

Minutes

Community, Health and Housing Committee **Tuesday, 5th March, 2019**

Attendance

Cllr McLaren (Chair)
Cllr Bridge
Cllr Clarke
Cllr Mrs Davies

Cllr Mrs Pound
Cllr Ms Sanders
Cllr Tierney
Cllr Wiles

Apologies

Cllr Mrs Fulcher

Substitute Present

Cllr Naylor (substituting for Cllr Mrs Fulcher)

Also Present

Cllr Mrs Hones
Cllr Hossack
Cllr McCheyne
Cllr Ms Rowlands

Officers Present

| | | |
|-----------------|---|--|
| Kim Anderson | - | Partnership, Leisure and Funding Manager |
| Stuart Anderson | - | Deputy Operations Manager |
| Phoebe Barnes | - | Interim Financial Controller |
| David Carter | - | Environmental Health Manager |
| Stuart Morris | - | Interim Housing Policy Manager |
| Angela Abbott | - | Housing Manager |
| Zoey Foakes | - | Governance & Member Support Officer |
| Nicola Marsh | - | Housing Manager |
| Steve Summers | - | Chief Operating Officer |

In accordance with Rule 20 of the constitution the Leader had nominated Cllr Tom McLaren as Chair for Community, Health and Housing Committee.

It was MOVED that Cllr Thomas Bridge be appointed as Vice-Chair of this Community, Health and Housing Committee meeting.

(Cllr Wiles declared a non-pecuniary interest as his wife was a council tenant.)

Cllr Mrs Davies welcomed the new Chair, Cllr McLaren and thanked the work of the previous Chair Cllr Hossack.

344. Apologies for Absence

Apologies were received from Cllr Fulcher and Cllr Naylor substituted.

345. Minutes of the Previous Meeting

Following a query on the status of empty homes in the borough, Cllr McLaren agreed that Empty Homes Strategy would be a standing item on future agendas.

The minutes of the previous minutes were approved to be true record.

346. Chairs Update

Members noted the updates from Officers set out in the Agenda.

347. Asset of Community Value - Shenfield Library

The Localism Act 2011 introduced the Community Right to Bid, a new right for local people to nominate buildings or pieces of land that they believed contributed to the social interests or wellbeing of their local communities to be listed on a register of Assets of Community Value (ACVs), managed by the local authority. The Right applied to public and private property, although there were a number of exceptions under the legislation, including private residences. Where land was listed as an ACV, if an owner of a listed asset subsequently wished to dispose of it, there would be a period of time during which the asset could not be sold, or a qualifying lease granted or assigned (a qualifying lease was a lease originally granted for a 25year term). This period was known as a moratorium and would ultimately be for a period of six months. The moratorium was intended to allow community groups the time to develop a proposal and raise the required capital to bid for the asset when it came onto the open market at the end of that period. The owner was under no obligation to accept a bid from the community group and could sell the property to whomever they wished once the six-month moratorium was over.

A nomination had been received to list Shenfield Library as an Asset of Community Value and the report asked the Committee to make a decision on this nomination.

A motion was **MOVED** by Cllr Mrs Pound and **SECONDED** by Cllr Bridge to approve the recommendation in the report.

A vote was taken by a show of hands and it was **RESOLVED UNANIMOUSLY:**

That Members agree to list the land as indicated on Appendix B of the report as an Asset of Community Value.

Reasons for Recommendation

The nomination had passed the Council's due diligence tests including the submission of evidence that the group was eligible to nominate. The nomination passed the first statutory test as it clearly furthers the social interests and wellbeing of the local community.

Shenfield Library was within the scope of ECC Libraries Strategy. No decision had therefore been taken about the future of Shenfield Library and the options for the site included an option in which the building was offered to the local community to run as a community library. Both this option and others were currently possible and so there was a realistic chance that the asset would continue to provide the activities for which it had been nominated. The nomination therefore passed the second statutory test.

The Council could decide not to list Shenfield Library as an Asset of Community Value, but this would mean that it was not fulfilling its statutory duty under the Localism Act 2011.

Variation in the order of the agenda

The Chair proposed and it was agreed to vary the order of the agenda and consider item 13 – Urgent Business, Asset of Community Value – Ingatestone Library next.

348. Urgent Business Asset of Community Value – Ingatestone Library

The Localism Act 2011 introduced the Community Right to Bid, a new right for local people to nominate buildings or pieces of land that they believe contribute to the social interests or wellbeing of their local communities to be listed on a register of Assets of Community Value (ACVs), managed by the local authority. The Right applied to public and private property, although there were a number of exceptions under the legislation, including private residences. Where land was listed as an ACV, if an owner of a listed asset subsequently wished to dispose of it, there would be a period of time during which the asset could not be sold, or a qualifying lease granted or assigned (a qualifying lease was a lease originally granted for a 25year term). This period was known as a moratorium and would ultimately be for a period of six months. The moratorium was intended to allow community groups the time to develop a proposal and raise the required capital to bid for the asset when it came onto the open market at the end of that period. The owner was under no obligation to accept a bid from the community group and could sell the property to whomever they wished once the six-month moratorium is over.

A nomination had been received to list Ingatestone Library as an Asset of Community Value and the report asked the Committee to make a decision on this nomination.

A motion was **MOVED** by Cllr Bridge and **SECONDED** by Cllr McLaren to approve the recommendation in the report.

A vote was taken by a show of hands and it was **RESOLVED UNANIMOUSLY:**

That Members agree to list the land as indicated on Appendix 2 of the report as an Asset of Community Value.

Reasons for Recommendation

The nomination had passed the Council's due diligence tests including the submission of evidence that the group was eligible to nominate. The nomination passed the first statutory test as it clearly furthers the social interests and wellbeing of the local community.

Ingatestone Library was within the scope of ECC Libraries Strategy. No decision had therefore been taken about the future of Shenfield Library and the options for the site included an option in which the building was offered to the local community to run as a community library. Both this option and others were currently possible and so there was a realistic chance that the asset would continue to provide the activities for which it had been nominated. The nomination therefore passed the second statutory test.

The Council could decide not to list Shenfield Library as an Asset of Community Value, but this would mean that it was not fulfilling its statutory duty under the Localism Act 2011.

349. Housing Audit Update

The report was intended to update the Community, Health & Housing Committee of the progress of the 2016/17 and 2017/18 Audit reviews for Housing Services. Those Audits were included in the Council's approved Audit plans for 2016/17.

The outcome of the 2016/17 internal audit review was originally reported to the Audit Committee on the 27th September 2017 ("Audit Report 1 – May 2017").

The outcome of the 2017/18 internal audit review was originally reported to the Audit Committee on the 14th December 2017 ("Audit Report 2 – November 2017").

The full Audit reports with updates were reported to the Community, Health & Housing Committees in the first part of 2018 with subsequent reports providing updates and details of 'outstanding' recommendations reported to the later committees in 2018.

Both Audit reports would enable the Housing Service to concentrate on specific areas highlighted by the Audit recommendations to implement essential service improvements as part of the ongoing transformation programme.

Mr Summers gave a presentation to support members understanding of the two agenda items: Housing Audit Update and Progress Update on Housing Asset Management, Investment Programme and Compliance items as the items were linked. The presentation included the outcome of the Audit reports including compliance recommendations, the Gap Analysis that had been completed and the policies that had been approved by the committee in 2018.

In addition, Mr Summers advised of the planned programmes to be developed during mobilisation during the Repairs and Maintenance contract which were as follows

- All Fire Risk assessment remedial to be completed
- Electrical surveys and remedial works to be carried out for communal areas and individual dwellings
- Asbestos removal in communal areas and individual dwellings

He also identified the 26 key elements of the mobilisation contract that was due to go live on the 4th June 2019. The presentation included the governance arrangements for this work and completion details for each of the 8 compliancy areas which was also set out in the report before members.

The Chair asked members to consider these two agenda items together with the discussion although recommendations would be taken separately.

Mr Summers referred to amendments in the report, page 85 of the agenda item 3.28 should refer to Appendices C and D, and page 89 of the report item 3.60 should refer to Appendix E.

Following from Mr Summers presentation, Cllr Mrs Davies raised a question regarding the status of the Stock Condition Survey. Mr Summers responded that when the information from the survey had been entered into Basildon District Councils Keystone software system, there was a concern regarding the validity of the data which did not provide Brentwood Borough Council with confidence. The Chair requested that Members were updated if or when a decision takes place to take legal action with regard to the Stock Condition Survey this was reported back to members.

Members had concerns on the asbestos report and the Chair requested a separate asbestos report to be presented back to the committee with the outline of what steps had been taken.

Cllr Clarke questioned the current update on rent arrears and Mrs Marsh advised that she would be able to provide the latest information to all members following the meeting including the trends from the past 2 years. Cllr Wiles requested the information to include former and current tenants debts.

Referring to Item 5 Appendix A, Cllr Ms Saunders requested that the Update column have more detail and evidence on the reasoning when there was a change of rating. Mr Summers explained that it was identified as not applicable in the appendix because the recommendations were completed and if further evidence was required it would be reported back.

Following from member comments, the Chair recommended that moving forward, communication timescales with members on significant issues were improved.

Cllr Wiles recommended that planned maintenance updates were standing item within the Chairs update to be reported back at every Community, Health and Housing committee meeting.

Mr Summers suggested that in the future briefings could be provided for committee members ,outside of the committee meetings structure, on the Housing Service function and associated programme of works.

Cllr Bridge proposed that the new committee members of the Community, Health and Housing Committee for the next municipal year be briefed on the background and current position.

Members requested that future reports be in a more readable format.

In response to members concerns Mr Summers advised the committee that the Chief Executive had commissioned the Council's independent Internal Auditors to review the recent issues that had been raised by the ex-Chair and Vice Chair of the committee. The outcome of this review, once completed, would be reported to both the Audit and Scrutiny Committee and the Community, Health and Housing Committee.

A motion was **MOVED** by Cllr McLaren and **SECONDED** by Cllr Bridge to approve the recommendation in the report.

A vote was taken by a show of hands and it was **RESOLVED**:

1. That the Committee receives and notes the progress made from the 4th December 2018 committee report as outlined in both Audit Reports (as summarised in Appendix A).

2. That the Committee agree that a further report on progress made on implementing the recommendations is presented to the next Committee.

