

Dealt with by: Pat Trafford

Our Ref: PST 2014/10

Direct Dial: (01538) 395551

Your Ref:

Email: pat.trafford@staffsmoorlands.gov.uk

Date: 15th April 2015

Dear Councillor,

Delegated Decisions Register

Please find enclosed a copy of the following report that is to be considered by the relevant Portfolio Holder:-

| Decision Reference | Title |
|---------------------------|---|
| 2014/10 | Addition of The Holly Bush Inn, Brown Edge to the Local Heritage List |

If you wish to submit any comments, please forward them in writing **to the Portfolio Holder**, with a copy to the Officer who wrote the report, **prior** to the date the decision will be taken, which in this case will be no sooner than **22nd April 2015**.

If you require any further information, please do not hesitate to contact me.

Yours sincerely,

Pat Trafford

Pat Trafford
Member Services Officer

Encs.

STAFFORDSHIRE MOORLANDS DISTRICT COUNCIL

Report to the Portfolio Holder for Planning, Development and Property

15th April 2015

| | |
|--------------------------|--|
| TITLE: | Addition of The Holly Bush Inn, Brown Edge to the Local Heritage List |
| PORTFOLIO HOLDER: | Councillor Wain – Portfolio Holder for Planning, Development and Property |
| CONTACT OFFICER: | Name of Officer – Gill Bayliss |
| WARDS INVOLVED: | Brown Edge and Endon Ward |

Appendices Attached

Appendix A – Letter of Objection from Shoosmiths Solicitors on behalf of the owner.

1. Reason for the Report

- 1.1 To add The Holly Bush Inn, Brown Edge, to the Staffordshire Moorlands Local Heritage Register (the local heritage list). An Article 4 Direction was served on this property in recognition of its local building merit. The building is considered worthy of addition to the local heritage list and if this is accepted it will be possible for an Article 4 Direction to be confirmed - a matter for the Planning Applications Committee. The effect of the Article 4 Direction would be to require planning permission to be obtained should there be a proposal to demolish the premises.

2. Recommendation

- 2.1 That The Holly Bush Inn, Brown Edge is added to the Staffordshire Moorlands Local Heritage Register.

3. Executive Summary

- 3.1 Supplementary Planning Guidance on the Local Heritage Register was adopted by the Council in February 2008. This enables non-designated heritage assets to be added to a list to acknowledge their contribution to the local distinctiveness of the Staffordshire Moorlands.

- 3.2 A request was received from Brown Edge Parish Council to add The Holly Bush Inn, Brown Edge, to the local heritage list following the District Council receiving Notice of an intention to demolish the premises in September 2014. The addition of the property to the local list would enable an Article 4 Direction to be confirmed which would prevent the demolition of the property unless full planning approval were obtained. Without an Article 4 Direction, Permitted Development rules allow demolition subject to a prior notification to the Local Planning Authority in which there are only limited grounds to resist demolition. An Article 4 Direction was made on the 11th November 2014. This would expire within 6 months unless confirmed during this time.
- 3.3 The process to include a building on the local list requires assessment against the published selection criteria of the Supplementary Planning Document (SPD), consultation, and reporting to Conservation Liaison Panel. Conservation Liaison Panel considered the request in February 2015 and recommended that the building be added to the local list. Whilst the SPD provides for Cabinet to determine additions to the local list, it is equally an appropriate matter for delegated approval and due to the constraints of the meeting schedules in the run up to the May elections the delegated route is used.

4. **How this report links to Corporate Priorities**

- 4.1 This report reflects two of the Council's four key priority aims:
- To support economic development and regeneration - delivering "high quality development control";
 - To protect and improve the environment.

The Council's overarching vision is to achieve excellence in the delivery of services "that meet the needs and aspirations of our communities". There is strong community support and demand for measures that retain The Holly Bush Inn. The Holly Bush Inn has also separately been added to the Council's register of assets of community value under Delegated Decision reference 2013/06 (Communities Portfolio).

