



EXECUTIVE DECISION NOTICE

SERVICE AREA:	GOVERNANCE, RESOURCES AND PENSIONS Legal Services
SUBJECT MATTER:	ASSET OF COMMUNITY VALUE – THE GUN INN PUBLIC HOUSE, HOLLINGWORTH
DECISION:	That the land known as The Gun Inn, Market Street, Hollingworth be added to the Council's list of assets of community value.
DECISION TAKER	Councillor John Taylor
DESIGNATION OF DECISION TAKER(S):	Deputy Executive Leader
DATE OF DECISION:	
REASON FOR DECISION:	The Council has received a nomination to add The Gun Inn public house to the register of assets of community value and it meets the criteria.
ALTERNATIVE OPTIONS REJECTED (if any):	Not registering the land, but since it meets the criteria for registration and the Council has no discretion, this is not appropriate.
CONSULTEES:	The registered owner and occupier of the property.
FINANCIAL IMPLICATIONS: (Authorised by Borough Treasurer)	There are no immediate financial implications as a result of this report. However section 7 explains that in certain circumstances compensation can be payable by the Council as a result of listing an asset of community interest. There is no specific budget for such costs and therefore additional resources would have to be identified in the event that compensation becomes payable.
LEGAL IMPLICATIONS: (Authorised by Borough Solicitor)	Under the Localism Act 2011 and the regulations made under it the Council must consider nominations received from qualifying bodies to add properties to its list of assets of community value. Where the property is within the Council's area and is of community value the Council is required to list the property, the effect of which will prevent the property being sold other than to the nominating body for a period of between 6 weeks and 6 months depending on whether the body wishes to be treated as a bidder.
CONFLICT OF INTEREST:	None
DISPENSATION GRANTED BY STANDARDS COMMITTEE ATTACHED:	Not Applicable
ACCESS TO INFORMATION:	The background papers relating to this report can be inspected by contacting the report writer, Daniel Howard – Corporate lawyer by:  Telephone: 0161 342 3194  e-mail: daniel.howard@tameside.gov.uk



Signed.....

 Councillor John Taylor - Deputy Executive Leader

Date: 3/10/2016.....

EXECUTIVE DECISION REPORT

SERVICE AREA:	GOVERNANCE, RESOURCES AND PENSIONS Legal Services
SUBJECT MATTER:	ASSET OF COMMUNITY VALUE – THE GUN INN PUBLIC HOUSE, HOLLINGWORTH
DATE OF DECISION:	
DECISION TAKER	Councillor John Taylor - Deputy Executive Leader
REPORTING OFFICER:	Sandra Stewart – Executive Director of Governance, Resources and Pensions (Borough Solicitor)
REPORT SUMMARY:	The report acknowledges receipt of a nomination from the Friends of Hollingworth group, a voluntary organisation to list The Gun Inn public house as an asset of community value under the provisions of sections 87 to 108, chapter 3 of part 5 of the Localism Act 2011 and the Assets of Community Value (England) Regulations 2012
RECOMMENDATIONS:	That the land known as The Gun Inn, Market Street, Hollingworth be added to the Council's list of assets of community value.
JUSTIFICATION FOR DECISION:	The Council has received a nomination to add The Gun Inn public house to the register of assets of community value and it meets the criteria.
ALTERNATIVE OPTIONS REJECTED (if any):	Not registering the land, but since it meets the criteria for registration and the Council has no discretion, this is not appropriate.
CONSULTEES:	The registered owner and occupier of the property.
FINANCIAL IMPLICATIONS: (Authorised by Borough Treasurer)	There are no immediate financial implications as a result of this report, however if in the future that compensation is deemed to be payable then resources would need to be identified from within the Corporate budget following full evaluation.
LEGAL IMPLICATIONS: (Authorised by Borough Solicitor)	Under the Localism Act 2011 and the regulations made under it the Council must consider nominations received from qualifying bodies to add properties to its list of assets of community value. Where the property is within the Council's area and is of community value the Council is required to list the property, the effect of which will prevent the property being sold other than to the nominating body for a period of between 6 weeks and 6 months depending on whether the body wishes to be treated as a bidder.
RISK MANAGEMENT:	If the Council decides to list The Gun Inn public house on its register of assets of community value, the owner may be entitled to compensation from the Council under the Assets of Community Value (England) Regulations 2012. Details of this can be found in paragraph 7 below. The cost of compensation must be funded from the Council's own resources.

