

Committee:	Executive	Agenda Item No.:	10.
Date:	8 th April 2013	Status	Open
Category	Decision within the functions of Executive		
Subject:	Community Right to Bid		
Report by:	Senior Principal Solicitor		
Other Officers Involved			
Director	Solicitor to the Council		
Relevant Portfolio Holder	Councillor A. Syrett, Portfolio Holder for Social Inclusion		

RELEVANT CORPORATE AIMS

Customer Focused Services- this will provide a means to comply with the requirements of the Localism Act 2011 relating to administering a list of assets of community value and the processes resulting from a listing

TARGETS

None

VALUE FOR MONEY

N/A

THE REPORT

This report explains the statutory obligations imposed by the Localism Act 2011 in respect of what is commonly known as the Community Right to Bid. The relevant provisions of the Localism Act, which came into force on 21st September 2012, are contained within Chapter 3- Assets of Community Involvement.

The purpose of the Community Right to Bid is to seek to ensure that important assets remain in public use and stay as part of community life as it is considered that the closure of these assets can create lasting damage to the communities where they are situated. The types of property that are covered by the act are not just municipal buildings but include other buildings used by the community, such as shops and public houses.

There are two central strands to the Community Right to Bid. Firstly is the creation and management of a list of assets of community value and secondly the impact of a listing on the owner of the asset. This report will now look at each strand in more detail. The report also explains the financial consequences of the Community Right to Bid.

LIST OF ASSETS OF COMMUNITY VALUE.

District Councils are now required to maintain a list of assets of community value. Assets are placed on the list following a nomination by a parish council or community group provided the property meets the criteria set out by the legislation. It will be for the District Council to determine this and will have 8 weeks to do so.

What is an asset of community value? It is land or building the use of which furthers or has recently furthered the social well being of the local community including its cultural, recreation and sporting interests.

There are a number of properties that are exempt from being included on the list, e.g. residential properties, caravan sites and land used by statutory undertakers.

When a nomination is made the District Council will need to consider whether the land meets the criteria for an asset of community value. If it does it will be placed on the list, however the landowner will have a right of appeal. If the nomination is unsuccessful the property will be listed on a separate list known as the list of land nominated by unsuccessful community nominations.

A landowner dissatisfied with a listing has the right of appeal to the General Regulatory Chamber of the First-Tier Tribunal.

Entries on the List of Assets of Community Value must remain on the list for five years.

Both lists must be published and made available for free inspection.

If the property is placed on the list the District Council must also place the asset on the local land charges register and, if the land is registered, apply for a restriction on the Land Register which safeguards against a disposal being made without compliance with the Act.

THE CONSEQUENCE OF A LISTING

A landowner may not dispose of a property that is listed as an asset of community value without first notifying the District Council. The District will then notify whoever initially nominated the property as an asset and update the list. There then follows a six week period during which community bodies may express an interest in bidding for the property. If no expressions of

interest are received the landowner is free to dispose of the property. If a community body does register its interests then the owner may not dispose of the property until 6 months from the date he/she notified the Council of his/her intention to sell, although he/she is free to negotiate and market the property as he/she sees fit. The owner however may sell the property during this period to the community body who expressed an interest or any other body who could have expressed an interest.

Community Right to Bid does not restrict in any way who the owner of a listed asset can sell their property to, or at what price. They also do not confer a right of first refusal to community interest groups. There is therefore no guarantee that the property will remain a community asset. However the legislation at least gives community bodies an opportunity to raise the capital in order to bid for the asset.

Not all disposals will be subject to the notification and moratorium provisions. The disposals that are exempt are contained in the Act and the Assets of Community Value (England) Regulations 2012, Examples of exempt disposals are gifts, disposal by a personal representative in accordance with a will and sale of business property at the same time as the sale of the business as going concern.

FINANCIAL CONSEQUENCES

Private owners may claim compensation from the Council for loss and expense incurred through the asset being listed or previously listed. This includes 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. If the District Council refuses a claim for compensation the owner may appeal to the Tribunal.

The government will meet the Council's compensation costs exceeding £20,000 in any financial year however the District Council is responsible for compensation below that amount. New burdens funding for the Community Right to Bid received for 2012/13 is £4,873 and it is anticipated that we will continue to receive a payment up to and including 2015/16 although the precise amounts are yet to be determined.

Another financial implication will be the cost of obtaining title documents from the Land registry and registering a restriction at the Land Registry which at current Land Registry rates will be £26.00.

ISSUES/OPTIONS FOR CONSIDERATION

It is proposed that the Director of Development be the nominated officer to deal with all issues relating to the Community Right to Bid and he be delegated powers accordingly.

IMPLICATIONS

Financial: As set out in the report

Legal: Ensuring compliance with Part 3 of the Localism Act 2011

Human Resources: Staff time needed to maintain the lists, to deal with nominations and appeals and to register as local land charge and at the Land Registry

RECOMMENDATIONS

- 1. To note the statutory obligations imposed by the Localism Act 2012 relating to Assets of Community Involvement;**
- 2. That delegated powers be granted to the Director of Development in consultation with the Leader and Deputy Leader of the Council to make decisions on any matter the Council is required to make a decision on in relation to Part 3 Chapter 3 (Assets of Community Involvement) of the Localism Act**

REASON FOR DECISION TO BE GIVEN IN ACCORDANCE WITH THE CONSTITUTION

In order that the Council has procedures on place to comply with the provisions of the Localism Act 2011.

ATTACHMENTS: None
FILE REFERENCE: N/A
SOURCE DOCUMENT: N/A