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**Report of the Acting Chief Asset Management Officer**

**Report to East Outer Area Committee**

**Date: 11th September 2012**

**Subject: Community Right to Bid**

Are specific electoral Wards affected? If relevant, name(s) of Ward(s):	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: Appendix number:	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

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**Summary of main issues**

1. Community Right to Bid is part of the Localism Act (2011) and comes into force on 12<sup>th</sup> October. The Council will have to keep and publish the List of Assets of Community Value. The right provides community organisations with an opportunity to list assets as assets of community value and delays the sale of such assets for six months to allow them to put a bid in.
2. Only local community and voluntary groups can take advantage of the right.
3. The criteria are laid down in the Localism Act and draft regulations, although there is some scope for interpretation in terms of definition of social wellbeing and recent past.
4. Area Committees and area support teams have an important role to play in terms of encouraging and helping local communities to nominate assets and commenting on nominations submitted.

**Recommendations**

5. East (Outer) Area Committee is requested to note the contents of this report and consider ways that the committee and area support team can encourage and help local community organisations to nominate assets.

## **1 Purpose of this report**

- 1.1 This report updates East (Outer) Area Committee on developments with Community Right to Bid and advises of the implementation date.
- 1.2 The right gives communities the opportunity to bid to buy assets for the benefit of their local community. The report asks East (Outer) Area Committee and the area support team to consider ways they can encourage and help local community organisations to nominate assets.

## **2 Background information**

- 2.1 The Localism Act (2011) came into effect in November 2011 and contained a number of community rights. Part 5 Chapter 3 of the Act details Assets of Community Value and sets out the Community Right to Bid. Local Authorities will have to keep and publish a List of Assets of Community Value. The right gives communities the opportunity to nominate assets as assets of community value. If, in the opinion of the Local Authority, the nomination meets the eligibility criteria then the asset is placed on the List of Assets of Community Value. Listing prevents the owner from disposing of the asset without first giving the community a six month period to put a bid together to buy it. However, there is nothing to say the landowner must accept the offer and once the offer has been submitted the landowner is free to dispose of the asset to whoever they wish. The right applies to property in both public and private ownership.
- 2.2 For an asset to be eligible its current main use must further the social interests or social wellbeing of the local community and it must be realistic to think that such a use can continue, or a use in the recent past must have furthered the social interests or social wellbeing of the local community and it must be realistic to think it could be brought back into such use within the next five years. Examples of assets that would be eligible include:
  - Community centres;
  - libraries;
  - leisure centres;
  - the last pub or shop in an area;
  - post offices;
  - theatres;
  - museums.
- 2.3 Draft regulations for Community Right to Bid have been published and are currently being discussed in Parliament, so some of the detail is still to be agreed. However, the right will come into effect from 12<sup>th</sup> October 2012.

## **3 Main issues**

- 3.1 Community Right to Bid is managed by Asset Management Service and the Acting Chief Asset Management Officer has authority to approve listing. Nominations can be made in writing or preferably online via [righttobid@leeds.gov.uk](mailto:righttobid@leeds.gov.uk). A simple nomination form has been produced to aid

nominating organisations. A draft of this form and the accompanying guidance note is attached at Appendix 1.

3.2 Organisations that are eligible to nominate are:

- a) A body designated as a community forum;
- b) A parish council;
- c) An unincorporated body whose members include at least 21 individuals registered to vote in the local authority's area;
- d) A charity;
- e) A company limited by guarantee or industrial provident society that does not distribute any profit to its members;
- f) A community interest company.

The Council is not able to self-nominate assets.

3.3 Only organisations listed under d-f above may trigger the six month moratorium period, although a parish council may also trigger the moratorium if the asset is in the parish council's area.

3.4 If the owner of a listed asset decides to sell, they must notify the Council. We will then notify whoever nominated the asset and publicise the fact on our website. At this stage interested community groups have a six week period to inform us that they intend to submit a bid. If notice is not received within this period then the landowner is free to dispose on the open market. If notice is received then the full moratorium period begins. This period is six months from the date the landowner informed the Council of their intention to sell. Within this period the landowner can only dispose of the asset to an eligible community or voluntary organisation (as per paragraph 3.3).

3.5 The majority of the criteria are set out in the act or regulations. However, there is room for interpretation around what "recent past" is. Furthermore, there is no set definition for social wellbeing. It is up to the nominator to make a case for meeting the eligibility criteria.