3. Officers to work with the Chair and Vice Chair to develop a comprehensive and more readable format for the committee reports.

7 members of the committee abstained from the vote.

Reasons for Recommendation:

To monitor the progress of work against the highlighted actions arising from the Audit Reports and the management actions in response to those recommendations.

350. Progress Update on Housing Asset Management, Investment Programme and Compliance

The report provided the committee with a progress update on Housing Asset Management, Investment and Compliance in Housing.

The update report followed on from the previous progress report on the matters which were provided to the 11th September 2018 Community, Health & Housing Committee, Min 121 refers.

Cllr Wiles requested that all outcomes and recommendations of previous and future audits be reported to Audit and Scrutiny Committee and the Community, Health and Housing Committee.

The Chair took the vote on each recommendation individually.

A motion was **MOVED** by Cllr McLaren and **SECONDED** by Cllr Bridge to approve the recommendation 2.1 in the report subject to the following amendment. A vote was taken by a show of hands and it was **RESOLVED UNANIMOUSLY:**

1. To note the contents of the report whilst noting members dissatisfaction with the performance of the housing service as demonstrated by the results of the compliancy.

A new motion was **MOVED** by Cllr McLaren and **SECONDED** by Cllr Bridge. A vote was taken by a show of hands and it was **RESOLVED UNANIMOUSLY:**

2. Note that an audit of the housing service is ongoing and require that the outcome of the audit comes back to the Community, Health and Housing committee for consideration and request that any outcomes from such audit are forwarded to the appropriate committee for further action.

A motion was **MOVED** by Cllr McLaren and **SECONDED** by Cllr Bridge to approve the recommendation 2.2 in the report subject to the following amendment. A vote was taken by a show of hands and it was **RESOLVED UNANIMOUSLY:**

3. That the Committee agree that a report on progress to demonstrate the continuing strengthening of compliance considerations, through the completion of the Housing Compliance Programme, incorporating internal audit recommendations, is a fixed Committee agenda item until March 2020, when this will be reviewed.

Reasons for Recommendation

The report highlighted progress on Asset Management, Capital Programme and Compliance in Housing. Members were invited to comment on the report contents.

The committee took a short adjournment after this agenda item.

TERMINATION OF MEETING

During the preceding item, in accordance with Rule 28 of Part 4.1 – Council Procedure Rules, the businesses of the meeting not having concluded by two hours after its start, Members voted and agreed to continue with the meeting for a further 30 minutes.

351. Housing Garage Sites

The Council owned a range of garage sites across the Borough, including those that were disused and hard to let. Members previously agreed that Officers should identify the potential redevelopment of sites that provided an immediate opportunity for new affordable housing.

Officers had identified two potential sites. One site is at Brookfield Close, Hutton and the second at Sir Francis Way, which is located in Brentwood, very close to the Town Centre. Both sites provided excellent potential for redevelopment.

The Brookfield Close redevelopment site would replace properties that do not meet the current decent home standard.

To formally establish the viability of each site a technical report was required, in the form of an initial feasibility study, which would outline potential on both sites, and inform in terms of quantum and tenure mix.

A motion was **MOVED** by Cllr McLaren and **SECONDED** by Cllr Bridge to approve the recommendation in the report.

A vote was taken by a show of hands and it was **RESOLVED UNANIMOUSLY:**

1. That the Committee formally approves delegated authority for the Housing Services Manager to commission an architect to prepare an initial feasibility report relating to both sites, up to a limit of £20,000.

2. That the feasibility report outcomes are reported to the next Community, Health & Housing Committee.

Reasons for Recommendation:

Identified issues of housing need; parking provision; anti-social behaviour and fly-tipping would be captured in an enhanced strategic approach, rather than having to be dealt with in a reactive and uncoordinated manner.

352. Decant Policy

The report set out the background and recommendation to adopt a formal written *Decant Policy* ('the Policy'). The Policy would allow for a more focussed and transparent approach to service provision as a social landlord and to private sector home owners.

The Council did not currently have a written and published Policy and given current building projects, and future housing strategy it was as an area for improvement to move towards substantial assurance.

The introduction and implementation of the Policy would ensure efficiency, economy and excellence of service provision as a social landlord.

Members praised the officer, Mr Morris for the quality of the report and policy.

A motion was **MOVED** by Cllr McLaren and **SECONDED** by Cllr Bridge to approve the recommendation in the report.

A vote was taken by a show of hands and it was **RESOLVED UNANIMOUSLY:**

That the Committee formally approve Option 1 the adoption of the 'Decant Policy 2019' at set out at Appendix A.

Reasons for Recommendation

Option 1 was recommended as the most transparent option for the Council and supported the '*Getting our House in Order*' transformation programme for Housing Services. It would provide a clear document for tenants to hold the Council to account.

Taking no further action would fail to advance corporate priorities and would be counter to our modernisation approach.

353. Housing Civil Penalties

At the meeting of the Community, Health and Housing Committee on 4th December 2018 Members received a report introducing the provisions for civil penalties to be implemented for certain offences under the Housing Act 2004.

Members resolved to approve the introduction of civil penalties as an alternative to prosecution where appropriate and officers were instructed to

prepare a schedule of fixed penalties to be considered at this meeting for adoption.

The Housing and Planning Act 2016 introduced a number of amendments to the Housing Act 2004. Local housing authorities had the power to impose civil penalties of up to £30,000 as an alternative to prosecution for offences under the Housing Act 2004.

Cllr Wiles **MOVED** and Cllr McLaren **SECONDED** to approve the recommendations in the report subject to the following amendment:

2. Any severe civil penalties considered to be imposed will be in consultation with the chair of Community, Health and Housing committee and advise ward members as appropriate.

A motion was **MOVED** by Cllr McLaren and **SECONDED** by Cllr Bridge to approve the recommendation in the report.

A vote was taken by a show of hands and it was **RESOLVED UNANIMOUSLY:**

1. Members approve the scheme for civil penalties to be considered, where appropriate and as set out in 3.5 of this report, as an alternative to prosecution for offences under the Housing Act 2004.

2. Any severe civil penalties considered to be imposed will be in consultation with the chair of Community, Health and Housing committee *and advise ward members as appropriate.*

3. Any civil penalties imposed will be reported in future chairs update.

Reasons for Recommendation

In order to keep enforcement practices up to date with current legislation and to provide appropriate resolution to offences committed with less reliance on lengthy and expensive Court action to deal with offences.

TERMINATION OF MEETING

During the preceding item, in accordance with Rule 28 of Part 4.1 – Council Procedure Rules, the businesses of the meeting not having concluded by two hours after its start, Members voted and agreed to continue with the meeting for a further 30 minutes.

354. Allocations Policy Amendment

The report set out the background and recommendation to amend the existing Allocations Policy 2014 ('the Policy'). The amendment concerned a revised approach to the 'bypassing' of applicants for offers on the Choice- Based Lettings ('CBL') allocations system.

The amendment was intended to clarify existing policy and to achieve the core objectives as listed below.

Appendix A was the suggested Annex to the existing Allocations Policy 2014, with the amended policy wording as per Appendix B.

Members congratulated the officer, Mr Morris on the quality of the document.

A motion was **MOVED** by Cllr McLaren and **SECONDED** by Cllr Bridge to approve the recommendation in the report.

A vote was taken by a show of hands and it was **RESOLVED UNANIMOUSLY:**

That the Committee formally approve the changes to the Council's Allocations Policy 2014, set out in Appendices A and B of the report, to clarify the requirements which applicants need to meet to be eligible for the allocation of a social housing property for which a bid has been placed.

Reasons for Recommendation:

The changes would allow for a greater transparency of approach, whilst creating a fairer 'move on' process for all.

The changes should reduce the waiting time of homeless households in temporary accommodation and allow for a reduction in expenditure accordingly.

It would allow tenants who had only fallen into arrears for 'technical' reasons not to be disregarded for future property allocations.

It will retain the principle that those households who fail to meet their obligations, either through wilful refusal or culpable neglect, were not given the same access to housing as those households who do. It would however ensure that a suitable system was put into place however to allow them to mitigate their difficulties and to ensure rent and revenue protection for the Council.

Taking no further action would fail to advance corporate priorities and would be counter to our modernisation approach.

355. Mental Health Small Grant Scheme

The Mental Health Small Grants Scheme was launched in 2017/18 and was funded through the Brentwood Health and Wellbeing Board grant. For 2018/19 the Brentwood Health and Wellbeing Board and Brentwood Borough Council decided to joint fund the scheme resulting in a pot of £8,000 that applicants could apply for. The fund was launched in 7 February 2019 on Time to Talk Day and will close on 21 March 2019.

Due to the timing of the launch of the fund, Community Health and Housing Committee scheduled dates and the start of Purdah, and so as to not delay the allocation of funding, it was recommended that the allocation of funding be delegated to the Interim Chief Finance Officer in consultation with the Chair of Community Health and Housing Committee and the Chair of Brentwood Health and Wellbeing Board.

Cllr Ms Saunders thanked Cllrs Mrs Davies for vice chair role on Brentwood Health and Wellbeing Board.

Cllr Ms Saunders **MOVED** and Cllr Davies **SECONDED** to approve the recommendations in the report subject to the following amendment:

1. That Members agree that Delegated authority is given to Interim Chief Finance Officer in consultation with the Chair of Community Health and Housing Committee and the Chair *and Vice Chair* of Brentwood Health and Wellbeing Board to agree the allocation of grant funding in respect of the Mental Health Small Grants Scheme.

A vote was taken by a show of hands and it was **RESOLVED UNANIMOUSLY:**

1. That Members agree that Delegated authority is given to Interim Chief Finance Officer in consultation with the Chair of Community Health and Housing Committee and the Chair *and Vice Chair* of Brentwood Health and Wellbeing Board to agree the allocation of grant funding in respect of the Mental Health Small Grants Scheme.

2. To advise Members accordingly of the final allocation of grant funding.

Reasons for Recommendation

The Mental Health Small Grants Scheme would be subject to a robust, independent and transparent scoring process to ensure fairness in the allocation of funding. Once received the applications would be scored by a panel of officers looking at the following key priorities:

- Evidence that the application meets the criteria, the Council's priorities and expected outcomes
- Evidence that the community has been involved in the development and implementation of the project
- Evidence that the application supports the promotion of volunteering and community participation.
- Evidence that the project is sustainable once the Mental Health Small Grants Scheme contribution has ceased.

