



Haringey Council

Report for:	Cabinet 18 th Dec 2012	Item Number:	
Title:	Assets of Community Value (Community Right to Bid)		
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Ward(s) affected: All	Report for Key/Non Key Decisions: Key Decision		

1. Describe the issue under consideration

- 1.1. The Localism Act 2011 introduced the Community Right to Bid (CRtB), which came into force on 21 September 2012. The Right requires local authorities to maintain a list of 'Assets of Community Value'. Local community groups will be able to nominate local buildings, and, if the nomination is accepted by the local authority, it will be listed; then, when it is put up for sale, the group will have to be informed and will be given time to prepare with a bid.
- 1.2. The Department for Communities and Local Government have not issued statutory guidance however an advice note was published on 4 October, 2012.
- 1.3. This report outlines how the responsibilities under the Act and Regulations can be implemented and seeks delegation of powers to officers to enable the procedures to be undertaken



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2. Cabinet Member introduction

2.1 Legislation requires local authorities to consider nominations for assets of community value under the Community Right to Bid. This paper explains the process by which Haringey will do this.

3. Recommendations

3.1 It is recommended that:

1. Cabinet note the approach to managing the Community Right to Bid pursuant to Regulations under the Localism Act 2011.
2. Cabinet authorise the officers to undertake the functions as specified in Appendix A to this report.
3. Cabinet approve the criteria for assessing nominations as set out in Appendix B.

4. Alternative options considered

4.1 No alternative options. This legislation is now in force and local authorities are required to facilitate the process.

5. Background information

5.1 The Localism Act 2011 imposed a statutory requirement on the Council to administer a system for listing local assets of community value. Details of the scheme are prescribed in Part 5, Chapter 3 of the Localism Act 2011 and The Assets of Community Value (England) Regulations 2012. Officers have developed processes to ensure that the Council is compliant with its statutory duties.

5.2 The CRtB forms part of the Localism Act 2011 and gives community groups, with a local connection, the right to nominate buildings and land as having community value. A full briefing of the requirements and process as set out in the regulations is attached as Appendix C. Haringey is required to consider any nomination. The Council must accept the nomination if the land is in the authority's area, and is considered to be of community value.

5.3 Land is deemed to be of community value if in the Council's opinion:

- The current (non-ancillary) use of the building furthers the social well-being or social interests of the local community, and
- It is realistic to think that there can continue to be a non-ancillary use that will further the social well-being or social interests of the local community.

5.4 Where the above do not apply, but there is a time in the recent past where an actual use of the building has had a community use, or it is realistic to think that there is a time in the next five years that there could be use of the building (whether or not the



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same as before) that would further the social wellbeing or social interests of the local community, this will be considered in the Council's determining of a nomination.

- 5.5 Local authorities must maintain, publish and make available for free public inspection, a list of community assets (and unsuccessful nominations), however, the form and a content of the list is a matter for local discretion. Land is to be removed from the list after five years.
- 5.6 If the owner of a listed asset wants to dispose of the asset, notice must be given to the Council which will trigger a six month moratorium period during which the asset cannot be sold. This window is intended to give community groups an opportunity to organise and raise funds so that they can bid to purchase the asset.
- 5.7 These provisions only apply when the owner wishes to dispose of the asset; there is no compulsion on the owner of a listed asset to sell it. In addition, this is not a community right to buy, only to bid. This means that in some instances the local community may not be the successful purchaser.
- 5.8 The CRtB scheme will cover public and private land. This means that Council property could be listed if the Assessment Panel determines that it meets the criteria. The Council may wish to give further consideration to any impact that this legislation may have on Council assets and any future disposal of such assets. In some instances the Council will be the owner of land that a community wants to nominate. Where this scenario arises, any dialogue by the owner (i.e. Haringey) with the community groups seeking to purchase the land will need to be conducted by appropriate officers operating separately to that of the registration authority – they will be separated by a 'Chinese Wall'.
- 5.9 It should also be noted that owners of listed assets are able to submit a claim to the Council for costs or loss incurred as a direct result of complying with the procedures required under the CRtB. The CRtB could therefore have direct financial implications for Haringey. It is the Council's responsibility for deciding whether and how much compensation is paid, however this is subject to review. The Government has said that it will meet the cost of compensation claims that exceed £20,000 in a financial year, with consideration to follow on funding from 2015 onwards. Further details in respect of financial implications set out in Section 6 of this report.