LINKS TO COMMUNITY PLAN:	Growing and encouraging local community groups to take responsibility for delivering some services in their local area helps to reduce dependency on public services and build community spirit and self-worth for those involved.
ACCESS TO INFORMATION:	The background papers relating to this report can be inspected by contacting the report writer, Daniel Howard – Corporate lawyer by:  Telephone:0161 342 3194  e-mail: daniel.howard@tameside.gov.uk

1. BACKGROUND

- 1.1 The Localism Act 2011 ("the Act") received Royal Assent on 15 November 2011. The provisions relating to assets of community value are contained within sections 87 to 108 of the Act and came into force in England on 21 September 2012. Since that time parish councils, community councils, and local voluntary and community organisations have been able to nominate local land or buildings to be included in the Councils list of community assets.
- 1.2 The Council has 8 weeks from receiving an application to decide whether a property must be listed, according to a number of criteria. A property will qualify where its current primary use furthers the social wellbeing or social interests of the local community, and where it is realistic to think that this use will continue. A property will also qualify when it has been in such use in the recent past, and this may realistically recur within the next five years (whether or not in the same use as before). Social interests include culture, recreation and sport.
- 1.3 The effect of a property's inclusion on the list will be to require the owner of the property to notify the Council when intending to dispose of a listed asset, so triggering a moratorium period during which community interest groups can apply to be treated as potential bidders.
- 1.4 The owner will be able to begin the sale process after an interim period of six weeks if no bidder has come forward; if a written intention to bid is received in that time then the full six month moratorium period will apply. The sale itself takes place under normal market conditions. An eighteen month protection period has also been created: if this expires before the property is sold the original notification process must start again.
- 1.5 The owner is not compelled at any point to sell the asset to the voluntary or community body – the law simply says that they cannot sell it to anyone else within the moratorium period.

2. NOMINATION

- 2.1 On 5 August 2016 the Council received a nomination from the Friends of Hollingworth group to add The Gun Inn public house to the Council's list of assets of community value. A copy of the nomination is listed at **Appendix 1**. The Council has 8 weeks from receipt of the application to consider the nomination and determine whether it should be listed or not.
- 2.2 Upon receipt of a nomination the Council needs to determine whether it qualifies as a community nomination. To be a qualifying nomination the land must be within the local authority's boundary and the nomination must be made by a voluntary or community body with a local connection. The Gun Inn public house is located on Market Street in Hollingworth. Friends of Hollingworth qualifies as a voluntary or community body with a local connection as it is an unincorporated body with 21 or more local members. A copy of the constitution and members list has been received. The group is active in Tameside and does not distribute any surplus to its members. The nomination therefore qualifies for the purposes of the Act.
- 2.3 Under the Act and regulations made under it, some types of properties are not able to be considered as assets of community value. The Gun Inn public house does not fall within any of the excluded asset.

3. CONSULTATION

- 3.1 The registered owner and the occupier of The Gun Inn public house have been advised that a qualifying nomination has been received and have been invited to comment.

3.2 No response has been received from either consultee.

4. DETERMINATION OF THE NOMINATION

4.1 Under section 88 of the Act the Council must then determine whether the nominated land is of community value. Land is of community value where

- (1) the actual current primary use of the building furthers the social wellbeing or social interests of the local community, and it is realistic to think that it can continue or
- (2) there was a time in the recent past when an actual primary use of the building furthered the social wellbeing or interests of the local community, and it is realistic to think that there is a time in the next five years when it could again be used to further (whether or not in the same way as before) the social wellbeing or social interests of the local community. Social interests include culture, recreation and sport.

For the purposes of section 88 "social interests" includes (in particular) each of the following—

- (a) cultural interests;
- (b) recreational interests;
- (c) sporting interests;

4.2 The current use of The Gun Inn supports the social wellbeing and social interests of the area and therefore the Council must accept the nomination and the land added to the list of assets of community value. A draft letter to Friends of Hollingworth is attached at **Appendix 2** and a draft notice of listing is attached at **Appendix 3**. A draft letter to the owner is attached at **Appendix 4**.

5. EFFECT OF INCLUSION ON THE LIST

5.1 The effect of the inclusion of The Gun Inn in the list of assets of community value means that the owner is unable to dispose of the land unless a number of conditions are all met.

5.2 The conditions are:

- (1) The owner of the land must notify the Council of its intention to dispose. This notification must also be recorded in the list of assets of community value and publicity must be given to the intention to dispose. The Council must then advertise in the press and on the land of the owner's intention to dispose and request properly constituted community interest groups to express a wish to be treated as a bidder.
- (2) If within 6 weeks a properly constituted community interest group express a wish to be treated as a bidder the owner will be unable sell it other than to the community group within a period of six months from the date of the notice of proposal to dispose.