The applications were individually scored by three different officers and a mediated score agreed upon. These were then ranked by their score.

The recommendations by officers would normally be presented to Community Health and Housing Committee (or other relevant Committee), but due to the

timings from the launch of the fund, Committee dates and Purdah, it was recommended that delegated authority is given to the Interim Chief Finance Officer in consultation with the Chair of Community Health and Housing Committee and Chair of Brentwood Health and Wellbeing Board to agree to the allocation of funding.

Notifications would be made to all those applicants that applied. Successful applicants would also need any terms stipulated within the conditions of the grant being awarded. Successful applicants would also need to complete a self-monitoring report once their project had been completed.

Any unsuccessful applicants to the Mental Health Small Grants Scheme would be offered the following support: Face to face meetings with the Partnership, Leisure and Funding Manager to review their prospective application; offered funding training session via Brentwood Council for Voluntary Services which included tips on submitting a good funding application. Members would also be encouraged to assist in this process; Organisations would also be signposted to the Open 4 Community on the Council's website to look at other sources of external funding to support their project if applicable.

356. Essex Faith Covenant

The Essex Faith Covenant was joint commitment between faith communities and local priorities to a set of principles that guide engagement, aiming to remove some of the mistrust that exists and to promote open, practical working on all levels. It was launched in October 2017 to establish four pilot areas in Basildon, Braintree, Chelmsford and Colchester. The Essex Faith Covenant Steering Group (EFCSG), was broadly representative of all of the organisations and faith groups that had currently signed up to the Essex Faith Covenant and had provided oversight and support in the initial pilot areas in developing and showcasing activity and best practice.

Both faith groups and public services signatories were committed to work together to proactively build relationships and trust between faith groups and public services; create opportunities to raise awareness and share learning and knowledge between faith communities, and within the public services; and seek opportunities to bring people together to serve the community, particularly the most disadvantaged.

A motion was **MOVED** by Cllr Bridge and **SECONDED** by Cllr Ms Saunders to approve the recommendation in the report.

A vote was taken by a show of hands and it was **RESOLVED UNANIMOUSLY:**

That Members agree to sign up to the Essex Faith Covenant on behalf of Brentwood Borough Council and adhere to the principles as set out in Appendix A of the report and support the priorities of the Essex Faith Covenant Steering Group (EFCSG).

Reasons for Recommendation

The Essex Faith Covenant supported the Council aims of working in partnership with faith groups and community and voluntary organisations to ensure that there was effective community engagement and to identify priorities for local communities.

The meeting concluded at 21.45

5 March 2016

Community, Health and Housing Committee

Asset of Community Value – Ingatestone Library

Report of: *Kim Anderson, Partnership, Leisure and Funding Manager*

Wards Affected: *All wards*

This report is: *Public*

1. Executive Summary

1.1. The Localism Act 2011 introduced the Community Right to Bid, a new right for local people to nominate buildings or pieces of land that they believe contribute to the social interests or wellbeing of their local communities to be listed on a register of Assets of Community Value (ACVs), managed by the local authority. The Right applied to public and private property, although there are a number of exceptions under the legislation, including private residences. Where land is listed as an ACV, if an owner of a listed asset subsequently wishes to dispose of it, there will be a period of time during which the asset cannot be sold, or a qualifying lease granted or assigned (a qualifying lease is a lease originally granted for a 25year term). This period is known as a moratorium and would ultimately be for a period of six months. The moratorium is intended to allow community groups the time to develop a proposal and raise the required capital to bid for the asset when it comes onto the open market at the end of that period. The owner is under no obligation to accept a bid from the community group and can sell the property to whomever they wish once the six-month moratorium is over

1.2. A nomination has been received to list Ingatestone Library as an Asset of Community Value and this report asks the Committee to make a decision on this nomination.

2. Recommendations

That Members agree to:

2.1 List the land as indicated on Appendix 2 of the report as an Asset of Community Value

3. Introduction and Background

- 3.1 A report was presented to Policy, Performance and Resources Board on 7 December 2011 (min ref. 386) so that members were aware of the implications for the Council of the Localism Act 2011 which was given Royal Assent on 15 November 2011. Part of the Localism Act 2011 includes the ability for communities to be able to ask for community assets to be put on a register of 'Assets of Community Value'. These assets can include local pubs, shops, village halls, libraries and community centres.
- 3.2 A subsequent report was presented to Strategy and Policy Board on 20 November 2013 (min ref. 264) recommending that delegated authority to determine whether nominations should be included within the list of assets of community value, be given to the Head of Borough Health, Safety and Localism in consultation with the Chair of Strategy and Policy Board and relevant ward Councilors; and that the officer grade for carrying out and determining reviews be at Head of Service level or above.
- 3.3 The consultation part of the delegation was changed at Ordinary Council on 22 October 2014 (min. ref. 213) that the Communities Committee be granted delegated authority to determine applications/nominations for designation of Assets of Community Value.
- 3.4 The Localism Act provides an opportunity for communities to raise finance to competitively bid when a community asset comes on the open market. This is achieved through a legal framework governed by the Local Authority. The Act allows communities to nominate assets of community value (ACV's). The council is given eight weeks to determine whether it meets the criteria for listing from the date of submission, and then places its decision on the list. When the owner of a listed asset wishes to dispose of it, the Act introduces a delay or 'moratorium' before he or she can do so, to give any interested and eligible community groups the time to prepare a bid. However, at the end of the moratorium period the owner can sell to whomever they choose at a price agreed by the buyer.
- 3.5 The Council received a valid nomination (**Appendix A**) on 26 February 2019 from Ingatestone and Fryerning Parish Council in relation to the land as indicated on the attached site plan in **Appendix B**. The regulations made under the Localism Act 2011 require the Council to determine within 8 weeks whether to list the nominated asset. Therefore, the deadline for a decision is 23 April 2019. As this is within the pre-election consideration period and the next Community Health and Housing

Committee is likely to be June 2019, this is why the report is before Members tonight.

- 3.6 In broad outline the new provision under the Localism Act 2011 for listing an Asset of Community Value and subsequent disposal are set out in **Appendix C**. In particular Members are reminded of what is meant by a relevant disposal of a listed asset (see. 9.1 of **Appendix C**).

4. Issue, Options and Analysis of Options

- 4.1 The essential statutory test for an ACV is set out in Section 88 of the Localism Act 2011. It is for the local authority to judge whether the criteria are met (subject to any challenge by way of judicial review). The criteria are set out as follows:
- 4.2 **Is the nominating organisation an eligible body to nominate?** Officers have checked and confirmed that Ingatestone and Fryerning Parish Council are an eligible body to nominate the land as an Asset of Community Value.
- 4.3 **Does the nominating body have a local connection to the asset?** Yes. Ingatestone and Fryerning Parish Council operates in the Ingatestone area and Fryerning area and has 15 elected volunteer councillors all of whom reside in the parish.
- 4.4 **Does the nomination include the required information about the asset?** (This includes the proposed boundaries, names of the current occupants of the land and names and current or last known address of those holding a freehold or leasehold estate on the land). All of the necessary information was supplied to the Council (see Nomination form) **Appendix A** and (site plan) **Appendix B**.
- 4.5 **Is the nominated asset outside one of the categories that cannot be assets of community value (a residence together with land associated with that residence; land in respect of which site licence is required under Part 1 of the Caravan Sites and Control of Development Act 1960; and operating land as defined in section 263 of the Town and Country Planning Act 1990).** The land indicated is not one of the exempt categories that **cannot** be listed as an ACV, so this nomination cannot be ruled out on that principle.
- 4.6 **Is the current (or recent) usage which is subject of the nomination and actual and non-ancillary usage?** The current usage as submitted in the nomination form is a community library.

- 4.7 The Council also needs to consider if in their opinion **(a) an actual current use furthers the social wellbeing or social interests of the local community, and (b) it is realistic to think that there can continue to be non ancillary use of the building or other land which will further (whether or not in the same way) the social wellbeing or social interests of the local community.** They may take into account the following:
- 4.8 **What is the ‘local community’ of the asset as defined by geographical area?** Officers consider that this would include the Borough of Brentwood and the immediate surrounding areas of Ingatestone and Fryerning.
- 4.9 **What is the current/recent use of the asset?** The nominated asset’s current usage is as a community library.
- 4.10 **How well is the asset used?** The nominee states that the library provides a traditional library service as well as meeting space for community associations, neighbourhood watch and health-based groups. It also accommodates all meetings of the Parish Council as well as over 10 book clubs and toddler reading groups.
- 4.11 **What will be the impact if the usage ceases?** The nominee states that “Ingatestone is the only Council run building and is the only location where residents can gather without having to pay a membership fee. It provides a centre for internet access as well as the traditional library service. For residents who are unable to drive, it is difficult to access Shenfield and Brentwood libraries and Chelmsford is a long bus journey. The library also covers outlying villages and is considerably more accessible than Shenfield and Brentwood as there is free parking in the vicinity. The library also supports 3 schools in the village and pupils use the site for after school studies. If the library were to close there would be no facility suitable for this activity as it would be unacceptable to expect junior school children in particular, to use public transport to access a library service.”
- 4.12 **How does it meet the social interests of the community as a whole and not users/customers of a specific service?** *For information in the Act ‘Social interests’ includes each of the following – cultural interests, recreational interests and sporting interests.* The library clearly meets these requirements in the nature of its existence. However, the building also accommodates over 10 book clubs, toddler reading and play sessions, is the location for the Neighbourhood Watch representative,

supports a hard of hearing/club for the deaf as well as being the location for all parish council and committee meetings.

