



To: The Leader; Executive Councillor for Planning and Climate Change and the Executive Councillor for Community Development and Health

Report by: Patsy Dell, Head of Planning Services

Relevant scrutiny committee: Strategy and Resources Scrutiny Committee 09/07/2012

Wards affected: All

Localism Act 2011: Community Right to Bid

Key Decision

1. Executive summary

1.1 Using new community rights enabled under the Localism Act 2011, local community, voluntary bodies and parish councils will be able to identify land and buildings such as a:

- Local shop
- Local pub
- Community centre
- Library
- Swimming pool
- Playground

1.2 These can then be nominated for inclusion on a list of assets maintained by the City Council. If an asset on the list comes up for sale, community groups will be able to trigger a pause for up to six months, in order to raise capital and bid to purchase the asset before it goes on to the open market.

1.3 The City Council is responsible for operating the Right to Bid for assets of community value process. Much of the process will be determined by Government Regulations but some elements of the process can be locally determined. These are discussed and recommendations made in the body of this report.

2. Recommendations

2.1 The Leader is recommended:

- 1) To note the new requirements under the Localism Act;
- 2) To agree the Council's approach to this new duty as set out in the report;
- 3) To delegate responsibility for determining whether assets are listed on the register of assets or not to a panel of three senior officers from Property Services, Planning and Community Development convened by the Head of Planning Services;
- 4) To delegate responsibility for determining reviews against listing of assets by the owners concerned jointly to the Head of Planning Services and the Head of Community Development (or deputy);
- 5) To delegate approval to the Head of Planning Services, in consultation with the Executive Councillor for Planning and Strategic Transport and the Executive Councillor for Community Development and Health, to amend and agree the Council's final approach to this duty once Regulations have been published.

3. Background

Introduction

- 3.1 It is expected that Government will shortly publish Regulations to enable new community rights under the Localism Act 2011. This will allow local community, voluntary organisations, neighbourhood forums and parish councils to identify land and buildings that provide an important service in their community and nominate these for inclusion on a list of assets of community value maintained by the City Council. If an asset on the list comes up for sale, these organisations will have up to six months in which to raise capital and bid to buy the asset, before it goes on to the open market. This new right is called the 'Community Right to Bid'.
- 3.2 These new provisions do not restrict in any way decisions by the owner of the asset about whom they can sell their property to, or at what price, and they do not confer a right of first refusal to community interest groups.

The Role of the City Council

3.3 Under the 'Community Right to Bid' provisions, the City Council is required to:

- Set up a process to enable local community and voluntary groups to nominate assets;
- To adjudicate in accordance with Government Regulations on whether the assets can be included in a list of assets of community value;
- Publish the list of assets of community value and also details of those assets that were nominated but unsuccessful, including the reason why the nomination was unsuccessful;
- Implement an internal review process should the owner of the nominated asset disagree with the Council's decision that the nomination be successful;
- Set up and monitor a moratorium process so that when an asset from the list comes on to the market, community groups have time to register their intent to bid and raise the necessary capital, and preventing the owner from selling the asset during the moratorium period; and
- Operate a compensation scheme to compensate owners for loss or expense incurred as a result of listing and complying with any of the procedures required by the scheme.

3.4 It is proposed that the Community Right to Bid scheme will be managed and administered by Planning Services within the Environment Department.

3.5 Much of the fine detail of how the Community Right to Bid is to be operated will be set out in Regulations. These are not now anticipated to be published until September. Given that community and other groups are already preparing for the commencement of the provisions it is considered appropriate that work starts on the internal preparation for the procedures. There are, however, some aspects of the process where the Council may make it's own decisions. These are as follows:

- 1) An asset is of community value if the Council judges that;
 - a. Current use of the building or land, or its use in the recent past, furthers the social well-being or social interests of the local community;
 - b. That use is the main one and not ancillary; and

- c. It is realistic to think that the building or land will continue to be used in a way which will further the social well-being and social interests of the community; and
- d. It does not fall within the list of exemptions

The Council may determine its own definition of 'recent past'. Officers recommend that this be defined as 'in the past five years prior to the 'date of nomination''. This period might reasonably cover any building or land that was previously in community use but that is now empty or derelict and those assets that may temporarily have had some other use, such as a former library that had been used for office accommodation. Officers also consider it reasonable for the City Council to have accurate records of property usage and to be able to check this over a five year period without this being an undue administrative burden.

- 2) The Council has to publish a list of both 'successful' and 'unsuccessful' nominations to the list of assets of community value. These may be published as a single list or two separate lists. It is recommended that the asset register be published as a single list on a City Council 'Community Right to Bid' web page. This will enable community groups who wish to propose an asset for inclusion to see more easily which assets are already on the list and which have already been proposed but were unsuccessful.

The frequency of publication can also be locally determined and it is recommended that the Council update the list of assets of community value monthly. Experience with the publication of Freedom of Information requests has shown that monthly publication is sufficiently frequent to meet public information needs and is not unduly administratively burdensome.

- 3) The Council may choose how the decision-making process, with regard to a nomination, is made. The criteria for inclusion are defined in detail by Government Regulation and the decision-making is, therefore, essentially an administrative process but with judgement being made in the application of the criteria for inclusion on the nomination list. Officers propose that a decision-making panel of three senior officers (one each from Planning, Community Development and Property Services) be convened on a regular basis to review nominations.

The owner of the asset has the right of appeal against the City Council's decision to include an asset on the assets of community value list. Officers recommend that the review be an officer process delegated jointly to the Head of Planning Services and the Head of Community Development.

- 4) Arrangements for the adjudication and payment of any compensation claimed by owners for loss or expense incurred as a result of listing and complying with any of the procedures required by the scheme are to be administered by the City Council. The scheme must include an initial decision-making process and an internal review process.

4. Implications

Financial Implications

- 4.1 The Government recognises the Community Right to Bid provisions place an administrative burden on Local Authorities required to maintain a list of assets of community value and is committed to meeting these costs. No indication of what this means in practice has been published to date.

Staffing Implications

- 4.2 The Community Right to Bid provisions are largely an administrative process that will be managed and administered by the Planning Service with the day-to-day administration undertaken by the Guildhall Business Administration Unit. At this stage, it is unclear as to the staffing capacity that will need to be put towards this activity. It is expected that there will be a significant number of initial nominations that will need to be processed.

Equal Opportunities Implications

- 4.3 ***Equalities Impact Assessment:*** Not applicable. The Community Right to Bid scheme is primarily an administrative process defined by legislation and regulation with very little scope for the Council to exercise discretion or introduce change,

Environmental Implications

- 4.4 Climate change rating: Nil.

Consultation

- 4.5 Consultation has been undertaken with officers from the Planning Service, Community Development, Property Services, Legal Services and Corporate Strategy on those aspects of the Community Right to Bid provisions that are at the discretion of the Council as to how they are implemented.

Community Safety

4.6 There are no community safety implications.

5. Background Papers

5.1 These background papers were used in the preparation of this report:

a) Localism Act 2011

6. Appendices

6.1 Appendix A – Frequently Asked Questions

7. Inspection of Papers

7.1 To inspect the background papers or if you have a query on the report please contact:

Author's Name: Patsy Dell, Head of Planning Services
Author's Phone Number: 01223 457103
Author's Email: patsy.dell@cambridge.gov.uk