

**RIBBLE VALLEY BOROUGH COUNCIL
REPORT TO POLICY AND FINANCE COMMITTEE**

Agenda Item No.

meeting date: 29 JANUARY 2013
title: ASSETS OF COMMUNITY VALUE – THE COMMUNITY RIGHT TO BID
submitted by: CHIEF EXECUTIVE
principal author: DIANE RICE

1 PURPOSE

- 1.1 To determine the Council’s procedure for dealing with applications which are received relating to the Community Right to Bid.
- 1.2 Relevance to the Council’s ambitions and priorities:
 - Community Objectives – } The Council aims to be a well managed Council,
 - Corporate Priorities – } clear procedures support this objective.
 - Other Considerations – }

2 BACKGROUND

- 2.1 Part 5, Chapter 3 of The Localism Act 2011, and the Assets of Community Value (England) Regulations 2012 together set out the legislative framework for the Community Right to Bid.
- 2.2 The purpose of the Community Right to Bid is to encourage more community focused locally led action described by government as ‘providing an important tool to help communities looking to take over and run local assets’.
- 2.3 Attached as Appendix 1 is a copy of a guide to understanding the Community Right to Bid produced by mycommunityrights.org.uk, a community support service funded by the Department for Communities and Local Government.
- 2.4 This matter is referred to the Policy and Finance Committee because the inclusion of land on the Council’s list of assets of community value is a local land charge and Policy and Finance Committee is the Committee with responsibilities for the local land charges register. In addition, Committee is responsible for all other Council powers which are not delegated specifically to other Committees.

3 ISSUES

- 3.1 The Council must determine how applications will be dealt with. The Department of Communities and Local Government have issued a non-statutory advice note, which explains the procedure – illustrative diagrams are attached at Appendix 2.
- 3.2 Determining an application involves the assessment of factual information rather than policy considerations. It is therefore an appropriate matter to be delegated to officers.

- 3.3 There are two strands to the process, the first is deciding whether or not an asset should be placed on the list of Assets of Community Value, and is thus subject to the Community Right to Bid, or be placed on a list of applications which have been rejected.
- 3.4 The second process will be determining appropriate compensation where the owner of land affected by the inclusion of the land on the list seeks compensation from the Council for any reduction in value/costs.
- 3.5 In order to comply with the review requirements set out in the regulations both the inclusion or rejection of an application for a listing as an Asset of Community Value and payment of compensation has to be subject to a review mechanism.
- 3.6 The guidance makes clear that an officer of the Council can carry out this role but in the case of either type of review, the officer must be somebody of sufficient seniority and an officer who has not been involved in determining the application for listing or compensation.
- 3.7 The recommendation to Committee is therefore that the following officers be authorised to deal with all aspects of applications including inclusion of land/buildings etc on the list of Assets of Community Value, where the application is accepted, notification of the listing as a local land charge, or where the application is rejected inclusion on the list of unsuccessful nominations but excluding compensation claims:

Corporate Property Officer
Head of Legal and Democratic Services
Council solicitors

- 3.8 The role of reviewing these decisions would then be taken by the Chief Executive.
- 3.9 In relation to compensation claims, applications for compensation would be dealt with by the Head of Financial Services with the review role to be carried out by the Director of Resources.

4 RISK ASSESSMENT

- 4.1 The approval of this report may have the following implications:
- Resources – The Council has received a small contribution under the new burdens funding namely £4,870 for the financial year 2012/13. This figure will increase to £7,855 for the financial year 2013/14 and is intended to include the cost of compensation claims.
 - Technical, Environmental and Legal – No implications identified.
 - Political – No implications identified.
 - Reputation – No implications identified.
 - Equality & Diversity – No implications identified.

5 RECOMMENDED THAT COMMITTEE

5.1 Agree to the procedure proposed at 3.7 – 3.9 inclusive.

DIANE RICE
HEAD OF LEGAL AND DEMOCRATIC SERVICES

MARSHAL SCOTT
CHIEF EXECUTIVE

For further information please ask for Diane Rice, extension 4418.

