

TELFORD & WREKIN COUNCIL

CABINET- 12TH DECEMBER 2013

ASSETS OF COMMUNITY VALUE

REPORT OF ASSISTANT DIRECTOR: LAW, DEMOCRACY AND PUBLIC PROTECTION

LEAD CABINET MEMBER – CLLR LIZ CLARE

1. PURPOSE

To establish a procedure to administer the Assets of Community Value provisions contained within the Localism Act 2011

2. RECOMMENDATIONS

2.1 That the Assistant Director: Law, Democracy and Public Protection establish a procedure to administer the Assets of Community Value process in accordance with statutory requirements;

2.2 That the authority to receive and determine applications for land to be registered as assets of community value is delegated to the Assistant Director: Law, Democracy and Public Protection

3. SUMMARY IMPACT ASSESSMENT

COMMUNITY IMPACT	Do these proposals contribute to specific Priority Plan objective(s)?	
	Yes	Whilst the requirement to administer the Assets of Community Value process is statutory it does contribute to the Priority Plan objective of a Sense of belonging and feeling safe in the community, objective 1- encourage people to take an active role in their community
	Will the proposals impact on specific groups of people?	
	Yes	We anticipate that the impact of the introduction of the scheme will be borough wide

TARGET COMPLETION/DELIVERY DATE	The responsibility to administer the process will be ongoing.	
FINANCIAL/VALUE FOR MONEY IMPACT	Yes	See comment below
LEGAL ISSUES	Yes	The requirement to administer a process to identify and register Assets of Community value is set out in the Localism Act 2011, Part 5, Chapter 6. Regulations and guidance provide further details as to how the system is to be administered and have been published and will be taken into account in the development of the procedure
OTHER IMPACTS, RISKS & OPPORTUNITIES	Yes	<p>IMPACT – The main impact will be financial in respect of costs to administer the system and potential compensation to be paid to land owners.</p> <p>RISKS – Apart from financial areas of risk mentioned above, the principle risk is that of challenges to decision-making which would ultimately be made by the First Tier Tribunal. This risk can be mitigated by establishing and administering a fair and transparent procedure with clear and reasonable decision-making.</p> <p>OPPORTUNITIES – There are opportunities to use this scheme to engage with the community to discover land and buildings that are of community value and give them the opportunity of preserving those ‘assets’ for the benefit of local people.</p>
IMPACT ON SPECIFIC WARDS	No	Borough-wide impact

PART B) – ADDITIONAL INFORMATION

4. INFORMATION

4.1 The Localism Act 2011

A duty introduced under The Localism Act 2011 to establish Assets of Community Value (also known as the ‘community right to bid’). The aim of the scheme is to allow the community to preserve land and

buildings that are of value to the local community by permitting them to have a period of time to make a bid to purchase the 'asset', when the owner indicates an intention to sell it. Further details are set out in background papers issued by the Department for Communities and Local Government (DCLG).

The local authority has the responsibility for administering the scheme; a summary of the process is set out below.

4.2 The Assets of Community Value Application Procedure (summary)

- A community organisation submits an application to the Council to nominate a property which they believe should be included in the list of Assets of Community Value
- The Council considers the application and decides whether to accept or reject it based on statutory guidance.
- If the application is accepted the Council place the property on the Register of Assets of Community Value (a public register which the Council has the responsibility to maintain). The landowner can request an internal review of the decision if they wish to do so and has a further right of appeal to the First Tier Tribunal
- If the application is rejected there is a rejection list and the unsuccessful application is registered there.
- When the landowner of a property on the assets of community value list wishes to sell the property they must notify the Council who will publicise the intention to sell. There is then a six week standstill period whilst community groups can decide if they intend to bid for the property. If they confirm that they wish to do so then there is a six month moratorium preventing the sale and giving the community group the opportunity to raise the required funds to bid for the property.
- At the end of the six month period the property owner is free to sell the land to whichever purchaser they chose. There are provisions that enable the landowner to make a claim for compensation to the local authority if there has been loss or expense incurred which was not likely to have been incurred if the land had not been registered.

The scheme came into force on 21st September 2012 and, until recently no applications had been received by the Council.

The Assets of Community Value Procedure is attached at Appendix 1.