- 4.13 **How is the asset regarded by the local community (community consultation, evidence of support)?** A recent Parish Council organised meeting of residents was attended by over 100 people concerned about the closure of the library with a wish for the Parish Council to lead the campaign to keep the building as a library. The Parish Council have also registered an expression of interest during the recent ECC library consultation to start formulating a future plan for the service and building and wish to protect the building further by having it registered as an asset of Community Value.
- 4.14 Members also need to consider whether it is realistic to think that there can continue to be non-ancillary use of the asset which will further the social wellbeing or social interests of the local community.
- 4.15 The recent usage of Ingatestone Library would suggest that it would seem reasonable that there can continue to be non-ancillary use of the asset which will further (whether or not in the same way as before) the social well being or social interests of the local community.
- 4.16 The Library Service is the responsibility of Essex County Council (ECC) and they recently undertook a public consultation 'Essex Future Library Services Strategy 2019-24' which closed on 20 February 2019. Whilst no final decision has been made after the consultation as yet, ECC are considering a tiered service for library services going forward. This means that there will one main of 'hub' library (Tier 1) per district; Tier 2 library services in areas where there is a need for them, managed by ECC as part of their statutory provision of a comprehensive network and delivered in partnership with the community or other partner; (Tier 1 and 2 will provide the core offer); Tier 3 in locations where no library service is needed in order to have a comprehensive and efficient network, but where ECC wishes to support the provision of library services run by the community or partner organisation with ECC support. Ingatestone Library was identified as a Tier 3 Library. Tier 3 community-run libraries will supplement the core offer. ECC envisage that the premises would be owned or paid for by the community or partner organisation. If the building is no longer required, then it will be incorporated into the Essex County Council property strategy.
- 4.17 Whilst no decision has been made and the final strategy has not been published, the draft Library Services Strategy states that ECC are still

looking to support some kind of library provision in Ingatestone in partnership with a community or partner organisation going forward.

5. Reasons for Recommendation

- 5.1 The nomination has passed the Council's due diligence tests including the submission of evidence that the group is eligible to nominate. The nomination passes the first statutory test as it clearly furthers the social interests and wellbeing of the local community.
- 5.2 Ingatestone Library is within the scope of ECC Libraries Strategy. No decision has therefore been taken about the future of Shenfield Library and the options for the site include an option in which the building is offered to the local community to run as a community library. Both this option and others are currently possible and so there is a realistic chance that the asset will continue to provide the activities for which it has been nominated. The nomination therefore passes the second statutory test.
- 5.3 The Council could decide not to list Shenfield Library as an Asset of Community Value, but this would mean that it was not fulfilling its statutory duty under the Localism Act 2011.

6. References to Corporate Plan

- 6.1 Assets of Community Value sit under the Community and Health strand enabling communities to do more for themselves.

7. Implications

Financial Implications

Name & Title: Jacqueline van Mellearts Interim Chief Finance Officer

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jacquelinevanmellearts@brentwood.gov.uk

- 7.1 Under the Assets of Community Value regulations, the local authority is responsible for paying compensation in respect of listed assets within its area. There is no statutory cap on the amount of compensation that may be payable in respect of any one claim, and a local authority may face multiply claims in any one year. The Department for Communities and Local Government has issued guidance in relation to the Community Right to Bid. With regard to compensation claims, any individual or total payments of over £20k in a financial year will be funded by the government. In addition, a New Burdens grant has been allocated to all administering councils to cover the costs associated with implementing the new scheme.

- 7.2 Whilst the funding from government will help to meet some of the costs of the new arrangements, local authorities will still be expected to fund the first £20k of any compensation payments.
- 7.3 The current balance in the Community Rights to Bid reserve has a balance of £37,644
- 7.4 The land owner of Ingatestone Library is Essex County Council. Brentwood Borough Council has the right to list the land as the land sits within Brentwood Council's jurisdiction. The monies sitting in the Earmarked Reserve can be used to fund any future compensation regarding this asset if it is registered as an Asset of Community Value.
- 7.5 Where the valuation of the asset changes in value, then compensation could be payable.

8.0 Legal Implications

Name & Title: Gina Clarke, Corporate Governance Lawyer & Deputy Monitoring Officer

Tel & Email: 01277 312 874 gina.clarke@brentwood.gov.uk

- 8.1 The Council has a statutory responsibility to comply with the provisions as set out in the Localism Act and the Regulations made under the Act, to list assets nominated by community groups as assets of community value the statutory tests set out in the Act. The legal requirements for listing assets as assets of community of community value are incorporated into the main body of the report.
- 8.2 Where the Committee considers that the nominated asset has been properly nominated, is in the Council's area, meets the definition, and is not excluded, the Council must list it and inform all specified parties. The Council must also place the asset on the local land charges register and if the land is registered, apply for a restriction on the Land Register.
- 8.3 If the owner objects to their property being placed on the List, they will have a right to an internal review by the Council of the decision to list. If the owner remains in disagreement with the listing after the internal review, they have a right of appeal to an independent tribunal.
- 8.4 The provisions do not place any restriction on what the owner can do with their property, once listed, so long as it remains in their ownership. However the fact that the site is listed may affect planning decisions if an application for change of use is submitted, considering all the circumstances of the case.

8.5 As mentioned in the financial implications of this report, the Council is responsible for administering the compensation for private property owners. However, this will not be available to public bodies.

9.0 Equality and Diversity implications - The process will be fair and consistent for all members of the community and therefore it is not anticipated that there will be any direct impact on individual community groups or members.

10.0 Risk Management implications – As stated in the report, there is a risk that the potential moratorium which could relate from the listing on any substantial change of use of Shenfield Library could have a financial impact if it resulted in a delay in implementing plans for the ECC Library Service.

11.0 Appendices to this report

Appendix 1 – Nomination of land Ingatestone Library

Appendix 2 – Site Map

Appendix 3 – Community Right to Bid: Non-statutory advice note for local authorities.

12.0 Background documents

Localism Act 2011

Report Author Contact Details:

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Brentwood Borough Council

Assets of community value

Nomination form

For including land on the List of Assets of Community Value

Community Right to Bid - Assets of Community Value Regulations 2012

Please ensure that you provide adequate and accurate information to enable Brentwood Borough Council to make a decision on your nomination. You may attach photos, maps, plans and other documents to help us correctly identify the asset and to support your nomination. For information and guidance about how Brent Council considers nominations for assets of community value, please visit WEB PAGE link

Completed forms should be sent either via email to localism@brentwood.gov.uk or by post to:

Community Assets Register
Brentwood Borough Council
Town Hall
Ingrave Road
Brentwood
Essex
CM15 8AY

1. About your Organisation

a) Contact Details

| | |
|----------------------------|---|
| Name of your organisation: | <input type="text" value="Ingatestone and Fryerning Parish Council"/> |
| Address: | <input type="text" value=""/> |
| Name of Contact Person: | <input type="text" value=""/> |
| Phone: | <input type="text" value=""/> |
| Email: | <input type="text" value=""/> |

b) Eligibility for applying

To be eligible to nominate a community asset for listing, you must be a voluntary or community body:

- A neighbourhood forum
- An unincorporated body whose members include at least 21 members and does not distribute any surplus it makes to its members
- A charity
- A company limited by guarantee which does not distribute surplus to members
- An industrial and provident society which does not distribute surplus to members
- A community interest company.

Also please demonstrate how a 'local connection' exists namely how your organisation's activities are wholly or partly concerned with the local authority's area or with a neighbouring borough's area.

In the case of an unincorporated body, company limited by guarantee and an industrial and provident society, these have a 'local connection' if any surplus generated is applied for the benefit of the borough, or a neighbouring borough.

In the case of an unincorporated body it has a local connection if the body has 21 local members, namely persons who are on the register of local government elections for Brent, or a neighbouring borough.

1. If you are an incorporated organisation please describe the legal form of your organisation including registration number(s) where applicable (e.g. company limited by guarantee, charitable organisation, community interest company etc.)

| | |
|--------------------|-----|
| Organisation Type: | n/a |
|--------------------|-----|

| | |
|-------------------------|-----|
| Registration Number(s): | n/a |
|-------------------------|-----|

2. If your organisation carries out activities for profit please describe below how you use the surplus that is generated.

| |
|------------|
| n/a |
|------------|

3. If you are an unincorporated organisation please describe below what provisions are made for community benefit in your constitution:

n/a

4. Please describe how your organisation has a local connection to the area where the asset has been identified:

Ingatestone and Fryerning Parish Council is the Tier 1 local authority for the area. The 15 councillors are elected members of the council and is made up of volunteer Councillors, all of whom reside in the parish.

2. About the Asset

- a) Please give your reasons why Brentwood Borough Council should include the land on its List of Assets of Community Value

In order to list land or buildings the Council must be of the opinion that:

1. An actual current use of the building or other land (which is not ancillary use) furthers the social wellbeing or social interests of the local community and
2. It is realistic to think that there can continue to be non-ancillary use of the building or other land which will further (whether or not in the same way) the social wellbeing or social interests of the local community.

Or

3. There is a time in the recent past when an actual use of the building or other land (that was not an ancillary use of the building or other land) furthered the social wellbeing or social interests of the local community and
4. It is realistic to think there is a time in the next five years (where there could be non-ancillary use of the building or other land) that would further (whether or not in the same way as before) the social wellbeing or social interests of the local community

Please provide information below which supports your nomination having regard to the test set out above.

Ingatestone Library is the only council led asset in the parish and provides the traditional library service as well as meeting space for community associations, neighbourhood watch and health-based groups. It also accommodates all meetings of the parish council as well as over 10 book clubs and toddler reading groups

Prior to the service being provided in its current location, Ingatestone Library was in a room in the front part of the community club.

A recent parish council organised meeting of residents led to an attendance of over 100 people, all concerned about the closure of the library with the wish for the parish council to lead the campaign to keep the building available as a library.