5. **Options and Analysis**

Option 1

- 5.1 To include The Holly Bush Inn on the Staffordshire Moorlands Local Heritage Register. Recommended. The Staffordshire Moorlands Conservation Liaison Panel considers and recommends that the building should be added to the local list. English Heritage commented in the course of considering the premises for national Listing that whilst not meeting the national criteria, "the building is undoubtedly of local interest, due to its long service as a public house, and as a valued local amenity".

Risks: There are not considered to be any direct risks to the Council as a consequence of this option. The designation confers an additional material consideration in the determination of any planning application.

- Option 2
- 5.2 To not include The Holly Bush Inn on the Staffordshire Moorlands Local Heritage Register. Not recommended. The building meets the Council's criteria for local listing and its addition to the local list is recommended by the Council's Conservation Liaison Panel. To not include on the local list would be to neglect a key means by which a Local Planning Authority can be expected to help safeguard a building of recognised local interest and acknowledged community value.

Risks:

If not accepted on the Local List the Article 4 Direction, provisionally served for a six months period, would not be confirmed and would lapse. As there is strong community support for the local listing, dissatisfaction and criticism from the local community could be anticipated on grounds that the Council had not used its full powers in the public interest if the listing was rejected and the Article 4 Direction therefore unable to be confirmed. There would be increased risk of the loss of a building with historic, architectural and community value.

6. Implications

6.1 Community Safety - (Crime and Disorder Act 1998)
None

6.2 Workforce
None

6.3 Equality and Diversity/Equality Impact Assessment
Compiled in compliance.

6.4 Financial Considerations
None identified

6.5 Legal
None

6.6 Sustainability
Local heritage listing is both an appropriate, and here, a necessary means of achieving sustainability in Planning in accordance with the Core Strategy and the National Planning Policy Framework.

6.7 Internal and External Consultation
The proposed local listing has arisen from the public consultation accompanying a Notice of Demolition received by the Council in respect of the Holly Bush Inn in September 2014. The Brown Edge Parish Council consulted with English Heritage who in turn supplied a detailed report which identified "undoubted local interest". There were some 38 representations objecting to the notice of demolition. Consultation has also taken place with the owners and the Council's Conservation Liaison Panel. The Liaison

Panel recommends addition to the local list (see 7.6). The owners raise objections (see Appendix A and discussion at 7.5, 7.7 and 7.8).

- 6.8 Risk Assessment
As considered at paragraph 5.1 and 5.2

Robert Weaver
Head of Regulatory Services

| Web Links and Background Papers | Location | Contact details |
|---|---|---|
| Good Practice Guide for Local Heritage Listing - English Heritage | https://content.historicengland.org.uk/images-books/publications/good-practice-local-heritage-listing/local-listing-guide.pdf/ | Gill Bayliss Senior Conservation Officer E-mail: gillian.bayliss@staffsmoorlands.gov.uk Telephone: |

7. Background and Detail

- 7.1 In February 2008 the Council adopted a Supplementary Planning Document (SPD) for the establishment of a Staffordshire Moorlands Local Heritage Register. Both the National Planning Policy Framework (NPPF) and English Heritage encourage local planning authorities to set out a positive strategy for the conservation of the historic environment and to identify heritage assets to conserve the historic character and distinctiveness of their areas.
- 7.2 Notice was received in accordance with Permitted Development regulations of an intention to demolish The Holly Bush Inn, a Public House at 181 High Lane, Brown Edge. The District Council received an objection from Brown Edge Parish Council to this Notice and the Parish Council requested that Permitted Development Rights be withdrawn on the basis of the contribution of the building to the character of the area and its social history. At the same time an application to English Heritage to add the building to the national List of Buildings of Architectural and Historic Interest was made by the Parish Council. Whilst English Heritage considered that the building did not meet its national listing criteria it did conclude that 'The building is undoubtedly of local interest, due to its long service as a public house, and as a valued local amenity.'
- 7.3 The Parish Council requested that the building be added to the local list. This would enable the Council to use an Article 4 Direction to remove Permitted Development rights for demolition. This approach is supported by English Heritage which states that Article 4 Directions may be used to require planning permission for the demolition of non-designated heritage assets (such as buildings on a Local List), by removing the demolition rights under part 31 of the Order.

