that they want to build on the business, but if it does not work out what would become of the building if we closed it down, it would just become a ruin and that would be no good for the village. He added that if we did have to close it would be better if we were able to sell to someone that wanted to do something with it.

Ann Baxter stated that the business is just managing to keep its head above water and this enables us to continue to trade and that she hopes this will be the case for many years to come.

Members asked questions, made comments and received responses as follows:

1. Councillor Booth stated that the main imposition that the legislation imposes is that if you were to sell there would be a 6 month moratorium period and asked if this is a concern as the owners might potentially need to sell in the next 6 months. He asked if this is why they are objecting to the listing. Ann Baxter confirmed that she has no intentions of selling in the next 6 months;
2. Councillor Booth asked for clarification that the business can survive for that long. Ann Baxter confirmed that it can;
3. Councillor Mrs Hay asked if the pub is used or has been used by any community groups from the village. Anna Baxter confirmed that the pub has not been used in this way since she has been there and is quite sure it was not used by community groups with the previous owner;
4. Councillor Mason asked if CAMRA had consulted the owners before they submitted their application. Ann Baxter confirmed that she had not been consulted;
5. Councillor Mason asked when the first time the owners had knowledge of the application was. Ann Baxter stated that she received a letter after the application was submitted;
6. Councillor King stated that when the Cabinet agreed to list this as an Asset of Community Value we believed that the evidence supported this listing and following the legislation and with legal advice felt that they were acting properly. He added Cabinet were not aware that earlier that morning an email had been sent by CAMRA withdrawing the application. That email had been sent to an officer who was not at work that day, and although there was an out of office system set up, CAMRA took no action on that. So consequently when Cabinet met we were unaware of the intention to withdraw the application. We will do our best to prevent this situation from happening again moving forward but given the email from CAMRA he suggested that the best course of action for the panel today is to refer the matter back to Cabinet for reconsideration;
7. Councillor Mrs Mayor asked for clarification that even if email had been received, Cabinet would still have had to consider the application as it had been received and scheduled for that meeting. Councillor King agreed that based on legal advice Cabinet would have had to consider the application but if we had been aware that CAMRA were wanting to withdraw it that might have changed our decision;
8. Councillor Mrs Hay asked if any of the Cabinet members visited Coates and have seen the close proximity to the second pub. Councillor King confirmed that many of Cabinet are aware of the proximity of the 2 pubs and we were all provided with a map showing that, and we took that into account when we made our consideration. Unfortunately proximity to other facilities does not mean that we can reject the application;
9. Councillor Mrs Laws stated that she feels that if the email had been read that morning the weight of the evidence would have changed the decision. Councillor King stated that many of the Cabinet members had reservations for various reasons about this listing and that the email would have been strong evidence on that day for those reservations;
10. Councillor Mason stated that he feels that Cabinet acted properly with the information that was presented and within the legislation but in future consultation with local people and not just taking face value information from the applicant would be would be beneficial. Councillor King agreed that this is a good point stating that he is happy to talk further following the meeting about the ideas that they have to improve our policy based on the legislation. The intention is that this situation will not arise in the future. He confirmed that a

- revised policy and application form is being prepared to be presented at Cabinet in October;
11. Councillor Count stated that since the date of the Cabinet meeting the property has been listed as an Asset of Community Value, he asked what the fee for doing this is, and is there a fee for CAMRA to make this application. Richard Cassidy confirmed that there is nothing in the legislation that allows the Council to charge a fee for the application. He stated that the property is registered as an Asset of Community Value on the Council's Register of Assets and there is no charge for doing so;
 12. Councillor Count asked if we register this information with Land Registry and if so is there a fee for doing so. Jenny Harris stated that an application has been made to Land Registry and there is a fee of £40 for this. Councillor Count stated that this is an expensive business with several meetings, a land registry fee and an awful lot of trouble for an application that had not been thought through, adding that the property remains on the register for 3 years and so it is not just about the 6 months moratorium;
 13. Councillor Count stated that it is not our decision today whether or not this property should be listed as an Asset of Community Value, our job today is whether there is sufficient cause to have the application reconsidered. He added that he has looked at the report presented to Cabinet with regards to this application and believes that they made the right decision on the day but more information has come to light since and therefore endorses the comment earlier to refer back to Cabinet for reconsideration. He suggested that if it is agreed to refer back to Cabinet it needs to be clear that we feel they made the right decision at that point in time. He asked if we are able to contact CAMRA to let them know of the costs incurred as this may have had an impact on money not being spent elsewhere. He asked if timescales allow can we ask for Parish Council views on the application before Cabinet reconsider as he feels that their feedback would be valuable;
 14. Councillor Buckton stated that he agrees that with regards to future applications it would be worthwhile getting community views but that he does not think that it is relevant for this application because the application was made by CAMRA which is not a body that represents that community and local people might not understand the implications. Councillor Count stated that, although he does not believe it is the case for this application, it could be that CAMRA and the Parish Council had been in discussion with regards to the application and if we refer back to Cabinet without informing Parish Council they may have had very good reasons that should be considered too;
 15. Councillor Mrs Laws stated that there are 3 members of Whittlesey Town Council who are also District Councillors including herself, and she can confirm that no discussions have taken place with regards to this application. Councillor Count thanked Councillor Mrs Laws for the clarification;
 16. Jenny Harris stated for clarification that if you have an asset registered as an Asset of Community Value if you are selling the land and business together to the same person that is an exempt transaction and the moratorium would not apply in those circumstances;
 17. Councillor Buckton stated that his understanding was that the local authority and the community group have to be informed of the sale so that the community group have the right to bid and there is a moratorium period of 6 months for them to put that together. Jenny Harris confirmed that there is a specific exception for sales of a going concern;
 18. Councillor King stated that, to clarify the point about a going concern, the Government has recently published a revised guidance and explained that this might be the reason that members were given different information around this matter at the previous meeting regarding an Asset of Community Value. He confirmed that regarding the points raised around consultation, officers wrote to the owner and the applicant to invite them to attend the Cabinet meeting and also wrote to the Parish Council but received no responses. He added that we are going to look at ways of addressing this moving forward. Councillor Mrs Mayor stated that although a letter was written the Town Councillors know nothing about this matter. Councillor King stated that he feels this is an issue for Town Council to address;
 19. Councillor Booth stated that we are getting into the process and suggested that maybe the revised process could come to us for our views before it goes to Cabinet for approval;

20. Councillor Yeulett stated that Cabinet made the original decision in good faith and based on the evidence at the time, consultation is an issue and this needs to be pursued further. He added that the missed email is a process issue for the Council to look at moving forward to prevent any problems like this in the future. He thanked everybody for attending the meeting today.

Proposed by Councillor Booth, seconded by Councillor Mrs Laws and decided that the Overview and Scrutiny Panel refer the decision back to Cabinet for reconsideration at their meeting on the 20 October 2016 for the following reasons:

- **It is evident that there is no demand from the community or the owners to register the Carpenters Arms as an Asset of Community Value;**
- **the original instigators of the application, CAMRA, have asked for the nomination to be withdrawn.**

2.55pm

Chairman