



CABINET

5TH FEBRUARY 2015

AGENDA ITEM (12)

ASSETS OF COMMUNITY VALUE - LOCALISM ACT (COMMUNITY RIGHT TO BID)

Accountable Member	Councillor Sue Coakley Cabinet Member for Environment and Communities
Accountable Officer	Christine Cushway Property & Estates Manager 01285 623241 christine.cushway@cotswold.gov.uk

Purpose of Report	<p>The Localism Act 2011 (LA) introduced new rights for local communities. These rights include the ability to nominate assets of community value for inclusion on a list maintained by the Council (Community Right to Bid). If the owner of a listed asset wishes to sell it, the Council must be notified in order to give communities time to develop a bid for the asset. The purpose of this report is to review the decision making process for the listing of community assets, reviews of listing and compensation issues in the Cotswold district.</p>
Recommendation(s)	<p>(a) That an appropriate Head of Service, in consultation with the Cabinet Member for Environment and Communities, be authorised to make listing decisions on nominations of assets of community value, in accordance with the relevant statute and Government guidance;</p> <p>(b) That a Strategic Director be responsible for conducting any reviews of listing decisions in their role as “an Officer of the authority of appropriate seniority who did not take any part in making the decision to be reviewed” (as directed in Regulation 10 and Schedule 2 (paragraph 4) of The Assets of Community Value (England) Regulations 2012; Statutory Instrument No. 2421);</p> <p>(c) That the Strategic Director (Resources), in consultation with the Leader of the Council, be authorised to agree a Scheme of Compensation and to make revisions to the scheme from time to time, as necessary;</p> <p>(d) That the Head of GO Shared Services, in consultation with the relevant Head of Service, be authorised to consider and determine claims for compensation from asset owners for losses and expenses that arise as a result of assets being listed;</p> <p>(e) That the Strategic Director (Resources), in consultation with the Leader of the Council, be authorised to consider and determine requests for the review of compensation determinations (the Strategic Director (Resources) being an “an Officer of the authority of appropriate seniority who did not</p>

	<p>take any part in making the decision to be reviewed” (as directed in Regulation 16 and Schedule 2 (paragraph 4) of The Assets of Community Value (England) Regulations 2012; Statutory Instrument No. 2421);</p> <p>(f) That the Council’s Management Team (the Chief Executive and Strategic Directors) be authorised to further develop the Council’s Community Right to Bid procedures to cover all areas involved in administering this Community Right and in response to experience in implementing the provisions, new regulations and emerging case law.</p>
Reason(s) for Recommendation(s)	To comply with the Localism Act 2011 to have in place procedures for dealing with Community Rights to Bid.

Ward(s) Affected	All
Key Decision	No
Recommendation to Council	No

Financial Implications	No financial implications as a direct result of this report.
Legal and Human Rights Implications	It is a requirement under the Localism Act 2011 for the Council to have in place procedures for dealing with Community Right to Bid. Therefore, a failure to create and implement these procedures could open the Council to risk of legal challenge.
Environmental and Sustainability Implications	None
Human Resource Implications	Dependant on the level of nominations this could impact on existing workload.
Key Risks	None
Equalities Impact Assessment	There is no evidence to support this disadvantaging any particular protected group.

Related Decisions	CAB.95 - 6 th December 2012
Background Documents	CAB.95 - 6 th December 2012
Appendices	None

Performance Management Follow Up	Review of the process and implementation of any changes by Council's Management Team
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Options for Joint Working	Proposed changes mean that the process will be managed within the same Service as at West Oxfordshire District Council thus allowing joint working opportunities.
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Background Information

1. Part 5, Chapter 3 of the Localism Act 2011 ('the Act') contains provisions relating to assets of community value. Regulations brought this into effect on 21st September 2012.
2. A report on the process and procedures for the Council to manage the requirements under the Act were considered and agreed by the Cabinet at its Meeting held on 6th December 2012 (Minute CAB.95 refers).
3. Since that Meeting, four properties have been included on the 'List of Assets of Community Value', and four have been included on the 'List of Unsuccessful Nominations for Assets of Community Value'. Both of these lists are published on the Council's Web Site.
4. Following a recent inclusion on the List of Assets of Community Asset the Council's process and procedure for reviewing the decision to list a property has been challenged. Officers have therefore reviewed the procedure and agree that the currently approved process is not in line with the legislation, the main issue being that the legislation requires any internal review to be carried out by an Officer of the Council and for a compensation scheme to be in place. Therefore this report proposes a new procedure.
5. Current applications are managed by Legal and Property Services. However, it is not considered appropriate for an Officer within this Service to be taking decisions or carrying out reviews under the legislation, due to a potential conflict with its own role in managing the Council's property portfolio. For example, two of the four properties listed as Assets of Community Value are in fact Council-owned properties, - the Brewery Arts Workshop and Niccol Centre, and the Scout Hut at South Cerney.
6. Therefore, it is proposed that the process be brought into line with that currently in place at West Oxfordshire District Council and managed by the Shared Head of Leisure and Communities, and amended as detailed in Recommendations (a) - (e) above.
7. The implementation of the requirements set in the Localism Act 2011 and the Asset of Community Value (England) Regulations 2012 is statutory and there is limited discretion as to how the processes work. The legislation is prescriptive and it imposes statutory time limits on decision-making in a context where there is limited scope for the exercise of discretion. The revised scheme of delegations proposed in this report is intended to ensure that the statutory requirements can be met in an efficient and timely way whilst also ensuring a separation of roles that can accommodate the right to review.

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