The Community Right to Bid Process

- 5.10 The proposed approach for allocating functions in respect to managing the process, and proposals for delegated powers, are outlined in Appendix A. The procedure for managing the process including administering nomination and moratorium periods is prescribed in the Localism Act and subsequent regulations and the approach proposed in this report is in line with this. Details of the necessary procedures for managing the Assets of Community are provided in Appendix C.
- 5.11 An overview of functions regarding the CRtB is as follows:
 - a) Planning Policy Team to take the operational lead for managing nominations, the moratorium period and compensation claims. This will include all administrative functions relating to the processes outlined in Appendix C.



- b) Assessment of nominations and compensation claims to be overseen by an assessment panel. It is proposed that this panel is chaired by the Director of Place and Sustainability, or nominated officer and attended by the Head of Legal Services, or nominated officer and the Head of Strategy and Business Intelligence, or nominated officer. The panel may invite other officers with specific expertise to attend as appropriate to advise though all determinations will be vested in the officers with delegated authority.
- c) A review of decisions taken in respecting of listing land as a community asset or in respect of compensation claims requested by the owner of the asset must be undertaken by an officer of appropriate seniority not involved in the initial determination. It is proposed that this officer is the Assistant Chief Executive.

Assessing Nominations

- 5.12 Officers have developed criteria to aid the assessment of nominations; this is attached as Appendix B. The criteria follow the regulations and outline all of the areas that must be considered. Where further clarification is required officers should refer to the Localism Act 2011 (Part 5, Ch. 3) and the Regulations (Statutory Instrument: 2012 No. 2421). The government have also published a non-statutory advice note for local authorities. As stated in section 6 of this report, it is also recommended that an officer from Legal Services is included as a member of the assessment panel to provide advice on application of provisions in the Act and Regulations.
- 5.13 It is proposed that the decisions to accept or reject nominations should be taken by officers. The rationale for this is that the process for managing Assets of Community value is largely procedural and prescribed in Regulations. Appendix A outlines how responsibility for decision-making would be allocated.
- 5.14 The process of designating as asset of community value set out in the regulations is very prescriptive and consequently the approach proposed in this paper reflects that set out by other London boroughs and authorities around the country.
- 5.15 Nominations will be assessed in their appropriate context in line with the Council's key priorities and policies, and taking account of future planning and regeneration proposals on that land.



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6. Comments of the Chief Finance Officer and financial implications

- 6.1 The Council is likely to incur significant additional costs as a result of the need to compile and maintain the list of Community Assets, as well as managing the process of deciding on nominations, dealing with appeals and processing compensation claims. Although the number of claims that will be made can only be estimated at this stage, the Council will be required to produce the initial list in any case and if the Council fails to manage the process correctly it could leave itself at an increased risk of compensation claims or legal challenge. The resource impact of these changes is dealt with as part of the 2013-14 budget process.
- 6.2 If a number of community groups do make nominations and seek to try to raise the funds to purchase a community asset then the Council may well find itself in the position of funding compensation claims from owners due to delays in sales, for any cases where compensation is below the £20,000 minimum limit that will be funded by Central Government. At this point in time it is impossible to estimate how often this will happen.
- 6.3 The Council is not able to claim compensation on any of its own disposals that are delayed due to a nomination, and thus there is a risk the Council will suffer a loss in the form of both reduced and delayed capital receipts which are essential to support the capital programme. There may also be impacts on the timing of regeneration projects if assets affected are within the boundaries of proposed projects

7. Head of Legal Services and legal implications

- 7.1 The Head of Legal Services has been consulted in respect of the establishment of the procedures to handle all aspects of assets of community value and is satisfied that those recommended comply with the requirements of the Localism Act and the attendant Regulations. There are no other immediate legal implications arising from the report.

8. Equalities and Community Cohesion Comments

- 8.1 The Council will need to be mindful of the Public Sector Equality Duty (PSED): s149 Equality Act 2010 when considering nominations for community buildings.

