



## EXECUTIVE DECISION NOTICE

<b>SERVICE AREA:</b>	<b>GOVERNANCE &amp; PENSIONS</b>
<b>SUBJECT MATTER:</b>	<b>APPLICATION FOR GODLEY HALL INN PUBLIC HOUSE, GODLEY, HYDE, SK14 3BL (REF: CA21)</b>
<b>DECISION:</b>	The land known as Godley Hall Inn Public House with reference CA21 be removed from the Council's list of Assets of Community Value.
<b>DECISION TAKER(S):</b>	Sandra Stewart
<b>DESIGNATION OF DECISION TAKER (S):</b>	Director of Governance and Pensions (Borough Solicitor)
<b>DATE OF DECISION:</b>	30 September 2021
<b>REASON FOR DECISION:</b>	<p>The Council has received an application for Godley Hall Inn Public House to be removed from its register of Assets of Community Value. Under the Assets of Community Value (England) Regulations 2012, Regulation 2(b) a local authority must as soon as practicable after receiving information that enables it to do so amend the list of Assets of Community Value to exclude any land that has since it was included in the list been the subject of a relevant disposal (other than an exempt disposal).</p> <p>On the information provided the Council is of the opinion that there has been a relevant disposal of the land (which is not an exempt disposal) and for that reason the land should be removed from the Council's list of Assets of Community Value.</p>
<b>ALTERNATIVE OPTIONS REJECTED (if any):</b>	To refuse to remove the land from the Council's list of Assets of Community Value. To do so would be contrary to the Localism Act 2011 and Assets of Community Value (England) Regulations 2012.
<b>CONSULTEES:</b>	None
<b>FINANCIAL IMPLICATIONS: (Authorised by Borough Treasurer)</b>	There are no immediate financial implications as a result of this report. Where land is listed as an ACV there is provision within the Act for the payment of compensation by the Council to an owner who has suffered loss as a result of listing land as an ACV.
<b>LEGAL IMPLICATIONS: (Authorised by Borough Solicitor)</b>	Under the Localism Act 2011 and the regulations made under it, the Council must make amendments to entries on its list of assets of community value where information comes to its notice to enable it to do so, including removing land where there has been a relevant disposal which is not an exempt disposal. Under the Act and Regulations, the landowner was prevented from making a relevant disposal which is not an exempt disposal without first giving a Community Interest Group the opportunity to bid for the land.



<b>CONFLICT OF INTEREST:</b>	None
<b>DISPENSATION GRANTED BY STANDARDS COMMITTEE ATTACHED:</b>	None applicable
<b>ACCESS TO INFORMATION:</b>	<p>The background papers relating to this report are at Annex A and can be inspected by contacting the Report Writer, Esther Young, Solicitor by:</p> <p> Telephone: 0161 342 3043</p> <p> E-mail: <a href="mailto:esther.young@tameside.gov.uk">esther.young@tameside.gov.uk</a></p>



Signed ..... Dated: 30 September 2021  
**Sandra Stewart – Director of Governance & Pensions**

## EXECUTIVE DECISION REPORT

<b>SERVICE AREA:</b>	<b>GOVERNANCE &amp; PENSIONS</b>
<b>SUBJECT MATTER:</b>	<b>APPLICATION FOR GODLEY HALL INN PUBLIC HOUSE, GODLEY, HYDE, SK14 3BL (REF: CA21)</b>
<b>DATE OF DECISION:</b>	
<b>DECISION TAKER(S):</b>	Sandra Stewart
<b>DESIGNATION OF DECISION TAKER (S):</b>	Director of Governance and Pensions (Borough Solicitor)
<b>REPORTING OFFICER:</b>	Esther Young, Solicitor
<b>REPORT SUMMARY:</b>	The report acknowledges receipt of an application on behalf of the owner of Godley Hall Inn Public House for the land to be removed from the Council's list of Assets of Community Value under the provision of Regulation 2(b) of Assets of Community Value (England) Regulations 2012.
<b>RECOMMENDATION:</b>	The land known as Godley Hall Inn Public House with reference CA21 be removed from the Council's list of Assets of Community Value.
<b>JUSTIFICATION FOR THE DECISION:</b>	<p>The Council has received an application for Godley Hall Inn Public House to be removed from its register of Assets of Community Value. Under the Assets of Community Value (England) Regulations 2012, Regulation 2(b) a local authority must as soon as practicable after receiving information that enables it to do so amend the list of Assets of Community Value to exclude any land that has since it was included in the list been the subject of a relevant disposal (other than an exempt disposal).</p> <p>On the information provided the Council is of the opinion that there has been a relevant disposal of the land (which is not an exempt disposal) and for that reason the land should be removed from the Council's list of Assets of Community Value.</p>
<b>ALTERNATIVE OPTIONS REJECTED (if any):</b>	To refuse to remove the land from the Council's list of Assets of Community Value. To do so would be contrary to the Localism Act 2011 and Assets of Community Value (England) Regulations 2012.
<b>CONSULTEES:</b>	None
<b>FINANCIAL IMPLICATIONS: (Authorised by Section 151 Officer)</b>	There are no immediate financial implications as a result of this report. Where land is listed as an ACV there is provision within the Act for the payment of compensation by the Council to an owner who has suffered loss as a result of listing land as an ACV.