3.6 In some circumstances it may be difficult to establish the current or recent use of a property. To that end the local intelligence of Ward Members and officers in area support teams will be required to help determine use.

3.7 Ward Members will be informed by email when assets in their ward are nominated and will be able to comment by reply. Ward Members will also be informed of the decision taken.

3.8 It is hoped that Area Committees and area support teams will play an active role in helping local communities pull together nominations.

3.9 The regulations have made clear that landowners will be able to claim compensation from the Council for both costs of complying with the scheme and any loss of value from a delayed sale.

#### **4 Corporate Considerations**

## **4.1 Consultation and Engagement**

4.1.1 DCLG consulted widely on the Localism Act and on each of the community rights individually.

## **4.2 Equality and Diversity / Cohesion and Integration**

4.2.1 This report has no implications for Equality and Diversity / Cohesion and Integration.

## **4.3 Council policies and City Priorities**

4.3.1 Although a central Government piece of Legislation, implementation of the right contributes to the Vision for Leeds and the City Priority Plan priorities that Leeds will be fair, open and welcoming and that all Leeds communities will be successful. The strategic outcomes for these priorities include:

- Increase a sense of belonging that builds cohesive and harmonious communities;
- Leeds will be a city where there is a strong community spirit and a shared sense of belonging, where people feel confident about doing things for themselves and others;
- Local people have the power to make decisions that affect them;
- People are active and involved in their local communities.

## **4.4 Resources and value for money**

4.4.1 There are resource implications from the implementation of the right. DCLG estimates that for a local authority the size of Leeds there will be an additional resource implication of 200-220 hours per year.

4.4.2 Landowners will be able to claim compensation for costs and losses incurred as a direct result of complying with the right. DCLG estimate that there will only be one compensation pay out per year in Leeds and that the average payout will be £5,446.

4.4.3 All costs associated with administering the right will be met by central government through the New Burdens Assessment (until 31<sup>st</sup> March 2015).

## **4.5 Legal Implications, Access to Information and Call In**

4.5.1 This report has no implications for legal, access to information or call in.

## **4.6 Risk Management**

4.6.1 There is a risk that the Council is inundated with nominations for Community Right to Bid which causes a strain on resources. This risk is more likely at the launch of the right when there may be confusion about what the right is for and the types of asset that are eligible. There has been some interest in the right already from local community organisations, although nothing to suggest that levels of nominations will be unmanageable. The process for administering nominations and listing has been set up to minimise the amount of time required. Therefore

the likelihood of us being inundated with nominations is considered medium to low with a medium impact.

- 4.6.2 There is a further resources risk in terms of a high number of successful nominations leading to a high number of compensation claims being made against the Council. DCLG's impact assessment forecasts there will only be one successful compensation pay out per year in Leeds and that the average payout will only be £5,446. It is considered likely that landowners will claim compensation for complying with the right, but unlikely that costs will be that high to cause a real concern. The landowner will have to prove that these costs would not have been incurred had the land or property not been listed, so will therefore have to prove that the land would have been disposed of earlier. The likelihood is considered low although the impact is medium to high.
- 4.6.3 Community Right to Bid has been put in place to give communities the right to bid to buy assets that are of value to their local community. It is considered that the potential benefits from Community Right to Bid outweigh the resources risks so the Council should take a proactive approach to encourage and help local communities to submit nominations.

## **5 Conclusions**

- 5.1 Community Right to Bid comes into force on 12<sup>th</sup> October 2012. It gives communities a right to delay the sale of assets that are deemed to be assets of community value to give them an opportunity to put a bid together to purchase the asset.
- 5.2 Area Committees and area support teams have an important role to play in terms of encouraging and helping local communities to nominate assets and commenting on nominations submitted.

## **6 Recommendations**

- 6.1 East (Outer) Area Committee is requested to note the contents of this report and consider ways that the committee and area support team can encourage and help local community organisations to nominate assets.

## **7 Background documents<sup>1</sup>**

- 7.1 Localism Act (2011)
- 7.2 Draft Asset of Community Value (England) Regulations 2012

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<sup>1</sup> The background documents listed in this section are available for inspection on request for a period of four years following the date of the relevant meeting. Accordingly this list does not include documents containing exempt or confidential information, or any published works. Requests to inspect any background documents should be submitted to the report author.