4.3 The Procedure

It is proposed that the applications from community groups are received on behalf of the Council by the Assistant Director: Law, Democracy and Public Protection. In the first instance an officer from Legal Services would consider the application and issue a decision. If

the application was allowed, and the landowner wished to appeal against it, a more senior officer not involved in the first decision would undertake a review. This report requests that the decision-making power in respect of the application is delegated to the Assistant Director: Law, Democracy and Public Protection who will in turn establish a decision-making framework and delegate responsibilities for each decision as considered appropriate. There also needs to be a process to address any claims for compensation.

5. IMPACT ASSESSMENT – ADDITIONAL INFORMATION

RESOURCE IMPLICATIONS – The Assets of Community Value scheme is a new burden. It does not replace an existing scheme and accordingly it will require additional resource to administer it. Staffing will be the key element as work will need to be done as follows

- Establishing the structure for the decision-making process
- Maintaining the registers of assets of community and value and unsuccessful applications
- Time to be spent considering applications, issuing decisions, considering appeals, registering successful applications, publicising planned sales of land on the register when required, assessing compensation claims from landowners and defending the Council's position at the First Tier Tribunal

Apart from staffing issues there are other financial implications. The scheme requires the local authority to publicise proposed sales of land on the register. There are compensation claims which will be submitted to the local authority for consideration and possible settlement and there will be costs of First Tier Tribunal actions brought by the landowner, including the landowner's costs if their claim is successful.

RISKS – As set out above the process has a right of appeal by the landowner to the First Tier Tribunal. As with other decisions of the local authority an aggrieved party may seek a judicial review of decision-making.

OTHER IMPACT – The scheme could result in Council owned land being registered and accordingly this may affect the value of Council land and/or the Council's capital disposal programme.

6. FINANCIAL IMPLICATIONS

6.1 Implementing the Assets of Community Value Policy will result in additional costs for the Council:

- (i) **Administration costs** – this includes the cost of setting up the local register of Assets of Community Value, maintaining the register, maintaining a register of unsuccessful applications,

- registering assets with the Land Registry, dealing with appeals, dealing with sales/ moratorium issues and enforcement
- (ii) **Compensation costs** – at the end of the process the landowner can claim compensation for costs caused by the moratorium on the sale for expenses, such as additional security costs, and compensation for loss of asset value (where the sale value is lower at a later date due to market changes)
 - (iii) **5 year review** – process and administration costs of removing assets from the register after 5 years
 - (iv) **Other Associated Costs** – such as advertising/publicity costs, legal costs associated with any First Tier Tribunal actions

The Department for Communities and Local Government (DCLG) recognises that this is a new administrative burden on Local Authorities and is providing a specific grant which is intended to meet the costs incurred. The grant for both 2013/14 and 2014/15 is £7,855 – there is no commitment for future years and therefore this will be come a budget pressure if the grant ceases. It is difficult to assess the administrative costs as it is dependent on different factors: the number assets nominated for registration, the number of appeals and the number of sales (relating to registered assets). Legal Services will aim to administer the process within the resources available – any shortfall will be reported as part of the regular financial monitoring process.

DCLG has reflected an estimate of the costs of compensation within the new burdens funding. In addition they have indicated that they will meet the costs of compensation payments over £20,000 in a given financial year. This being the case, any compensation costs below £20,000 in a year will fall on Council budgets, albeit with the addition of the new burden grant. Again it is very difficult to assess the financial impact of compensation payments as it would depend on an individual asset, the pertaining market conditions and specific circumstances.

There is a further implication if the Council itself is the owner of an Asset of Community Value which it wishes to dispose of: the process for selling the asset will be elongated and capital receipts will be delayed.

7. **PREVIOUS MINUTES**

None

8. **BACKGROUND PAPERS**

A plain English guide to the Localism Act (DCLG publication)

<http://www.communities.gov.uk/documents/localgovernment/pdf/1896534.pdf>

Localism Act 2011

<http://www.legislation.gov.uk/ukpga/2011/20/contents>

The Assets of Community Value (England) Regulations 2012/2421
<http://www.legislation.gov.uk/ukdsi/2012/9780111525791/contents>

Assets of Community Value – Impact Assessment (DCLG publication)
<http://www.communities.gov.uk/documents/communities/pdf/2168557.pdf>

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