<p><b>LEGAL IMPLICATIONS:</b> (Authorised by Borough Solicitor)</p>	<p>Under the Localism Act 2011 and the regulations made under it, the Council must make amendments to entries on its list of assets of community value where information comes to its notice to enable it to do so, including removing land where there has been a relevant disposal which is not an exempt disposal. Under the Act and Regulations, the land owner was prevented from making a relevant disposal which is not an exempt disposal without first giving a Community Interest Group the opportunity to bid for the land.</p>
<p><b>RISK MANAGEMENT:</b></p>	<p>If the Council decides not to remove the land from its ACV list, the land owner has no statutory right to review the Council's decision but may seek to have the decision reviewed by the courts through Judicial Review proceedings.</p>
<p><b>LINKS TO COMMUNITY PLAN:</b></p>	<p>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.</p>
<p><b>ACCESS TO INFORMATION:</b></p>	<p>The background papers relating to this report can be inspected by contacting the report writer, Esther Young by:</p> <p> Telephone: 0161 342 3043</p> <p> E-mail: <a href="mailto:esther.young@tameside.gov.uk">esther.young@tameside.gov.uk</a></p>

## 1 BACKGROUND

- 1.1 The Localism Act 2011 (“the Act”) and the Assets of Community Value (England) Regulations 2012 (“the Regulations”) provide a legal framework for listing Assets of Community Value.
- 1.2 The Act requires the Council to maintain a list of land in Tameside that is land of community value, known as a list of Assets of Community Value (ACV).
- 1.3 The effect of a property’s inclusion on the list is to require the owner of the property to notify the Council when intending to dispose of a listed asset, so triggering a moratorium period. The moratorium operates so as to prevent certain proposed disposals of the land being made to anyone other than a Community Interest Group (ie. a parish council, a charity or a relevant incorporated body) until several specified conditions are met. These conditions are:
  - (a) the owner has notified the council that he wishes to enter into a relevant disposal;
  - (b) a period of 6 weeks has then passed without the local authority receiving a written request from a Community Interest Group to be treated as a potential bidder for the land (the interim moratorium period) or, if such a request has been made, a total period of 6 months has passed (the full moratorium period); and
  - (c) an 18 month ‘protected period’ starting with the date of the owner’s notification to the local authority, has not ended.
- 1.4 The owner is not compelled at any point to sell the asset to a Community Interest Group; rather he cannot sell it to anyone else within the moratorium period. The owner can sell the property at any price that he can obtain or not at all as the case maybe. There is no obligation whatsoever for the owner to negotiate or deal with the Community Interest Group.
- 1.5 There are various requirements imposed by the Act and the Regulations as to what the ACV list should contain. Once land is listed as an ACV, the entry in principle stays on the list for 5 years from the date of the entry, but the intention is that a local authority will keep the list up to date if circumstances change. Land can be removed from the list sooner than five years if permitted or required by the Regulations (Section 87(3) of the Act).
- 1.6 Regulation 2 requires a local authority as soon as practicable after receiving information that enables it to do so to make the following amendments to an entry on the list. Amend or, as the case may be, remove the entry so as to exclude any of the land that has since it was included in the list been the subject of a ‘relevant disposal’ other than one referred to in section 95(5) of the Act.
- 1.7 A ‘relevant disposal’ is one of the following:
  - (a) A disposal of the freehold estate in land with vacant possession;
  - (b) A grant or assignment of a ‘qualifying leasehold estate’ in land with vacant possession. A ‘qualifying leasehold estate means an estate by virtue of a lease of the land for a term which, when granted, had at least 25 years left to run.
- 1.8 If a relevant disposal is made in pursuance of a binding agreement to make it, the disposal is entered into when the agreement becomes binding.
- 1.9 Exempt disposals referred to in section 95(5) of the Act are disposals excluded entirely from the notification and moratorium requirements. For example; a disposal by gift, by personal representatives of a deceased person, a disposal to a family member, the disposal of a business as a going concern or certain disposals by trustees and partners in a partnership.