5.3 Once the notice has been given, the land can be disposed of:

- (a) after six weeks, if no notification is received from a community interest group within that period;
- (b) to any community interest group who has asked to bid (at any time).
- (c) after six months, if notification is received from a community interest group that they wish to bid.

- 5.4 If the disposal has not taken place within 18 months of the initial notice being given then the process has to start again.
- 5.5 The owner will clearly remain responsible for upkeep and security of the property until such time that the owner decides to dispose of its interest in the property.

6. RIGHT TO APPEAL LISTING

- 6.1 The owner of The Gun Inn first has the right to request a review of the Council's decision to list the property. Such a request must be made in writing within 8 weeks of the Council giving notification of inclusion of the property on the register of assets of community value. Where the Council has carried out such a review, the owner may appeal to the First-Tier Tribunal against any decision within 28 days of the Council giving notification of the review decision.

7. COMPENSATION

- 7.1 Compensation may be payable to the owner of The Gun Inn where it has incurred a loss or expense in relation to the land which would be likely not to have been incurred if the land were not listed.
- 7.2 Such claims for loss may for example be made, without prejudice to other types of claim, where:
- a) loss arises from any period of delay in entering into a binding agreement to sell the land which is wholly caused by either of the moratorium periods outlined at Paragraph 5.3 above;
 - b) the owner incurs reasonable legal expenses in a successful appeal to the First-Tier Tribunal against the Council's decision either to list the land or refuse to pay compensation, or with respect to the amount of compensation offered or paid by the Council.
- 7.3 Any claim for compensation from the Council by the owner must be made in writing before the end of 13 weeks after the loss or expense was incurred or has finished being incurred.
- 7.4 The owner has the right to request a compensation review by the Council in response to a decision as to whether compensation is paid, and as to the amount of any compensation. Any such request must be made within 8 weeks by writing, starting with the date on which the Council gives written notification of its decision. Where the Council has carried out such a review, the owner may appeal to the First-Tier Tribunal against any decision.

8. RECOMMENDATIONS

- 8.1 As detailed at the front of the report.

APPENDIX 1



Nomination
(redacted)

APPENDIX 2

Letter to Friends of Hollingworth

The Gun Inn, Market Street, Hollingworth

Further to my letter dated [] I am pleased to inform you that on [] your community nomination was successful and the property has been included on the Council's list of assets of community value. Please find enclosed the notice of listing.

In the event that the owner notifies the Council of its intention to enter into a relevant disposal of the above property, the following moratorium periods will apply:

Interim moratorium period	-	[6 weeks from the date of receipt of notice of intention to sell]
Full moratorium period	-	[6 months from receipt of an expression to be treated as a bidder]
Protected period		[18 months from the date of receipt of notice of intention to sell]

As the nominator for this listing, the Council will give written notice to Friends of Hollingworth should the owner give notification of an intention to sell the land in the future. Although Friends of Hollingworth qualifies as an eligible nominator under the statutory criteria, it does not currently qualify as a Community Interest Group (CIG) which means any request to the Council to be treated as a potential bidder under this process would not be accepted.

To qualify as a CIG, and therefore be considered as a potential bidder in the future, Friends of Hollingworth **must** maintain its links to Tameside and **must** be:

- a. a charity,
- b. a company limited by guarantee which does not distribute any surplus it makes to its members,
- c. a co-operative or community benefit society which does not distribute any surplus it makes to its members; or
- d. a community interest company.

Further guidance and information is available from the Department for Communities and Local Government at: <https://www.gov.uk/government/publications/community-right-to-bid-non-statutory-advice-note-for-local-authorities>

APPENDIX 3

TAMESIDE METROPOLITAN BOROUGH COUNCIL

REGISTER OF ASSETS OF COMMUNITY VALUE

NOTICE OF LISTING – LOCALISM ACT 2011

On [] the Council accepted a nomination for inclusion of the Property in its list of assets of community value. In accordance with section 91(2) of the Act the consequence of such listing will prevent the Owner from disposing of the Property otherwise in accordance with the provisions of the Act.

The Owner of the land included in the list may ask the Council to review its decision to include the land in the list by writing to the undersigned at the address below within 8 weeks of this notice.

The Property

The Gun Inn Public House Market Street Hollingworth shown edged red on the attached plan.

