

REPORT TO: EXECUTIVE

Date: **7TH JANUARY 2019**

**TOPIC: COMPULSORY PURCHASE – THE WHITE HART,
BRATTON FLEMING**

REPORT BY: HEAD OF CORPORATE AND COMMUNITY

1 INTRODUCTION

- 1.1 The Council has been requested to consider the use of compulsory purchase powers in respect of The White Hart, Bratton Fleming (“the premises”).
- 1.2 The request follows the successful listing of the premises as an Asset of Community Value. Negotiations between the freehold owner and a community group have not been successful as there are substantial differences in opinion regarding the value.
- 1.3 The community group would therefore like the Council to consider compulsory purchase of the premises in order to allow the premises to be used by the community.

2 RECOMMENDATIONS

- 2.1 That Executive consider whether it wishes to explore the use of compulsory purchase powers in this instance.

3 REASONS FOR RECOMMENDATIONS

- 3.1 To allow officers to explore the use of compulsory purchase powers and to commence preparation for the exercise of those powers in advance of a further report to Executive.

4 REPORT

- 4.1 The Localism Act 2011 introduced the regime relating to Assets of Community Value (“ACV”). Under this system, community groups can nominate assets that they feel have a community value. If the local authority agree, the asset is included on a list for a period of 5 years. During that time, if the freehold owner wishes to sell the asset, the community group must be given an opportunity to be treated as a bidder.
- 4.2 The legislation does not however impose a duty on the freeholder to sell the asset to the community group and nor does it specify the consideration for any sale.

- 4.3 In this case, the premises has been listed as an ACV as a result of its past use as a public house providing community use. At the time of listing the premises was however closed and that position remains at the current time.
- 4.4 The freeholder has indicated his intention to dispose of the asset. In turn, the community group indicated that it wished to be treated as a potential bidder. It is unclear what actual negotiations have taken place between the two parties but what is clear is that no agreement is likely to be reached on the value of the premises and so it is highly unlikely that a sale to the community group will take place.
- 4.5 In the past few years, the freeholder has also submitted planning applications involving elements of residential development which have been refused. The community group remain concerned that the community use will be lost through development at some stage.
- 4.6 There are various legislative provisions that give a local authority power to compulsorily purchase land and buildings. None of those powers are specific to ACVs however but the most likely power that could be used is under section 226 of the Town and Country Planning Act 1990.
- 4.7 That section allows a local planning authority to compulsorily purchase land where the LPA consider that the purchase will facilitate the carrying out of development, re-development or improvement of the land or in the interests of proper planning of the area.
- 4.8 A more general power exists under the Local Government Act 1972.
- 4.9 Guidance on the use of compulsory purchase powers has been issued and this sets out some expectations from the exercise of such powers. As an example, it is expected that the use of compulsory purchase powers should only take place where there is a compelling case in the public interest. There is also an expectation that steps will have been taken to attempt to purchase the land voluntarily.
- 4.10 Importantly, there will be an expectation that the Council will be able to show that it has a clear idea of how the land will be used following purchase and that resources are available to achieve that purpose.
- 4.11 Specific guidance is provided where it is intended to use the powers in order to purchase an ACV. This states that local authorities should consider all requests from community groups to use the powers and should provide a formal response. The guidance goes on to state that the local authority should be able to show that the costs of the scheme can be financed, including the compensation payable together with the costs of making the order etc, either from its own resources or with a contribution from the community group.
- 4.12 The local authority should also ascertain the value of the asset to the community, the effect of bringing it back into use, the perceived threat to the asset, the future use of the asset and who would manage it, any planning issues and how the purchase would be financed.

4.13 Before the Council decides whether to proceed and use its powers, there are clearly a number of issues to consider as set out above. This report does not seek a decision to proceed with a CPO but instead is looking for an indication from Executive as to whether it wishes officers to explore the option further. In exploring the options, the officers will seek further information that will enable any further report to deal with the above considerations in full.

5 RESOURCE IMPLICATIONS

5.1 There will be resource implications in progressing this matter or in exploring it further but these will be managed through existing budgets and resources.

6 EQUALITY and HUMAN RIGHTS

6.1 Progressing with a CPO will involve the Council's Equality duty and will also involve an interference with the freeholders human rights. All of these issues would need to be balanced into the decision if the request proceeds.

7 CONSTITUTIONAL CONTEXT

Article and paragraph	Appendix and paragraph	Referred or delegated power?	A key decision?
Annexe 3 Part 4		Delegated	No

8 BACKGROUND PAPERS

8.1 List of background papers (but not including published works or those that disclose exempt or confidential information (as defined in rule 10 of appendix 15 (Access to Information Procedural Rules) and the advice of a Political Advisor/Assistant):

Guidance
ACV papers

Background papers will be available for inspection and will be kept by the author of the report.

9 STATEMENT OF INTERNAL ADVICE

9.1 The author (below) confirms that advice has been taken from all appropriate Councillors and officers.

Executive Member: Author: Ken Miles

Date: 17 December 2018

Reference: \\w2knddc.ad\data\CivicCentre\Units\Corp
Comm\Democratic\Committee\Reports\Executive\2019\2019.01.07\2019.01.07 CPO White
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