- 7.4 Council served the Article 4 Direction on 11th November 2014. Confirmation of the Notice has to be made before 11th May 2015 or the Direction will otherwise expire. The six months period has been taken as opportunity to consider the building for addition to the local list.
- 7.5 The owner and occupier of the pub were notified on the 10th February 2015 inviting their views on the nomination of the Holly Bush Inn for the local list. The owner's solicitors responded stating that they were strongly opposed to the proposal and stating that there is no justification for its addition. Their grounds of objection are set out in a letter received dated 24th February 2015, which states inter alia that:
- the building has no inherent historical or architectural value;
 - that it doesn't meet the listing criteria of the Council's SPD;
 - that the English Heritage letter and report dated 21st October 2014 supports the conclusion that the building has no inherent interest.
- 7.6 The Staffordshire Moorlands Conservation Liaison Panel considered the nomination to add the property to the Local Heritage Register at its meeting on the 25th February 2015. The Panel considered that the building met several of the local listing criteria, assessed by reference to the SPD (section 3.2) and the English Heritage Good Practice Guide (May 2012):
- Age and Rarity: the building is pre-1840 and retains a significant part of its historic character;
 - Aesthetic or Architectural Value: the building retains distinctive features including sash windows set in moulded surrounds, chimney, rusticated quoins, decorative eaves and retains its clay tiles;
 - Landmark Buildings: it is prominent in the streetscape;
 - Historical Interest: confirmed by the English Heritage assessment report (21 October 2014) 'The building is undoubtedly of local interest, due to its long service as a public house, and as a valued local amenity'.
- 7.7 Clearly the assertion on behalf of the owner that the building has no inherent historical or architectural value is not borne out by the map evidence and a visual examination of the building exterior. The requirements of the SPD are that the building "should have some special interest" (paragraph 3.2) and this "would include one or more of the following: Architectural interest... Historical interest... Group Value... and Landmark Buildings - particularly prominent buildings in a locality, street or landscape or which contribute to local landscape character." The Conservation Liaison Panel has concluded that the building meets three of the selection criteria and added reference also to age and rarity which head the list of recommended criteria from English Heritage.
- 7.8 The objection on behalf of the owner appears not to recognise that the English Heritage Assessment is primarily concerned with National Listing and that local heritage listing is a separate legitimate process designed to deal precisely with cases such as this in which, whilst not meeting national listing criteria, do nevertheless have defined local interest. The objection further appears not to recognise that the English Heritage assessment does in fact express support for the possibility of inclusion on a local list by its statement in the conclusion of its report that the building "is undoubtedly of local interest".

7.9 The Council's SPD provides for additions to the Local Heritage Register to be determined by Cabinet. However, with the Article 4 Direction set to expire unless confirmed by the 11th May 2015 addition to the Local List also needs to be confirmed in this time and hence delegated authority is sought. The Council's Planning Applications Committee will separately consider the Confirmation of the Article 4 Direction but, in the event of it deciding to confirm the Direction, this will be subject to confirmation of the addition of the premises to the Local Heritage Register, as recommended in this report.

Mrs G Bayliss and Head of Regulatory Services (Planning)
Staffordshire Moorlands District Council
Moorlands House
Stockwell Street
Leek
Staffordshire
ST13 6HQ

2 Colmore Square
38 Colmore Circus
Queensway
Birmingham
B4 6SH
DX 701863 Birmingham 6

T 03700 864000
F 03700 864001

anna.cartledge@shoosmiths.co.uk
T 03700 864190

Delivered: by Post

Your Ref ART/2014/0001
Our Ref AAC ljp
Date 24 February 2015

URGENT

Dear Sir

MATTER: THE HOLLY BUSH INN, BROWN EDGE, STAFFORDSHIRE MOORLANDS ("THE PROPERTY")
OUR CLIENT: PEACOCK GROUP SIPP

We write on behalf of our client, Peacock Group SIPP, in relation to your correspondence dated 10 February 2015 which purports (wrongly) to attach some form of heritage significance to the above property by seeking to add it to The Staffordshire Moorlands Local Heritage List. Clearly, any such addition is strongly opposed by our client and please accept this letter as formal representations against such a listing.