9. Head of Procurement Comments

NA

10. Policy Implication

- 10.1 The Assets of Community Value (Community Right to Bid) provisions form part of a series of community rights introduced by the Localism Act. These include the Community Right to Challenge, the Community Right to Build and Neighbourhood Planning. There is the potential for these rights to intersect. It is foreseeable, for example that a community group may seek to list council buildings as a community asset whilst simultaneously seeking to run a service from it though the right to challenge.



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11. Reasons for Decision

11.1 In line with the Localism Act 2011 and the supporting Assets of Community Value 2012, local authorities are required to facilitate the Assets of Community Value procedures.

12. Use of Appendices

Appendix A: Assets of Community Value – Delegated Authority /Allocation of Functions

Appendix B: Assessment Criteria

Appendix C: Assets of Community Value Briefing

13. Local Government (Access to Information) Act 1985

Appendix A

Assets of Community Value – Delegated Authority /Allocation of Functions

1. It is proposed that the scheme be administered by officers as it is procedural in nature. This will also ensure that decisions are considered independent.
2. It is recommended that Cabinet delegate responsibility for undertaking the statutory procedures and determining nominations for assets of community value under the Localism Act to the Chief Officers and Heads of Services set out below.
3. Allocation of role and functions under the Localism Act is proposed as follows:

Localism Act 2011	Function	Officer
Section 87	Maintain list of assets of community value	Director of Place and Sustainability
Section 87	Remove land from the list after 5 years	Director of Place and Sustainability
Section 90	Determine nominations	Assessment Panel*
Section 91	Give notification of inclusion or removal of land from list	Director of Place and Sustainability
Section 92	Review decision to include land on the list of assets of community value	Assistant Chief Executive
Section 92(4)	Remove entry from the list following a review	Director of Place and Sustainability
Section 93	Maintain a list of land nominated by an unsuccessful community nomination	Director of Place and Sustainability
Section 94	Publish and make available lists	Director of Place and Sustainability
Section 97	Give notice of and to publicise receipt of notice of intended disposal of land	Director of Place and Sustainability
Section 98	Inform owner of request to be treated as a bidder	Director of Place and Sustainability
Section 99	Administer compensation scheme	Director of Place and Sustainability
Section 99	Determine compensation claims	Assessment Panel*
Schedule 2	Review decision not award compensation	Assistant Chief Executive
Section 100	Add the asset to the Local Land Charges Register	Legal Services
Section 102	Cooperate with other local authorities	All

*It is proposed that the Assessment Panel comprise the Director of Place and Sustainability (Chair), or nominated officer, the Head of Legal Services, or nominated officer and the Head of Strategy and Business Intelligence, or nominated officers who are authorised to determine community nominations and compensation claims. The panel may invite other officers with specific expertise to attend as appropriate to advise.

Appendix B

Assets of Community Value Assessment Criteria

Assessment Criteria		Pass/Fail	Information Requirements	Comments
Is the correct information provided?			<p>A community nomination must include:</p> <ul style="list-style-type: none"> • A description of the of the land and proposed boundaries • Details of the current occupants and anyone holding a freehold or leasehold estate in the land • Reasons why the land is of community value • Evidence that the nominator is eligible under the Act 	<p>Haringey has produced a nomination form to ensure that all of this information is collected however there is no requirement to use the Council form</p>
Status of the relevant body			<p>A voluntary or community body is defined as:</p> <ul style="list-style-type: none"> • A neighbourhood forum • An (not for profit) unincorporated body with 21 local members • A charity • A (not for profit) company limited by guarantee, an industrial and provident society or community interest company. 	<p>Only relevant bodies can nominate. Local authorities cannot list land on their own initiative</p>
Does the relevant body have a local connection?			<p>A local connection is defined as:</p> <ul style="list-style-type: none"> • The body's activity is wholly or partly connected to the local authority's area or a neighbouring authority's area • Any surplus is applied for the benefit of the local authority's area or neighbouring authority's area • The body has at least 21 local members (registered at an address in to the local authority's area or a neighbouring authority's area) 	<p>Nominations must be made by a body with a local connection</p>
Is the land/building subject to nomination under the Act?			<p>The asset must be a building or land. The asset must be in the local authority's area. Exemptions are listed in Schedule 1 of the</p>	