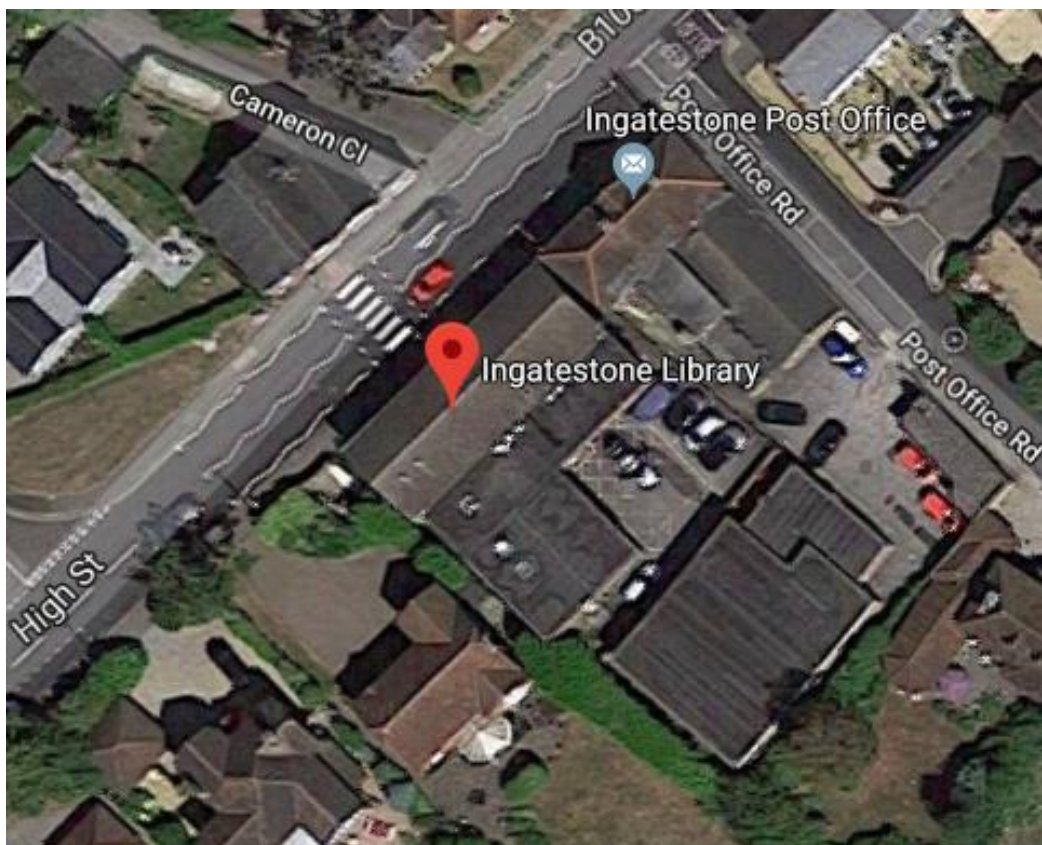
The parish council have already registered an expression of interest during the recent ECC library consultation to start formulating a future plan for the service and building and wish to protect the building further by having it registered as an asset of community value.

b) Description of the nominated land including its proposed boundaries

The current library site was previously a school – this was replaced in 1969 by the current infant school in Fryerning Lane and C of E junior school in The Furlongs. The current library was opened in/around 1974.

The site was acquired for £5,000 from “the parish” in 1963 for the purpose of providing a library. The new schools were constructed between around 1965 and 1969 after which the former school building was demolished, and the current library constructed.

Before its current location, Ingatestone Library was in a room in the front (old) part of the community club.



c) Names of current occupants of land

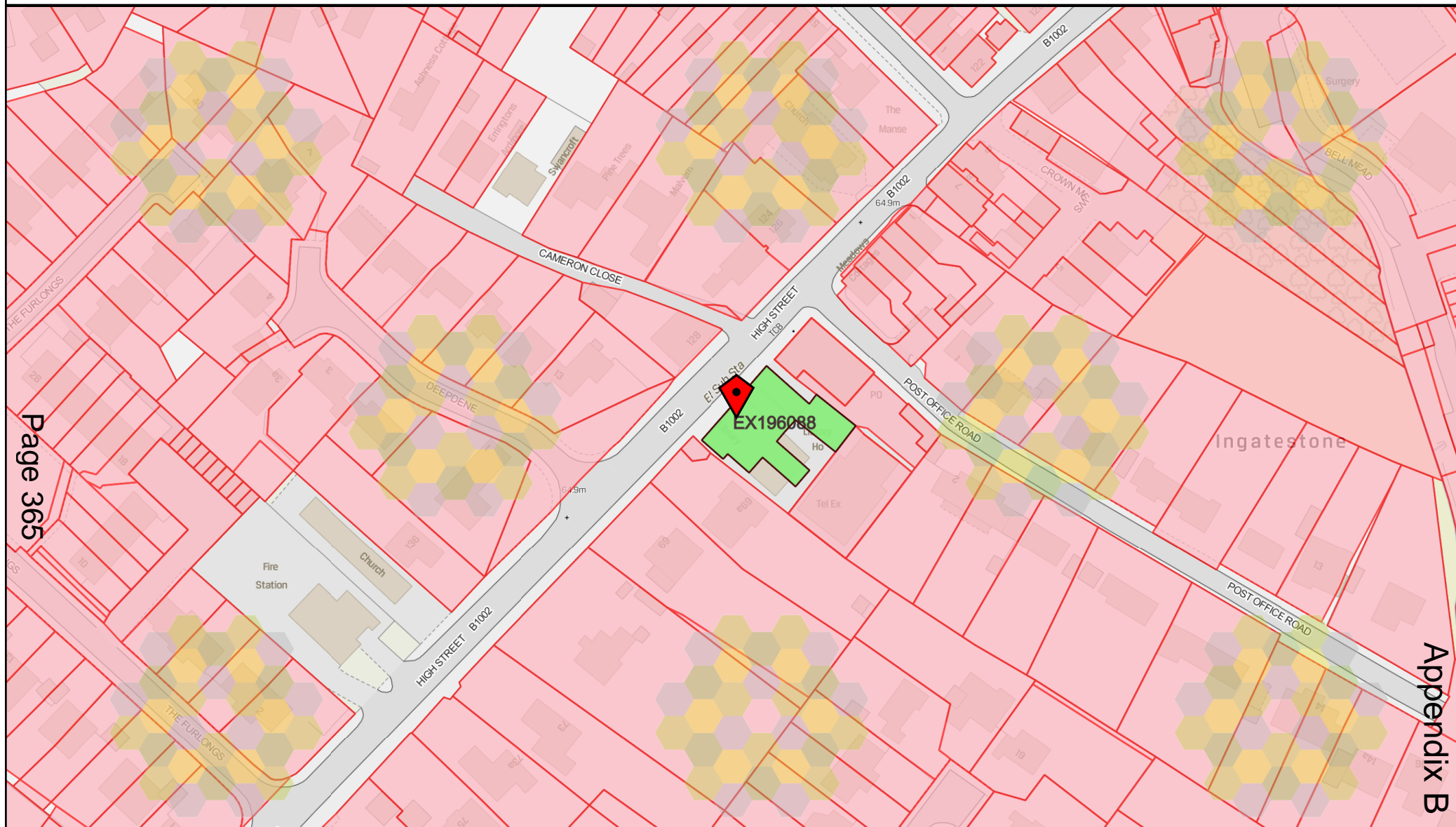
ECC own the freehold title to the building and the car park to the rear.

The architect's firm (Mansfield Monk) who are located on the first floor of the building hold the remainder of a 99-yr lease originally granted in 1974 so have 45 years unexpired, having taken an assignment in 2001. The lease includes the use of 8 parking spaces to the rear of the library.

d) Names and addresses (or last known address) of all those holding a freehold or leasehold interest in the land

Please see the comments in the box above – Essex County Council own the building and the architects residing on the first floor of the building have been in residence since 1974.

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| Title number | Estate information | Address |
|--------------|--------------------|--|
| EX196088 | Leasehold | INGATESTONE LIBRARY HIGH STREET, INGATESTONE CM4 9EU LIBRARY HOUSE HIGH STREET, INGATESTONE CM4 9EU |



Department for
Communities and
Local Government

Appendix C

Community Right to Bid: Non-statutory advice note for local authorities

Part 5 Chapter 3 of the Localism Act 2011 and the Assets of
Community Regulations 2012

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Ministerial foreword



From local pubs and shops to village halls and community centres, the past decade has seen many communities lose local amenities and buildings that are of great importance to them. As a result they find themselves bereft of the assets that can help to contribute to the development of vibrant and active communities. However on a more positive note, the past decade has also seen a significant rise in communities becoming more active and joining together to save and take over assets which are significant for them.

Part 5 Chapter 3 of the Localism Act, and the Assets of Community Value (England) Regulations, which together deliver the Community Right to Bid, aim to encourage more of this type of community-focused, locally-led action by providing an important tool to help communities looking to take over and run local assets. The scheme will give communities the opportunity to identify assets of community value and have them listed and, when they are put up for sale, more time to raise finance and prepare to bid for them.

This scheme requires an excellent understanding of the needs of the local community. As such local authorities will have a pivotal role in implementing the Community Right to Bid, working with local communities to decide on asset listing, ensuring asset owners understand the consequences of listing, enforcing the Moratorium period and in taking decisions as part of any appeals process

This advice note, which has non-statutory status, is aimed at helping local authorities to implement the scheme so that they can work with their communities to protect the buildings and amenities which are of great local significance to the places where people live and work.

A handwritten signature in black ink, appearing to read 'Don Foster', with a horizontal line underneath.

The Rt Hon Don Foster MP

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Section1

Introduction and scope of advice

- 1.1 The Localism Act (“the Act”) was enacted on 15 November 2011¹, and the Assets of Community Value provisions in Part 5 Chapter 3 were commenced for England at the same time as the Regulations made under those provisions came into force, both on 21 September 2012.
- 1.2 The status of this advice note is non-statutory and applies only to England.
- 1.3 A glossary of terms is at Annex A at the end of this guidance.

¹ <http://www.legislation.gov.uk/ukpga/2011/20/part/5/chapter/3/enacted>

Section 2

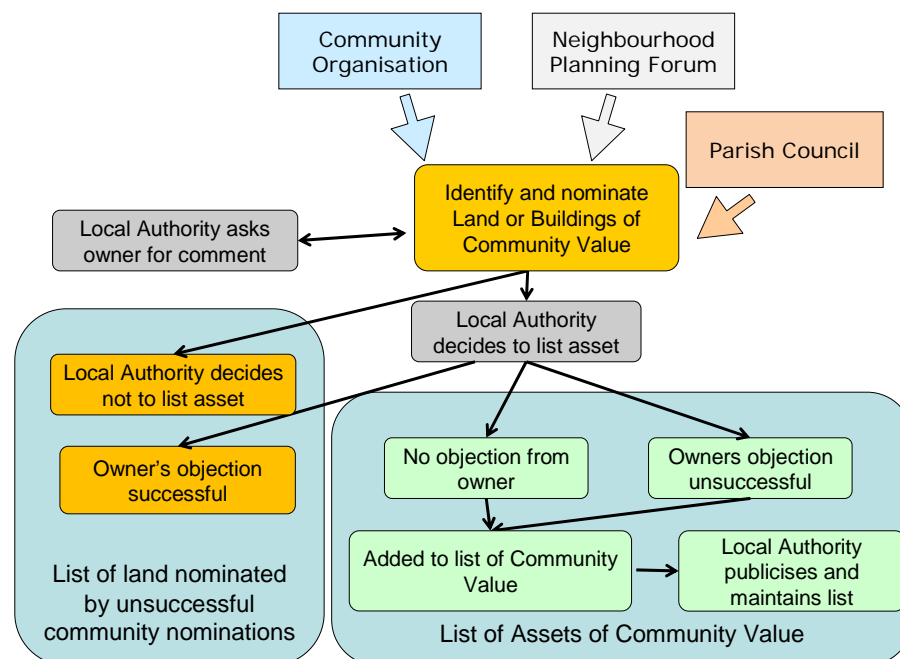
Outline of how the scheme works

- 2.1 The provisions give local groups a right to nominate a building or other land for listing by the local authority as an asset of community value. It can be listed if a principal (“non-ancillary”) use of the asset 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 is to be sold, local community groups will in many cases have a fairer chance to make a bid to buy it on the open market.
- 2.2 The Assets of Community Value legislation places requirements on the following local authorities in England:
- (a) a district council,
 - (b) a county council for an area for which there are no district councils,
 - (c) a London borough council,
 - (d) the Common Council of the City of London, or
 - (e) the Council of the Isles of Scilly.
- 2.3 The scheme has two main parts: nominating and listing assets and the moratorium.