REF: DER/EL/290113/P&F

My Community Rights

Community Right to Bid

Understanding the Community Right to Bid



The Social
Investment
Business



Understanding the Community Right to Bid

The Community Right to Bid (Assets of Community Value in legislation) is one of a raft of new initiatives introduced in the Localism Act 2011, and comes into force when it has completed its final Parliamentary stage in Autumn 2012.

The Community Right to Bid allows communities and parish councils to nominate buildings or land for listing by the local authority as an asset of community value. An asset can be listed if its principal use furthers (or has recently furthered) their community's social well-being or social interests (which include cultural, sporting or recreational interests) and is likely to do so in the future. When a listed asset comes to be sold, a moratorium on the sale (of up to six months) may be invoked, providing local community groups with a better chance to raise finance, develop a business and to make a bid to buy the asset on the open market.

Background

The Localism Act

The Localism Act 2011 includes new freedoms and flexibilities for local government. It also introduces new rights and powers for individuals and communities to take over public services, community assets and influence planning and development. This includes the Community Right to Bid. The other main new rights are Community Right to Challenge and Community Right to Build.

The other Community Rights

Community Right to Build

Community Right to Build is a new power that gives local organisations the right to bring forward small-scale community-led

developments. The new right forms part of the Neighbourhood Planning provisions in the Localism Act that give parish councils, or neighbourhood forums the right to develop plans for their area. Development proposals in neighbourhood plans, and Community Right to Build will need to be agreed through an independent examination, and have the agreement of 50% of people who vote through a community referendum. Local Authorities have a duty to assist and advise community organisations, which are also free to involve partners such as developers or housing associations.

Community Right to Challenge

Community Right to Challenge is the right for community organisations to say that they are interested in running a particular public service and potentially get the chance to bid to do this. If a community group, charity, parish council or group of public sector staff identifies a service they would like to run then they can submit an expression of interest to the authority. If accepted this will trigger a procurement exercise. The interested group will then most likely need to compete with others in a competitive tendering process.

Community Asset Transfer

Community Asset Transfer is the transfer of management and/or ownership of land or buildings from a public body to a community-based organisation, at less than market value, in order to promote social, economic or environmental well-being.

The Community Right to Bid is sometimes confused with Community Asset Transfer. Although they share some of the same objectives, these are substantively different

mechanisms that communities can use to acquire land and buildings. The crucial differences are:

- Community Asset Transfer is the transfer of ownership or management of publicly owned assets, whereas the Community Right to Bid applies to some public and some privately owned assets.
- Community Asset Transfer is the transfer of management or ownership at less than market value. Community Right to Bid gives a window of opportunity for a community group to compete to buy an asset on the open market.
- Community Asset Transfer is a voluntary process entered into proactively by public bodies. The Community Right to Bid is a pre-emptive legal right pertaining to communities.

How the Community Right to Bid will work

The Legislation

How the Community Right to Bid works is set out in the Localism Act and Regulations:

With the Community Right to Bid, Local Authorities must keep a 'List of Assets of Community Value'; the legislation sets out in detail the process they must enter into and what information they must include.

The legislation also outlines the definition of an asset of community value, what groups can legitimately nominate, the appeals process for land owners, timescales for groups interested in buying land or property on the list, and compensation available to the owners of land or property on the list.

What is an Asset of Community Value?

A building or other land is an asset of community value if its main use has recently been or is presently used to further

the social wellbeing or social interests of the local community and could do so in the future. The Localism Act states that "social interests" include cultural, recreational and sporting interests.

The regulations list a number of situations where land or buildings are exempted from inclusion on the list or operation of the moratorium. These include homes, hotels, assets being transferred between kindred businesses, and Church of England land holdings.

Who can nominate Assets of Community Value

A number of community organisations can nominate land and buildings for inclusion on the list: parish councils, neighbourhood forums (as defined in Neighbourhood Planning regulations), unconstituted community groups of at least 21 members, not-for-private-profit organisations (e.g. charities).

Community organisations also have to have a local connection, which means their activities are wholly or partly concerned with the area, or with a neighbouring authority's area.

Decisions and appeals

If a community organisation nominates land or buildings that meet the definition of an Asset of Community Value, and the nomination process was undertaken correctly (i.e. came from a group entitled to nominate), then the Local Authority must include the asset on its list. Assets will remain on the list for at least 5 years.