Dated []

Sandra Stewart, Borough Solicitor, Council Offices, Dukinfield Town Hall, King Street, Tameside, SK16 4LA.

APPENDIX 4

Letter to owner

The Gun Inn, Market Street, Hollingworth

Further to my letter dated [] I write to inform you that on [] the community nomination regarding the above land was successful and the property has been included on the Council's list of assets of community value. Please find enclosed the notice of listing.

As a result, you must give notification to the Council of any current or future intention to sell the land. On such notification, the following moratorium periods will apply:

Interim moratorium period	-	<i>[6 weeks from the date of receipt of notice of intention to sell]</i>
Full moratorium period	-	<i>[6 months from receipt of an expression to be treated as a bidder]</i>
Protected period	-	<i>[18 months from the date of receipt of notice of intention to sell]</i>

Please note that the listing does not compel you to sell the land, nor do the above moratorium periods compel you to sell to any specific individual or organisation. The listing does however prohibit you from selling to anyone other than a Community Interest Group during the Interim and Full moratorium periods (provided the Council receives a written request from a Community Interest Group to be treated as a potential bidder within the first 6 weeks).

If notice to sell the land is given and a disposal has not taken place within the 18 month protected period then the notice and moratorium process must begin again if you still intend on disposal.

Further guidance and information is available from the Department for Communities and Local Government at: <https://www.gov.uk/government/publications/community-right-to-bid-non-statutory-advice-note-for-local-authorities>

Photo Scan & ULC

Application for Asset of Community Value

Subject of the Application:

The Gun Inn, Market Street, Hollingworth, Cheshire, SK14 8LN

Name of the Organisation Submitting the Application

Friends of Hollingworth : Community Body.

Schedule of Enclosures

- Pages 1-3 : Formal Application form.**
- Page 4 : Description of the Structure, Aims and Objectives of Friends of Hollingworth.**
- Pages 5-6 : Reasons for Nomination and Evidence to Support.**
- Page 7 : List of Friends of Hollingworth signatories to the Application.**
- Page 8 : Google Map showing Photographic Image of the Site and Premises.**
- Pages 9-11 : Land Registry Documentation relating to the Title Deeds and Plan.**
- Pages 12-16: Publicity Material from Star Pubs and Bars relating to 2016 refurbishment.**

Voluntary or Community Body Details	
Name of Organisation (full name as written in your constitution or rules, if appropriate):	FRIENDS OF HOLLINGWORTH
Address including postcode:	[REDACTED]
Registered or trading name and address if different from above	
Contact Name:	[REDACTED]
Position in Organisation:	[REDACTED]
Correspondence address if different from above	
Daytime telephone number:	[REDACTED]
Email address:	[REDACTED]
Web address (if applicable)	
Is your organisation a (Tick all that apply):	<input type="checkbox"/> Parish Council; <input checked="" type="checkbox"/> Unincorporated Body; <input type="checkbox"/> Charity; <input type="checkbox"/> Social Enterprise (company limited by guarantee that doesn't distribute any surplus it makes to its members); <input type="checkbox"/> Industrial or Provident Society which does not distribute any surplus it makes to its members; <input type="checkbox"/> Community Interest Company.
Company registration number, registered charities number, or Financial Services Authority registration number (list all that apply).	




Community Nomination - Asset Detail

Asset Address including postcode (if known):	THE GUN INN 2 MARKET STREET HOLLINGWORTH SK14 6LN
What is the asset (e.g. public house, local shop)?	PUBLIC HOUSE AND RESTAURANT AND CAR PARK
Asset Owners – include the names and contact details of the current occupants of the land, and the names and current/last-known addresses of all those holding a freehold or leasehold interest in the land:	STAR PUBS AND BARS BROADWAY PARK, 3-4 GYLE BROADWAY EDINBURGH EH12 9JZ [REDACTED] Email: enquiries@starpubs.co.uk
Asset / Land Use – Please can you provide details of the use of land over the past 5 years	PUBLIC HOUSE AND RESTAURANT

Evidence: Asset of Community Value

The Localism Act 2011 defines an asset or land of community value if:
 Its actual or current use (or its use in the recent past) furthers the social wellbeing or social interests of the local community, and
 It is realistic to think that there can continue to be (or it is realistic to think that there is a time in the next 5 years when) non-ancillary use of the building or land that would further the social wellbeing or social interests of the local community.