1. Proposal to add the premises to the Local Heritage List

It is unclear as to why the Council would seek to include this building as an addition to the Local Heritage List, given that it has no inherent historical or architectural value, and that it does not meet the criteria as set out in the Council's SPD (on which you are presumably seeking to rely?) That the building has no inherent interest is borne out by the attached letter and report dated 21 October 2014, which confirms English Heritage's position in refusing to list the building and concludes:

"...our opinion is that the evidence provided is sufficient to demonstrate that The Hollybush Inn lacks the architectural and historical special interest which would be necessary for listing"

The correspondence gives absolutely no justification for seeking to add the Property to the Local Heritage List, but goes on to state that *"there is normally a presumption in favour of adopting those that qualify"*. In the circumstances this statement is perverse. No details have been provided to our client as to the grounds on which the Property purportedly meets the "requirements of the selection criteria", or as to whether the Council is now of the opinion that the Property should be added to The Local Heritage List.

We require full reasoning and justification for the proposed addition to the list, along with details as to which of the following four criteria are being relied upon for as justification for the proposed addition; historical value, architectural value, group value and landmark buildings. Furthermore, we will require any surveys commissioned by the Council and details of any site visits carried out. Without this our client simply cannot respond. In the event that the Council has not carried out a full and detailed assessment in advance of seeking to add the premises to The Local Heritage List, then the actions of the Council are an abuse of process.

In the circumstances the Council needs to provide the information requested as an absolute priority. In the meantime and in the absence of any information the panel cannot reasonably or justifiably consider the premises for inclusion on the local list.

Freedom of information request

We have copied this correspondence to the Head of Regulatory Services. Please treat this letter as a formal request for further information under the Freedom of Information Act and disclosure by the Council of all correspondence and documents (including internal file notes and emails) relating to this Property. For the avoidance of doubt this needs to include all such correspondence relating to our client's application for prior approval, the making of the article 4 direction and the proposed addition of the premises to The Local Heritage List. As part of the disclosure we require copies of correspondence requesting that the building be added to the local heritage list (acknowledging that names and addresses may need to be removed). We also require details of any site visits carried out.

Conduct of the Council

The building is not listed, does not sit within a conservation area, and it has no inherent architectural or historic interest. We are deeply concerned at the latest development in what appears to be a series of steps taken and/or supported by the Council in order to frustrate development at this Site. This has been ongoing since our client made an application to the Council for prior approval of demolition of the premises. Such continued and persistent attempts by the authority are not only unreasonable but also represent an abuse of power.

Our client made an application in good faith to the Council for prior approval of the demolition of the premises. However, on receipt of the said application, the Council erroneously sought to impose a requirement on our client to carry out a bat survey prior to demolition taking place. As already stated in our letter dated 22 December 2014 (to which we are yet to receive a substantive response), this is in itself unlawful given that the Council's ability to condition a prior approval should be concerned only with the method of demolition or the proposed restoration of the site.

Notwithstanding that the Council had imposed a requirement which was unlawful, our client duly carried out the bat survey in order to show a willingness to cooperate. Whilst this was being undertaken our client then received notice that an article 4 direction had been made by the Council solely in relation to our client's premises (11th November 2014). Article 4 directions should be made only in exceptional circumstances and where the evidence suggests that the exercise of permitted development rights would harm local amenity or the proper planning of the area. The Council has provided no evidence for the need to make the direction and the direction itself does not identify the potential harm that it is designed to address. Again, this is totally unacceptable.

The Council's ongoing campaign to frustrate development in respect of the premises cannot be said to be reasonable, proportionate or in the public interest. If the Council continues to pursue these matters then it may fall into legal error and clearly there will be cost implications as our client will need to be compensated for the time and money spent to date. Our client is additionally considering a separate formal complaint to the ombudsman.

Yours faithfully



SHOOSMITHS LLP