



WARDS AFFECTED: ALL WARDS

1. PURPOSE OF REPORT

- 1.1 To seek Members approval of the Community Right to Bid (Assets of Community Value) Policy that deals with nominations for and listing of assets of community value, as introduced by the Localism Act 2011.

2. RECOMMENDATION

- 2.1 That Council approves the proposed Community Right to Bid (Assets of Community Value) Policy as attached to the report at Appendix 1;
- 2.2 That Council delegates authority to officers to deal with nominations of assets of community value as detailed within the policy and summarised at paragraph 3.8 of the report;
- 2.3 That Council delegates the authority to the Legal Services Manager to make any minor amendments or amendments as required due to a change in the legislation to the Policy as required from time to time.

3. BACKGROUND TO THE REPORT

- 3.1 The Community Right to Bid is government policy which came into force on 21st September 2012, introduced through the Localism Act 2011. Under s87 the council is required to maintain a list of assets of community value. To facilitate this guidance suggests that each authority adopt a policy for dealing with the process.
- 3.2 Land may only be included on the list of assets of community value in response from a nomination from parish councils' and qualifying community groups. Nominations must be in a set format and include certain things to be valid. Valid applications are assessed against the criteria contained in the Localism Act 2011 and, if it is agreed that the asset meets this criteria, it will be held on a list maintained by the council.
- 3.3 The full process for dealing with a request for listing is as set out at appendix 2 to the report.
- 3.4 If land is listed as an asset it will mean that it is afforded the protection from sale through the requirement for the owner to have a 6 month stand still period before it sells in order to allow for qualifying bodies to bid for the land. A summary of this process, known as a moratorium, is attached at appendix 3 to the report. There are a number of exemptions from the moratorium rules which are set out within 95(5) of the Localism Act 2011 and Schedule 3 to the Asset of Community Value (England) Regulations 2012.
- 3.5 The Community Right to Bid aims to provide community groups with a fair opportunity to bid for community buildings or facilities put up for sale that are

important to them so that they can be kept in public use. This can include both public and private assets.

3.6 The proposed policy has been based closely on the non-statutory guidance issued by the Department for Communities and Local Government. There are however a number of key points in relation to the legislation, as reflected in the policy, which should be noted:

- Only bodies defined in the legislation can nominate land to be included in the list. These are detailed fully within the policy at section 2.
- Only bodies defined in the legislation can bid for an asset on the list during any moratorium. These are detailed in the legislation.
- Once listed land remains on the list for a period of 5 years.
- If an owner requests a review by the council each party bears their own costs
- Following a review the owner (if the land remains listed) may apply to the Tribunal to appeal the decision within 28 days from the date on which the review decision was sent to the owner.
- The scheme provides for various mechanisms to encourage compliance by requiring local authorities to:
 - Inform owners and other interested parties that an asset has been listed
 - enter on the local land charges register the fact that an asset has been listed; and
 - in the case of registered land, apply for a restriction on the Land Register.
- Where owners fail to comply with the process in relation to a listed asset, non-compliant sales will be void (ineffective) so that the change in ownership has not taken place.
- Listing land does not restrict to who and at what price the land can be sold by the owner.
- Listing land does not confer a first right of refusal on the qualifying bodies.
- A listing does not restrict what the owner can do with the land so long as it remains in their ownership. It is up to the authority to decide if the fact a piece of land is listed is a material consideration.

3.7 **Compensation:**

The legislation recognises that these provisions may have some financial impact on owners and provides a compensation scheme for private property owners.

The council is responsible for administering the compensation scheme, including assessing and determining compensation awards. The Regulations specifically provide that this will include a claim arising from a period of delay in entering into a binding agreement to sell which is wholly caused by the interim or full moratorium period; or for legal expenses incurred in a successful appeal to the Tribunal.

The right to claim compensation is time limited.

The cost of paying compensation has been reflected by central government in the estimated costs of compensation within the new burdens funding. The compensation elements of new burdens funding are estimated on the basis of 40

successful claims for compensation across all administering local authorities over a year.

The Government will also meet costs of compensation payments where an authority makes over £20k of compensation costs in a financial year. This could occur through the council paying out over £20k in one financial year either on one large claim or as a combined total on a number of smaller claims.

- 3.8 In order to ensure that the process is carried out within the statutory timelines the following delegations are proposed in order to allow the effective implementation of the policy and procedure:

Officer(s)	Delegation
Estates and Asset Manager (or nominee) Policy & Regeneration Manager Legal Services	Validation of applications Determination of the initial application
Chief Officer (Corporate Governance & Housing Repairs) in conjunction with Legal Services	Validation of an application for a review Determination of the application for a review
Estates and Assets Management Department	Maintain: <ul style="list-style-type: none"> - Asset of Community Value Register - Register of land not listed
Chief Officer (Corporate Governance & Housing Repairs) in consultation with Legal Services Manager	Conducting proceedings for an appeal against a listing
Accountancy Manager in consultation with the Legal Services	Validation of applications for compensation Determination of applications for compensation
Chief Officer (Finance, Customer Services & Compliance) in consultation with the Legal Services	Determination of applications for a review of a compensation decision
Chief Officer (Finance, Customer Services & Compliance) in consultation with Legal Services Manager	Conducting proceedings for an appeal against a compensation decision
Chief Officer (Finance, Customer Services & Compliance)	Applications to recoup compensation over and above £20k

4. FINANCIAL IMPLICATIONS [KP]

- 4.1 As outlined in section 3.7, the Council may be required to fund compensation payments up to £20,000 per annum. Any payments exceeding this value will be reimbursed by Government. In order to manage this process, the Council has been awarded £8,550 in New Burdens funding for this purpose for 2013/2014 and 2014/2015. This funding remains unspent. Any further compensation payments will

be required to be funded from the General Fund following a supplementary budget approved in line with Financial Procedure Rules.

5. LEGAL IMPLICATIONS [EH]

5.1 Contained within the body of the report.

6. CORPORATE PLAN IMPLICATIONS

6.1 This report contributes towards the corporate aim of creating a vibrant place to work and live.

7. CONSULTATION

7.1 The service areas and officers as detailed within the policy.

8. RISK IMPLICATIONS

8.1 It is the Council's policy to proactively identify and manage significant risks which may prevent delivery of business objectives.

8.2 It is not possible to eliminate or manage all risks all of the time and risks will remain which have not been identified. However, it is the officer's opinion based on the information available, that the significant risks associated with this decision / project have been identified, assessed and that controls are in place to manage them effectively.

9. KNOWING YOUR COMMUNITY – EQUALITY AND RURAL IMPLICATIONS

9.1 This policy provide parish councils and other community groups with a tool to assist in safeguarding of community assets and facilities within their areas.

10. CORPORATE IMPLICATIONS

10.1 By submitting this report, the report author has taken the following into account:

- Community Safety implications
- Environmental implications
- ICT implications
- Asset Management implications
- Human Resources implications
- Planning Implications
- Voluntary Sector

Background papers: Localism Act 2011

Asset of Community Value (England) Regulations 2012

Community Right to Bid: non-statutory advice note for local authorities (DCLG) 4.10.12

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