Nominating an asset

- 2.4 It is open to parishes and community organisations, including neighbourhood forums (as constituted under section 61F of the Town and Country Planning Act 1990, added to that Act by the Localism Act) to nominate local assets to their local authority, to be included on the list of assets of community value. Nominated assets may be owned by anybody, including the local authority and the Crown.
- 2.5 A neighbouring parish council can nominate an asset. Where the land is in a parish area, this means a parish which shares a border with it; or if an asset is in an unparished local authority area, so that there is no immediately adjoining parish council within the same local authority area, a parish council that borders the local authority could nominate an asset.

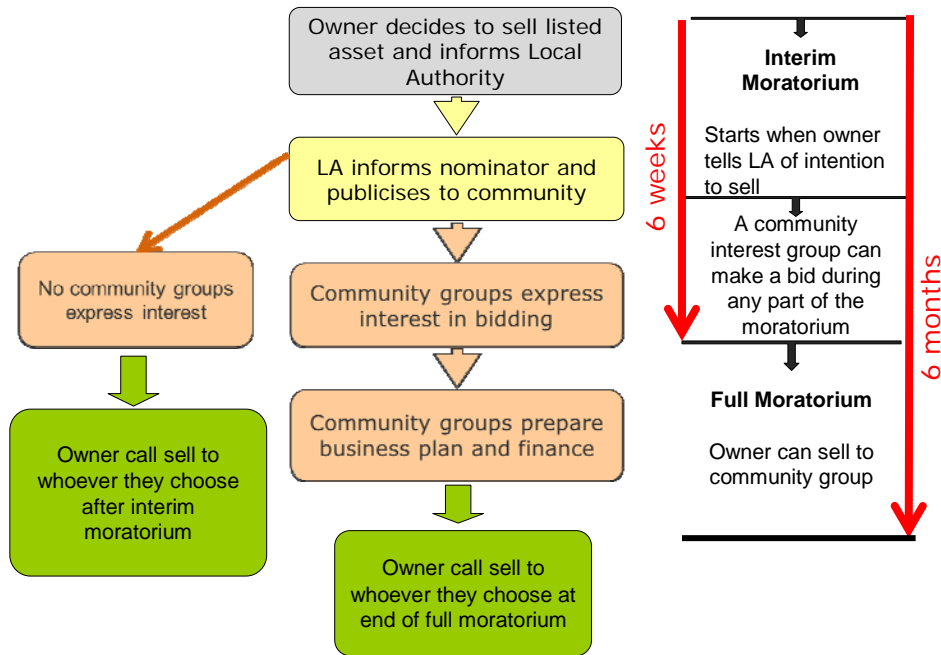
- 2.6 The local authority will then have 8 weeks to make a judgement about whether the asset meets the definition set out in section 88 of the Act or whether it falls into one of the excluded categories, including residential property, set out in Schedule 1 to the Regulations.
- 2.7 If the nominated asset is properly nominated, is in the local authority's area, meets the definition, and is not excluded, the local authority must list it and inform all specified parties (including the parish council). They must also place the asset on the local land charges register and, if the land is registered, apply for a restriction on the Land Register in Form QQ (for details see below under Enforcement).
- 2.8 If the owner objects to their property being placed on the List, they will have a right to an internal review by the council of the decision to list. The details of this process are set out below. If the owner remains in disagreement with the listing after the internal review they have a right of appeal to an independent Tribunal.
- 2.9 If the local authority do not agree that the asset nominated meets the section 88 definition, or it is in one of the excluded categories, they must place it on a list of assets nominated but not listed. If an owner is successful in their appeal against listing at internal review or Tribunal stage then the asset must also be moved to the list of unsuccessful nominations. It is for the local authority to decide how long they hold unsuccessful nominations on this list. The intention of this is to ensure transparency and to avoid multiple nomination of an asset that does not meet the definition.



Moratorium

- 2.10 Once an asset has been listed nothing further will happen unless and until the owner decides to dispose of it, either through a freehold sale, or the grant or assignment of a qualifying lease (i.e. originally granted for at least twenty-five years).
- 2.11 Unless an exemption applies, the owner will only be able to dispose of the asset after a specified window has expired.
- 2.12 The first part of this window is a 6 week interim period, which will apply in all cases, from the point the owner notifies the local authority. This will allow community interest groups to make a written request to be treated as a potential bidder. If none do so in this period, the owner is free to sell their asset at the end of the 6 weeks.
- 2.13 If a community interest group as defined in regulation 12 of the Regulations (referring to the bodies in paragraph (1) (d) to (g) of regulation 5) does make a request during this interim period, then the full 6 month moratorium (again from the point the owner notifies the local authority) will operate. During this period the owner may continue to market and negotiate sales, but may not exchange contracts (or enter into a binding contract to do so later). There is one exception. The owner may sell to a community interest group during the moratorium period.
- 2.14 After the moratorium period – either the 6 weeks if there has been no community interest, or the full 6 months – the owner is free to sell to **whomever they choose and at whatever price**, and no further moratorium will apply for the remainder of a protected period lasting 18 months (running from the same start date of when the owner notified the local authority of wishing to sell). The process and lengths of the moratorium periods are contained in section 95 of the Act².

² <http://www.legislation.gov.uk/ukpga/2011/20/section/95/enacted>



- 2.15 Not all proposed sales have to be notified to the local authority however. A range of disposals will be exempted from the provisions. A number are set out in section 95(5) of the Act, and others are in the Regulations. The full list of exemptions is given in Annex A.

Compensation

- 2.16 The scheme recognises that these provisions may have some financial impact on owners and provides a compensation scheme for private property owners. This will not be available to public bodies. The local authority will be responsible for administering the compensation scheme, including assessing and determining compensation awards. Owners and former owners will have rights of review and appeal regarding the authority's compensation decisions (see Section 10).

Enforcement

- 2.17 The scheme provides for various mechanisms to encourage compliance by requiring local authorities to:
- Inform owners and other interested parties that an asset has been listed
 - enter on the local land charges register the fact that an asset has been listed; and

- in the case of registered land, apply for a restriction on the Land register.

2.18 Additionally, to give a strong incentive to owners to comply with the scheme, non-compliant sales will be void (ineffective), meaning that the change of ownership has not taken place (regardless of whether it has erroneously been registered on the Land Register - which would have to be rectified once the fact that the sale was void was discovered). However this penalty will not apply if the owner was unaware through no fault of their own that the land was listed when it was sold.

What the provisions do not do

- 2.19 These provisions do **not** restrict in any way who the owner of a listed asset can sell their property to, or at what price. They also do **not** confer a right of first refusal to community interest groups (unlike the Scottish scheme).³
- 2.20 The provisions do not place any restriction on what an owner can do with their property, once listed, so long as it remains in their ownership. This is because it is planning policy that determines permitted uses for particular sites. However the fact that the site is listed may affect planning decisions - it is open to the Local Planning Authority to decide whether listing as an asset of community value is a material consideration if an application for change of use is submitted, considering all the circumstances of the case.

³ <http://www.scotland.gov.uk/Topics/farmingrural/Rural/rural-land/right-to-buy/Community>

Section 3

List of assets of community value

- 3.1 In addition to the list of assets, local authorities are required to maintain a list of assets nominated unsuccessfully by community nomination. The local authority may remove land from this second list whenever it considers would be appropriate. Local authorities must publish both lists; it is up to them to decide how they publish them, but they must make them available for free inspection by any person and must provide a free copy of either to anyone who asks for it (but are not required to provide more than one free copy of each). The two lists may be combined into one document if the local authority wishes. The list of unsuccessful nominations must include reasons for the land not being listed.
- 3.2 It is up to local authorities to decide on the detailed contents and layout of the lists and when to modify them, except for the following requirements.
- 3.3 Local authorities are required to add to the list of assets, as soon as practicable:
- a) that a notification by the owner of intention to dispose of the land has been received by the local authority and the date this was received
 - b) in all cases under (a), the end dates of the interim and full moratorium periods and the protected period
 - c) where relevant, that the full moratorium has been triggered
 - d) where (c) applies, the identity of the community interest group that triggered the full moratorium
- 3.4 Local authorities are required to remove an asset from the List, as soon as practicable:
- a) after a relevant disposal (other than an exempt disposal)
 - b) when an appeal against a listing has been successful
 - c) when they form the opinion that the land or building is no longer of community value
 - d) or no later than 5 years from the date of entry on the list.

Land which may, and may not, be listed as an asset of community value

3.5 If a local authority receives a valid nomination, it must determine whether the land or building nominated meets the definition of an asset of community value as set out in section 88 of the Act. A building or other land in a local authority's area is land of community value if in the opinion of the authority —

- (a) an actual current use of the building or other land that is not an ancillary use furthers the social wellbeing or social interests of the local community, and;
- (b) it is realistic to think that there can continue to be non-ancillary use of the building or other land which will further (whether or not in the same way) the social wellbeing or social interests of the local community.

(Section 88(1) Localism Act 2011)

Section 88(2) of the Act extends this definition to land which has furthered the social wellbeing or social interests of the local community in the recent past, and which it is realistic to consider will do so again during the next five years.