Confirm why you feel that the aforementioned asset is an asset of community value?	see attached
Can you provide evidence of this?	see attached

Name of person authorised to sign on behalf of the organisation:	
Position/status in the organisation:	
Date:	19 JUNE 2016
Signature:	

Friends of Hollingworth

Friends of Hollingworth is a community based organisation set up officially in June 2015, initially to raise funding for a Christmas Tree, although as a loosely affiliated group had previously considered issues affecting Hollingworth. The support that this project generated was such that it was decided that the Group could achieve much more for the local community. Accordingly the Group's aims and objectives have been refocused to embrace and consider any aspect which could improve and enhance the social fabric of Hollingworth.

The group has an elected Chairman and committee which sets the agenda for the monthly meetings which take place in the Gun Inn, and which are well attended typically by up to 30+ local residents.

Matters with which Friends of Hollingworth have been, and are currently active include:

- 1) Opposition to the proposed development of the Organ Public House site by Frederick Robinson & Co.
- 2) The acquisition and erection of a permanent Christmas Tree.
- 3) Litter picking across the whole of Hollingworth.
- 4) Researching the Common land status of Wedneshough Green.
- 5) Liaison with Star Pubs and Bars concerning the development of the Gun Inn.
- 6) Floral displays in and around the village.
- 7) Involvement of the local schools in local activities.
- 8) Planning for Christmas Fairs as an annual event.
- 9) Participation in the annual Festival on the Green.
- 10) Historical research into the Albion Mill site.

- o **Gun Inn: Reasons for Nomination**
- Not long ago Hollingworth had four Public Houses which collectively served the local community providing, as their main use, locations within walking distance, for the residents of Hollingworth to gather together for social and recreational purposes. The facilities provided by these four Public Houses, historically encouraged social cohesion and fostered a community spirit.
- Now there are only two. Furthermore there are no Public Houses in Mottram village anymore and the Roe Cross has been converted from a Public House to a Garden Centre/Cafe Bistro . Whilst it is acknowledged that there is a drinking establishment at the Hattersley/M67 roundabout, this essentially services the needs of the transient residents of the Premier Inn.
- The facilities provided by Gun Inn are a diminishing resource and need therefore to be protected or the social wellbeing and interests of the Hollingworth community will be at risk.
- o **Evidence to Support:**
- o There are currently several disparate groups which use the amenities of the Gun to facilitate their diverse activities:
 - o The Friends of Hollingworth for Committee and monthly meetings
 - o Bowfell Property Management Company Ltd. for Director and Annual General Meetings.
 - o Hollingworth Patient Participation Group.
 - o Festival on the Green for committee meetings.
 - o The Pudding Club for regular meetings.
 - o The Labour Party
 - o Friends of Etherow Lodge
 - o These groups have their meetings in the large restaurant area in the upstairs rear of the Gun in order to accommodate the large number of people who attend such meetings and to preserve the degree of confidentiality which such meetings often demand. Currently there is an insufficiency of similar accommodation available in Hollingworth.
- Live music events are often hosted at the pub which brings the whole community together. This enhances people's sense of wellbeing and provides a platform for local artists thus contributing to the local area's cultural heritage. It was the case that the now closed Organ public house on Market Street hosted regular Poetry evenings where local poets came together in a mutually respectful environment. No similar facility currently exists in Hollingworth.
- o The Gun Inn regularly hosts Charity and worthy causes fundraising events which to foster a good community spirit.

(6)

- Apart from the Gun, there are two restaurants which cater for the "sit down" diner. The only other remaining public house in Hollingworth offers some degree of "pub grub". The Gun sits comfortably between the two. There is the facility to consume "pub grub" within the downstairs bar area whilst also providing a full sit down restaurant facility in the upstairs rear of the premises. The Gun however is unique in so far as the upstairs restaurant area is separate from the rest of the public house and offers a separate bar area also. This therefore provides for private functions such as weddings, retirements etc to take place within a defined private space without compromising the rest of the public house and is within walking distance for the Hollingworth community.
- The Gun Inn is an historic Eighteenth Century listed building and as such deserves to be categorised as an Asset of Community Value in its own right. Additionally however it is recognised nationally as a local landmark and features regularly in Radio travel broadcasts. The pub is ideally situated as a gateway to the Peak District for walkers and hikers and this combination of vehicular and pedestrian traffic adds significantly to the local economy.
- The Gun Inn provides free car parking which is accessed by the local community particularly for the nearby Smithy Surgery as well as for the pub itself. This relieves congestion on the main Market Street thoroughfare and ensures that families and disabled people can safely access a range of local facilities.