- 1.10 The effect of Regulation 2 is said to be that where the community has had the opportunity to use the moratorium rules in relation to a particular disposal, the land will be removed from the list once a local authority is requested to do so.

## **2. APPLICATION FOR THE REMOVAL OF GODLEY HALL INN FROM THE ACV LIST**

- 2.1 The Godley Hall Inn (the 'Property') was added to the register of Approved ACV Applications on 1 July 2020 following a nomination by Save the Godley Hall Inn Community Group. The Council received notification on 13 July 2020 that the owner of the land intended to enter into a relevant disposal of the Property. A copy of the notification and acknowledgement is at **A1 – A5** of the bundle of documents annexed.
- 2.2 The notification triggered an initial moratorium period of 6 weeks lasting until 24 August 2020. Correspondence was sent to representatives of Save the Godley Hall Inn Community Group to notify them and a notice was published in the Tameside Reporter newspaper in accordance with the requirements of section 97 of the Act. See **A6 – A10**. The AVC register published on the Council's website at [Assets of Community Value \(tameside.gov.uk\)](https://www.tameside.gov.uk/assets-of-community-value) was updated to include details of the moratorium periods which would apply.
- 2.3 During the initial moratorium, the Community Group wrote to confirm they wished to be treated as a potential bidder for the Property. This was considered sufficient to trigger the full moratorium lasting until 13 January 2021 during which the owner could only enter into a relevant disposal of the Property with a community interest group. The 'protected period' would then last until 13 January 2022. The correspondence relating to this with the Community Group and the Owner's representative is at **A11 – A14**.
- 2.4 A disposal to the Community Group did not take place during the full moratorium. In February 2021, the Solicitor acting on behalf of the Property owner contacted the Council requesting clarity on the requirements and procedure for the Property to be removed from the ACV list following completion of a relevant disposal. On 9 March 2021 the Solicitor confirmed that contracts for the sale of the Property had exchanged and completion was due to take place on 12 March 2021. A copy of the email exchange is at **A15 - A20**.
- 2.5 On 10 June 2021 the Council received a letter from Thompson & Cooke Solicitors, acting on behalf of Central Park (Manchester) Limited referring to an earlier letter dated 23 March 2021 and requesting confirmation that the property had been removed from the ACV list. Legal Services made contact with the Solicitor to request a further copy of the letter dated 23 March 2021 and a copy of the Transfer to the Purchaser. The letter dated 23 March 2021 (received on 14 September 2021) confirmed that there had been a relevant disposal other than an exempt disposal which completed on 12 March 2021. A copy of the Transfer was provided on 14 September 2021 showing that the freehold of the Property had been transferred to Central Park (Manchester) Limited on 12 March 2021. A copy of the correspondence and transfer is at **A21 – A30**.
- 2.6 The Council can therefore be satisfied that there has been a relevant disposal other than one referred to in section 95(5) of the Act following the end of the full moratorium period and during the protected period.

## **3. PROCEDURE FOLLOWING REMOVAL OF AN ACV FROM THE REGISTER**

- 3.1 If land is removed from a local authority's ACV list, the Council must give notice to the owner and any occupier of the land, and the person who made the nomination but is not required to consult prior to making a decision. The notice must state the reasons for the removal.

- 3.2 The nominator has no formal right to appeal a decision to remove a Property from the Council's ACV register. However as a decision of a public body any decision could be challenged by judicial review if the correct procedures have not been followed, or the decision made is either irrationally or disproportionate. There is also nothing in the ACV provisions which would prevent a fresh nomination of land being made either immediately or in the future.

#### **4. RECOMMENDATIONS**

- 4.1 As detailed at the front of the report.