Assessment Criteria	Pass/Fail	Information Requirements	Comments
<p>Either of the following must be met:</p> <p>i. The actual current (non-ancillary) use of the land or building furthers the social well-being or social interests of the local community AND it is realistic to think that this can continue into the near future</p> <p>ii. Use of the land or building has furthered the social well-being or social interests of the local community in the recent past AND it is realistic to consider that it will do so again during the next five years.</p>		<p>regulations and you should refer to this for detail. Assets exempt from listing are:</p> <p>i. A residence together with land connected to that residence, and the land has a single owner</p> <p>ii. Sites covered by the Caravan Sites Act</p> <p>iii. Land used by public utilities as defined in s263 Town & Country Planning Act 1990</p> <p>Social interests and social well-being could include the following:</p> <ul style="list-style-type: none"> - Education and training - Employment and social enterprises - Sport, recreation and health - Environmental activity - Advocacy services - Arts, craft and culture - Faith and worship - Socialisation <p>Definitions of social value should apply to the purpose for which the building or land is used, rather than the nature of the asset itself, i.e. not in terms of any historical or architectural merit or location.</p> <p>Nominations will be assessed in their appropriate context in line with the Council's key priorities and policies, and taking account of planning and regeneration proposals and land use intentions.</p> <p>The proposed community asset should provide benefits which are not ancillary or insubstantial to the main uses of the nominated building or land.</p>	<p>While it must be realistic to think that the use of the building or land could continue to further the social well-being or social interests of the local community, the type of social use or benefit can change.</p> <p>The guidance note below will be used when assessing the social value of the nominated asset.</p>

Defining Social Value

Which uses might “further the social well-being or social interests of the local community”?

These notes provide guidance when determining nominations and do not constitute binding definitions assets that have social well-being and social interest. Nominations will be assessed on a case by case basis taking account of their appropriate context, while ensuring they meet the legal requirements.

In Haringey ‘Community Use’ entails maximising the use of community buildings and spaces to strengthen the capacity of local communities by providing mixed and multipurpose services to predominantly Haringey residents. Community Use involves providing services, which are inclusive, accessible and affordable, and promote equality of opportunity to meet the needs of the borough’s diverse population; supporting community cohesion, care and support. Community Use encourages independence and empowerment, stimulating innovation, partnership and social empowerment, stimulating innovation, partnership and social well-being; in order to inspire local people to share in the vitality of their community.

The Localism Act notes that “social interests” include “cultural, recreational and sporting interests”, but “social well-being” could apply to a much broader set of activities. This is not an exhaustive list, but examples of assets of community value might include:

<p>Education, health and well-being or community safety – for example:</p> <ul style="list-style-type: none"> • Nurseries and schools • Children’s centres • Health centres, surgeries and hospitals • Day care centres, residential care homes <p><u>NOTE:</u> There are exemptions in the areas of nurseries, schools, health centres, surgeries and hospitals.</p>	<p>Community services – for example:</p> <ul style="list-style-type: none"> • Community centres • Youth centres
<p>Sports, recreation and culture – for example:</p> <ul style="list-style-type: none"> • Woodlands, parks and open green spaces • Sports and leisure centres • Swimming pools/lidos • Libraries 	<p>Local democracy – for example:</p> <ul style="list-style-type: none"> • Town, civic and guild halls

<ul style="list-style-type: none"> • Theatres • Museums, heritage sites • Cinemas 	
<p>Any economic use which also provides an important local social benefit – in these cases, it is the social value of the business that counts, not just the nature of the business – this could include:</p> <ul style="list-style-type: none"> • Village shops • Pubs • Markets 	

In line with the Council’s definition of community use, designated community assets should aim to:

- Provide services and facilities that are open and accessible to everyone and engage with a wide section of the community;
- Support the development of more cohesive, empowered and active communities by effectively utilising existing space and buildings to create community hubs;
- Provide multiple services and facilities that stimulate community involvement, action and activity that benefit the whole community;
- Strengthen local partnerships and encouraging the building of partnerships between community enterprises
- Support entrepreneurial, innovative and sustainable local organisations;
- Promote sustainability and innovation, which challenges the community to think beyond traditional boundaries;
- Bring local people together, be responsive to local needs and increase empowerment and engagement;
- Deliver social impact and outcomes to achieve a positive and profound change in the community;
- Support respect and diversity;
- Be flexible and adaptable;
- Facilitate economic growth and
- Support mixed and multi-purpose uses that maintain community vitality.