3.6 There are some categories of assets that are excluded from listing. The principal one is residential property. This includes gardens, outbuildings and other associated land, including land that it is reasonable to consider as part of the land with the residence where it is separated from it only by a road, railway line, river or canal where they are in the same ownership as the associated residence. Details of this are set out in paragraphs 1 and 2 of Schedule 1 to the Regulations. "The same ownership" includes ownership by different trusts of land settled by the same settlor, as well as literally the same individual owner.

3.7 There is an exception to this general exclusion of residential property from listing. This is where an asset which could otherwise be listed contains integral residential quarters, such as accommodation as part of a pub or a caretaker's flat.

3.8 There are two further categories of assets excluded from listing:

- (a) Land licensed for use as a residential caravan site (and some types of residential caravan site which do not need a licence), in paragraph 3 of Schedule 1 to the Regulations.

(b) Operational land of statutory undertakers as defined in section 263 of the Town and Country Planning Act 1990, in paragraph 4 of Schedule 1 to the Regulations.

Section 4

Who may nominate

4.1 Local authorities cannot list land on their own initiative - it must be nominated. For a local group to be able to nominate land it will have to demonstrate that its activities are wholly or partly concerned with the local authority area where the asset sits or with a neighbouring authority (an authority which shares a boundary with the authority in which the asset is located).

4.2 The voluntary or community bodies which may make community nominations are set out below:

Parish Councils. This may be for an asset in its own area, or in the neighbouring parish council.

Neighbouring Parish Councils. If the parish council borders an unparished area, then they may nominate an asset within that neighbouring local authority.

Unincorporated groups. Nominations can be accepted from any unincorporated group with membership of at least 21 local people who appear on the electoral roll within the local authority, or a neighbouring local authority. This will for instance enable nomination by a local group formed to try to save an asset, but which has not yet reached the stage of acquiring a formal charitable or corporate structure.

Neighbourhood forums. The procedure for becoming a neighbourhood forum is set out in section 61F of the Town and Country Planning Act 1990, added by the Localism Act 2011. There can only be one neighbourhood forum for an area. Existing community groups, civic societies and others can put themselves forward to be a 'neighbourhood forum'. Prospective neighbourhood forums need to ensure they meet the conditions for designation set out in the legislation, for example a forum should have an open membership policy and seek to draw its membership from across the neighbourhood area and from different sections of the local community.

Community interest groups with a local connection. These must have one or more of the following structures:

- a) A charity
- b) A community interest company
- c) A company limited by guarantee that is non profit distributing

d) An industrial and provident society that is non- profit distributing (these groups will be renamed as community benefit societies by the Co-operative and Community Benefit Societies and Credit Unions Act 2010 when it comes into force)

- 4.3 In this context, non-profit distributing means that any surplus is not distributed to its members but is wholly or partly applied to the local authority area where the asset is based or to a neighbouring authority area.

Section 5

Contents of a nomination

- 5.1 A nomination must include the following information for the local authority to consider:
- I. A description of the nominated land including its proposed boundaries. These boundaries do not have to be the same as ownership boundaries, for instance as shown on the Land Registry plan if the land is registered; nor is it necessary for all parts of the nominated site to be in the same ownership.
 - II. Any information the nominator has about the freeholders, leaseholders and current occupants of the site.
 - III. The reasons for nominating the asset, explaining why the nominator believes the asset meets the definition in the Act.
 - IV. The nominator's eligibility to make the nomination.
- 5.2 Local authorities may wish to consider having a named point of contact for community groups to send their nominations to.
- 5.3 Community nominations may be made at any time, including after an asset has been put onto the market. However no restrictions on sale arise from nomination - it is only listing which brings the statutory provisions into play.

Section 6

Procedure when considering listing

- 6.1 The local authority is required to make a decision in response to a nomination within 8 weeks of receiving the nomination.
- 6.2 The local authority must take all practicable steps to inform the following if an asset has been nominated:
- a parish council (if any) in which the land lies (or partly lies),
 - the owner as defined in section 107 of the Localism Act. This definition ensures that only one level of legal proprietary rights will qualify as ownership for the Act. In summary this is the freeholder or, if the asset is leased, the leaseholder with the lease most distant from the freehold which when granted had at least 25 years to run. So if there are a number of leases the leaseholder with a qualifying lease or sub-lease most distant from the freeholder is the owner for the purposes of these provisions.
 - all others with a legal estate, i.e. if the owner is not the freeholder then the holder of the freehold estate, and any other leaseholder apart from the owner; and
 - any lawful occupant (which could include a licensee).
- 6.3 When an asset is added to or removed from the list, the local authority must inform the owner, the occupier of the land if not the owner, and the successful community nominator of the asset. This is set out in section 91(2) of the Localism Act.⁴
- 6.4 Local authorities must also inform any freeholders and leaseholders of the asset who are not the owners, together with the parish council the land lies in (or partly lies in), that an asset has been added to, or removed from, the list. (See regulation 9 of the Regulations)
- 6.5 A local authority which is not able to give notice to any of these people in the usual way – for instance due to lack of names or addresses – can take reasonable alternative steps to bring the notice to a person's attention. This could include, for instance, a notice attached to the property. (See section 91(2) of the Act)

⁴ <http://www.legislation.gov.uk/ukpga/2011/20/section/91/enacted>

Section 7

Procedure to be followed for listing review

- 7.1 If an asset has been included on the List, an owner has the right to request the local authority to review its decision, under section 92 of the Act. The deadline for the owner to request this review is set out in paragraph 1 of Schedule 2 to the Regulations: it is 8 weeks from the date written notice of listing was given (or from the date that alternative steps were completed to bring listing to the owner's attention) or a longer period allowed by the authority in writing. The property will remain listed while the review is carried out.
- 7.2 Basic procedural rules for the review are set out in Schedule 2 to the Regulations. It must be conducted by an officer of appropriate seniority, who did not take part in the decision to list. The owner may appoint a representative and the local authority will be required to provide all relevant documents to the representative.
- 7.3 The owner and/or their representative may make representations to the reviewer orally and/or in writing. The authority must complete their review within 8 weeks, unless a longer period has been agreed in writing.
- 7.4 The owner and authority will bear their own costs of the review.
- 7.5 If the owner is not satisfied with the outcome of the internal review they have the right to appeal to the First-Tier Tribunal against the local authority's review decision. The written response following the internal review should inform the owner of their right to an independent appeal. The owner making the appeal can be either the same owner who requested the review, or - if the property has been sold in the meantime - the new owner.

Section 8

Appeal against a listing review

- 8.1 An owner's appeal against a local authority listing review must be made to the General Regulatory Chamber of the First-Tier Tribunal. The deadline for appealing is specified in the procedural rules of that Chamber as 28 days from the date on which notice of the decision appealed against was sent to the owner. Appeals may be both on points of law and on findings of fact. The property will remain listed during the appeal process.
- 8.2 Owners should send the appeal in writing to the First-Tier Tribunal at:
- Tribunal Clerk,
Community Right to Bid Appeals
HM Courts & Tribunals
First-tier Tribunal (General Regulatory Chamber)
P.O. Box 9300
Leicester, LE1 8DJ
- 8.3 Owners may also send an appeal to the First-Tier Tribunal by email at:
GRC.CommunityRights@hmcts.gsi.gov.uk

Section 9

Moratorium

- 9.1 The moratorium requirements, as set out in section 95 of the Act, apply only to relevant disposals. “Relevant disposal” is defined in section 96. It means a transfer of the freehold or grant or assignment of a qualifying lease which gives vacant possession of the buildings and other land in question. However they will not apply to all relevant disposals, as some types of relevant disposal are exempt. These exemptions are partly in the Act and partly in the Regulations; the full combined list is set out in Annex A below. The moratorium provisions apply only to disposals, so for example if a building listed as an asset of community value is to be demolished without being sold, the moratorium rules in section 95 do not apply.
- 9.2 An owner of a listed site may not make a relevant disposal of their asset during the 6 week interim moratorium period (unless it falls within one of the exemptions or is to a community interest group). This interim moratorium runs from the date the local authority receives notification from the owner of their intention to dispose of their listed asset
- 9.3 Once the local authority has been notified of the intent to dispose, they are required to update the list to show the owner’s intention to dispose and to give the interim and full moratorium end dates, and the end date of the protected period. The nominating community group must be informed. The local authority must also publicise all of these matters in the neighbourhood of the asset in question. It is for the local authority to determine how they do this.
- 9.4 During the interim moratorium period a community interest group may request in writing to be treated as a potential bidder for the asset; this will bring the full moratorium period into force. The community interest group does not have to provide any evidence of intention or financial resources to make such a bid. A community interest group must have one or more of the following structures:
- (a) A charity
 - (b) A community interest company
 - (c) A company limited by guarantee that is non profit distributing
 - (d) An industrial and provident society that is non profit distributing
- (these groups will be renamed as community benefit societies by the

Co-operative and Community Benefit Societies and Credit Unions Act 2010 when the relevant provisions come into force)

- 9.5 Once a local community interest group makes a written request to the local authority during the interim moratorium period to be treated as a potential bidder, the owner may not dispose of their asset during the full 6 month moratorium (except as permitted). The local authority must as soon as practicable let the owner know that this request has been received (section 98 of the Act).
- 9.6 There is one type of disposal that may be made during a moratorium. An owner may sell during the interim or full moratorium period to a local community interest group – i.e. one which either did, or would have been eligible to, trigger the full moratorium.
- 9.7 There are a number of types of disposals which are exempt from the moratorium requirements, as set out in section 95(5) of the Act and in Schedule 3 to the Regulations. The full list of exemptions is set out in Annex A.

