


Agenda Item No:	7	
Committee:	Overview and Scrutiny	
Date:	17 October 2016	
Report Title:	Community Rights Under the Localism Act 2011 - Community Right to Bid Policy revision	

## Cover sheet:

### 1 Purpose / Summary

This report revisits the policy which was created to meet the requirements of the Localism Act 2011 regarding Community Right to Bid

### 2 Key issues

- The Localism Act 2011 set out ways in which to devolve powers from Central Government to individuals, communities, councils and groups. The Act formed part of the Government's drive to enable the devolution of power to local people in order to ensure that they help shape local services.
- Under the law Councils were required to respond to a number of community rights, one of which related to the Community Right to Bid.
- The Council approved an Asset of Community value Policy in April 2013 (minute number C58/12 refers)
- The Community Right to Bid enables town and parish councils and other eligible local voluntary and community organisations to nominate local assets such as land or buildings to be included on a list of "Assets of Community Value".
- Since then the Council has received 5 nominations to list assets around the district.
- From this, the Council has captured some learning in terms of how the Policy operates in practice. Feedback has been received both from the Community nominating assets, the owners of assets who have had their asset determined under the policy, legal advice and members who have deliberated on the nominations received.
- As a result amendments to the policy are recommended to improve the process from a customer and council perspective.
- Key changes include:
  - Relating the Council's policy much more closely to the non statutory guidance to ensure it is consistent with relevant legal guidance.
  - Based upon the practice of other Councils and the legislative guidance changing the original decision to be a decision for the relevant Portfolio Holder rather than cabinet to make the review process more streamlined to enable Cabinet to review the decision if appealed by the owner.
  - Emphasising the importance for nominators to provide good detailed evidence as to how the asset meets the threshold to be listed as an asset of

community value, alongside encouraging the nominator to attend the determination meeting as well as inviting the owner to attend.

- Attached to this report is a revised policy for the Community Right to Bid part of the Act.

### 3 Recommendations

- It is recommended that Members consider and give feedback on the proposed revised policy for the Community Right to Bid, which will be then considered by Cabinet for adoption.

<b>Wards Affected</b>	All
<b>Forward Plan Reference</b>	
<b>Portfolio Holder(s)</b>	Councillor Simon King
<b>Report Originator(s)</b>	Carl Suckling, Senior Community Support Officer
<b>Contact Officer(s)</b>	Richard Cassidy, Corporate Director Dan Horn, Head of Housing and Community Support
<b>Background Paper(s)</b>	Non Statutory Advice Note - Community Right to Bid

### 4 Background / introduction

- 4.1 The Localism Act was introduced in November 2011 to support the Government's commitment to decentralising the control of public services.
- 4.2 The three main community rights contained in the Act were The Community Right to Challenge; The Community Right to Bid and the Community Right to Build, with each right needing to be implemented.
- 4.3 The Community Right to Bid element enables town and parish councils and eligible local voluntary and community organisations to nominate local assets such as land or buildings to be included on a list of "Assets of Community Value".
- 4.4 For an asset to be listed it is necessary to demonstrate that its main use now, or in the recent past, contributes to the social wellbeing or cultural, recreational or sporting interests of the local community and that this use will continue. Examples include, village shops, pubs, community centres and playing fields.
- 4.5 Once an asset is listed as an "Asset of Community Value" this places some restrictions on the owner if they should decide to put it up for sale.
- 4.6 A listing serves only to give a window of time to local groups in order to prepare to bid alongside other potential buyers if the asset comes up for sale during the listing period. The owner may request to dispose of the assets upon which time a moratorium period will be triggered which will formally enable groups to put their proposals together. Equally, Community groups which have registered an interest are under no obligation to bid to purchase the asset, details are included in the attached draft policy document.
- 4.7 If an owner of an asset has potentially missed out on a sale during the moratorium period which has led to a financial loss on their part, then they are able to seek compensation. The compensation scheme, set up by central government, shall be administered by Fenland District Council, however the scheme has limited funds (and the amount is not

specified by the Department of Communities and Local Government) and once spent the funding is unable to be drawn down from this central pot. However, Government has pledged to meet the costs of compensation payments of over £20,000 in a financial year.

## **5 Considerations**

- 5.1 The original Fenland District Council policy was agreed on 23 April 2013, but this was prior to receiving any nominations. Following the submission of five nominations since its adoption it was felt that now was a good time to amend the policy to reflect on the practical issues which have emerged.
- 5.2 From this, the Council has captured some learning in terms of how the Policy operates in practice. Feedback has been received both from the Community nominating assets, the owners of assets who have had their asset determined under the policy, legal advice and members who have deliberated on the nominations received.
- 5.3 As a result amendments to the policy are recommended to improve the process from a customer and council perspective.
- 5.4 Key proposed changes include:
  - Relating the Council's policy much more closely to the non statutory guidance to ensure it is consistent with relevant legal guidance.
  - Changing the original decision to be a decision for the relevant Portfolio Holder rather than cabinet to make the review process more streamlined to enable Cabinet to review the decision if appealed by the owner and provides a close fit to the non statutory guidance.
  - Emphasising the importance for nominators to provide good detailed evidence as to how the asset meets the threshold to be listed as an asset of community value, alongside encouraging the nominator to attend the determination meeting as well as inviting the owner to attend.
- 5.5 Appendix 2, 3, 4 and 5 set out flowcharts to help simplify the key processes to follow through the various stages of the legislative process.

## **6 Effect on Corporate Objectives**

- 6.1 The policy is part of the Communities priority within the Council's Business Plan

## **7 Financial considerations**

- 7.1 If an owner of an asset has potentially missed out on a sale during the moratorium period which has led to financial loss on their part, then they are able to seek compensation. The compensation scheme, set up by central government shall be administered by Fenland District Council; however the scheme has limited funds. The Government has pledged to meet the costs of compensation payments of over £20,000.

## **8 Community Impact**

- 8.1 Any nomination received is in keeping with the Localism Act which encourages opportunity for relevant groups to work together to encourage important community assets to remain for the benefit of the wider community.

## **9 Conclusions**

- 9.1 The proposed policy will ensure the Council can continue to meet its legislative duties in a more effective way as a result of the learning of the last 3 years.