If the council decides that the nomination doesn't meet the criteria, then they must write to the group who nominated the asset and provide an explanation. They must also keep a list of unsuccessful nominations for at least 5 years.

Landowners can ask local authorities to review the inclusion of an asset on the list, and this triggers an appeal to an independent body, called a First Tier Tribunal.

Moratorium Periods

The Community Right to Bid does not give the right of first refusal to community organisations to buy an asset that they successfully nominate for inclusion on the local authority's list. What it does do is give time for them to put together the funding necessary to bid to buy the asset on the open market.

If an owner wants to sell property/land that is on the list, they must tell the local authority. If the nominating body is keen to develop a bid, they can then call for the local authority to trigger a moratorium period, during which time the owner cannot proceed to sell the asset.

There are two moratorium periods. Both start from the date the owner of the asset tells the local authority of their intention to sell. The first is the interim moratorium period, which is 6 weeks, during which time a community organisation can decide if they want to be considered as a potential bidder. The other is a full moratorium period, which is six months, during which a community organisation can develop a proposal and raise the money required to bid to buy the asset.

The regulations list some situations where the Moratorium will not be applied, even when it is an Asset of Community Value on the list. These exceptions include the sale of assets from one partner or another (for example in a divorce).

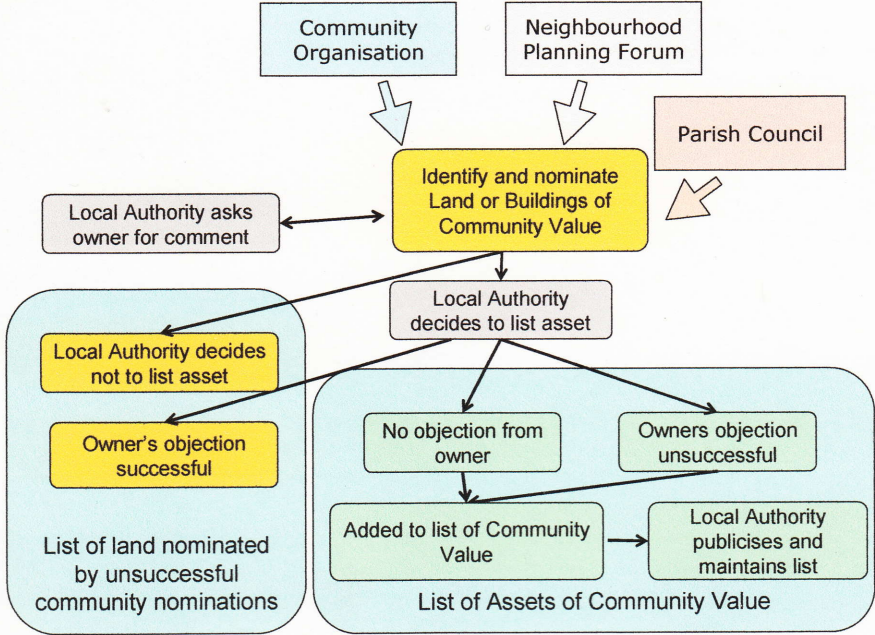
Funding

In August 2012, the government announced grant funding which community organisations can apply for in order to make use of the Community Right to Bid or Community Asset Transfer. The Social Investment Business is managing the £16 million grants programme 'Community Ownership and Management of Assets' on behalf of the Department for Communities and Local Government.

Glossary

- Assets of Community Value – building or land used to further the social wellbeing in particular, though not exclusively, the cultural, recreational or sporting interests of the local community
- Community organisation – parish council, charity, community group, neighbourhood forum, not-for-profit company
- Disposal of land/property – sale
- First Tier Tribunal – independent body to decide on appeals by owners against assets being listed, and against decisions on compensation
- Local connection – the connection that community organisations have with the area that the asset in question is in
- Moratorium period – periods during which a sale cannot go through, which community organisations can consider if they are a potential bidder, and if so, time to raise the money to buy
- Not-for-profit company – companies whose activities benefit the community and who reinvest surplus made from trading back into the community (often called Social Enterprises or Community Interest Companies)

Nomination



Sale