Section 10

Compensation

- 10.1 Private owners may claim compensation for loss and expense incurred through the asset being listed or previously listed. The Regulations specifically provide that this will include a claim arising from a period of delay in entering into a binding agreement to sell which is wholly caused by the interim or full moratorium period; or for legal expenses incurred in a successful appeal to the Tribunal.
- 10.2 The time limit for making a compensation claim is specified in Schedule 2 to the Regulations as whichever is earlier of 13 weeks from the end of the interim or full moratorium period (as appropriate) or from the date when the land ceases to be listed. The assumption is that most claims for compensation will arise from a moratorium period being applied; however the wording allows for claims for loss or expense arising simply as a result of the land being listed.
- 10.3 Claims must be made in writing, state the amount of compensation sought and provide supporting evidence. The burden of proving the claim falls on the owner.
- 10.4 The local authority must consider the claim and is required to give written reasons for its decision. No time limit is specified for responding to the claim. The reason for this is that it may take the authority some time to assemble all the necessary evidence; however once it has all the facts the authority should reach a decision as quickly as is practicable.
- 10.5 The compensation scheme does not extend to public authorities and bodies. These are defined as:
- Government departments, authorities and other bodies to which section 6 of the National Audit Act 1983 applies;
 - bodies which receive the majority of their funding from public sources which may be examined by the Comptroller and Auditor General under section 7 of the National Audit Act 1983; and,
 - local authorities and other public authorities and bodies that are required to be audited under section 2 of the Audit Commission Act 1998

- 10.6 As with other costs incurred by local authorities in meeting the requirements placed on them, we have reflected the estimated costs of compensation within the new burdens funding. The compensation elements of new burdens funding are estimated on the basis of 40 successful claims for compensation across all administering local authorities over a year.
- 10.7 In addition to the amount included within the new burdens assessment, the Government will meet costs of compensation payments of over £20k of compensation costs in a financial year. This could occur through a local authority paying out over £20k in one financial year either on one large claim or as a combined total on a number of smaller claims.
- 10.8 Local authorities can write into the department with a request for financial support providing evidence of the compensation costs incurred either in writing to:
- Albert Joyce,
Community Assets Team,
5/A4 Eland House,
Bressenden Place
London
SW1E 5DU
- or by email at: righttobid@communities.gsi.gov.uk
- 10.9 New Burdens payments will be processed and made available to all administering local authorities in England (as set in section 106 of the Localism Act) on 15 October. We will write to local authority finance officers to inform them about the payment. The department will also notify local authorities in the same way for the periods April 2013 and April 2014.

Section 11

Internal review of compensation decision

- 11.1 The Regulations provide that an owner who is not satisfied with the local authority's response to the compensation claim may request a review by the local authority of its compensation decisions. Schedule 2 to the Regulations provides that the owner must make the request within a period of 8 weeks, beginning on the date on which the local authority provides the owner with written notification of the decision. The local authority may allow longer for a review request to be made.
- 11.2 The local authority must review their decision, and notify the owner of the result within 8 weeks of receiving the request, with reasons. The procedure for the review, in Schedule 2 to the Regulations, is the same as for the local authority's review of a listing decision.

Independent Appeal

- 11.3 An owner may appeal to a Tribunal against the local authority's review decisions on compensation. As with listing appeals, the deadline for the appeal is in the Tribunal Rules – 28 days from receiving the local authority's decision on the compensation review. Only the owner – or former owner – who requested the review may appeal against the review decision (i.e. unlike with listing appeals, a new owner who bought the land following a request for a review may not appeal against the compensation review decision).
- 11.4 As with listing appeals, the current position is that the appeal will be to the General Regulatory Chamber of the First-tier Tribunal.

Section 12

Enforcement

- 12.1 The Regulations introduce a clear penalty for non compliance, and measures to minimise the chance of a disposal not being compliant with the scheme. These will be achieved partly by amendment to the Land Registration Rules 2003.
- 12.2 Local authorities are required to add that an asset has been listed to the local land charges register. This will ensure that all prospective new owners will be aware that an asset has been listed, since local land charges apply to both registered and unregistered land.
- 12.3 Local authorities are required to notify the owner that their asset has been listed and inform them of the implications. Owners are required to inform local authorities that the land has been entered on the Land Register as a result of an application for first registration, and also to inform the local authority if they have become the new owner of listed land (together with giving their name and address details) .
- 12.4 Amendments to the Land Registration Rules 2003 have been made to add further safeguards against non-compliance. Local authorities are required to apply to the Land Registry for entry of a restriction on the Land Register when they list a building or other land as an Asset of Community Value, or, if necessary, where the owner of the listed asset has changed. This restriction will be in a form of wording newly added to Schedule 4 to the Rules, as Form QQ. This is “No transfer or lease is to be registered without a certificate signed by a conveyancer that the transfer or lease did not contravene section 95(1) of the Localism Act 2011“. An owner of previously unregistered listed land, who applies to the Land Registry for first registration (or a mortgagee who applies for first registration on behalf of the owner), is required at the same time to apply for a restriction against their own title. The local authority is also required to apply to the Land Registry for cancellation of the restriction when it removes an asset from its list.
- 12.5 When a listed asset is disposed of, and a new owner applies to the Land Registry to register a change of ownership of a listed asset, they will therefore need to provide the Land Registry with a certificate from a conveyancer that the disposal (and any previous disposals if this is the first registration) did not contravene section 95(1) of the Localism Act (the moratorium requirements).

Annex A

Exemptions

With regard to the following exemptions (with the exception of the first), the local authority will usually not know that the disposal is taking place, because an owner who is confident that the transfer they contemplate will be exempt will not need to notify the authority of intention to sell under section 95(2) of the Act. In some cases an owner may not be sure whether they are going to succeed in making an exempt disposal or not – for instance if they wish to sell the land together with a business sold as a going concern – and may notify the authority as a precaution. In that situation, if they were successful in arranging an exempt disposal, they could enter into a binding contract during the moratorium period. There is no requirement in the legislation that in such circumstances the owner has to explain to the local authority that the disposal is exempt. However it would be helpful for them to do so, and authorities might want to include advice to this effect in any explanation they send to owners about how the moratorium rules work.

The full list of exemptions is as follows. The first is in a different category to the remainder, in that the moratorium rules will have been triggered by notification from the owner, but the sale will be able to take place during the moratorium. Categories (b) to (j) are in section 95(5) of the Act, and (k) to (y) are in Schedule 3 to the Regulations. Item (f) – part-listed land – is partly defined in the Act, and partly in the Regulations.

- a. disposal to a local community interest group, which can be made during a moratorium period (interim or full) – see regulation 13(1)
- b. disposals which are gifts (including transfer for no payment to trustees by way of settlement upon trusts)
- c. disposals by personal representatives in accordance with the will of the deceased owner or under intestacy rules
- d. disposal by personal representatives of the deceased owner in order to raise money for matters connected with administration of the estate
- e. disposals between family members (“family member” is defined in section 95(7) of the Act as the owner’s spouse or partner and descendants of grandparents – which includes the owner’s own parents, but not the grandparents)
- f. part-listed land – i.e. sale of a site only part of which has been listed – where it meets the requirements set out in the Regulations (see concluding paragraph for details)

- g. sale of land on which a business is carried on, together with sale of that business as a going concern (in such circumstances there would normally be payment separately for the business as a going concern, e.g. the value of equipment, stock and goodwill)
- h. disposals occasioned by somebody becoming or ceasing to be a trustee
- i. disposal by trustees in connection with the trust, as specified
- j. a disposal occasioned by a person becoming or ceasing to be a partner in a partnership
- k. transfers made in pursuance of a court order
- l. transfers (not in pursuance of a court order) as part of a separation agreement between spouses or civil partners (or ex ditto) including agreements for care of dependent children
- m. a transfer (not in pursuance of a court order) for the purposes of any enactment relating to incapacity, with "incapacity" being widely defined to include physical and mental impairment and any interference with capacity to deal with financial and property matters
- n. a disposal made in pursuance of a legally enforceable requirement that it should be made to a specific person, including disposals required under planning obligation agreements; and in the case of an option to buy, nomination right, pre-emption right or right of first refusal only if the agreement was entered into before the land was listed (and in this context it should be noted that an option etc entered into *after* the land is listed would count as a relevant disposal under section 96(4) of the Act)
- o. disposals of a description which brings them within the Crichton Down rules (where the land was acquired by compulsory purchase but is no longer needed, and the disposal is by way of return to the original owner or their descendants) – see DCLG Circular 06/04 "Compulsory Purchase and the Crichton Down Rules":
<http://www.communities.gov.uk/documents/planningandbuilding/pdf/1918885.pdf>
- p. sale by a lender under a power of sale (i.e. where the land was security for a loan)
- q. disposal of land under bankruptcy or other insolvency proceedings – the wording is "insolvency proceedings as defined by Rule 13.7 of the Insolvency Rules 1986", which gives a very wide definition of insolvency proceedings
- r. compulsory purchase disposals (see the wide definition of "statutory compulsory purchase" in regulation 1, which includes disposals by a purchaser deemed to acquire the land compulsorily under a statutory blight notice, and also disposals by agreement where a compulsory power could be used)

- s. the grant of a agricultural tenancy to a successor on the death or retirement of the current tenant pursuant to Part 4 of the Agricultural Holdings Act 1986
- t. transfers between connected companies in a group of companies (using the definition of “group undertaking” in section 1161(5) of the Companies Act 2006, modified to restrict “undertaking” to a body corporate)
- u. disposals of part-listed land – this is the second part of the definition, the other part being in the Act – section 95(5)(e)⁵. See final paragraph below for details.
- v. disposals of closed Church of England churches under Part 6 of the Mission and Pastoral Measure 2011: the lengthy process in Part 6 of the Measure involves public consultation, and at the end of it the building will either be sold or leased for an agreed purpose, or demolished, or transferred to the Churches Conservation Trust for preservation – following which outcomes it will once more be possible to list the building and land if appropriate.
- w. disposals by any owner for the purpose of continuing health service provision on the land (in accordance with section 1(1) of the National Health Service Act 2006)
- x. a disposal of land to be held for the purpose of a school (excluding independent schools), further education institution or 16 to 19 Academy
- y. disposal of land subject to a statutory requirement regarding the making of the disposal, where that requirement could not be observed if the Assets moratorium rules were complied with.

Details regarding part-listed land and land with a residence

Similar rules apply for determining how much land constitutes land with a residence (for exclusion from listing in Schedule 1 to the Regulations) and how much land constitutes a single site for qualifying as a part-listed site (as an exempt disposal in Schedule 3 to the Regulations). In order to ensure that the same rules apply to registered and unregistered land, the approach taken has not been based on title. Instead, it is necessary to look at whether the site in question is one coherent parcel of land all owned by a single owner, so

⁵ the disposal is a part-listed disposal of a description specified in regulations made by the appropriate authority, and for this purpose “part-listed disposal” means a disposal of an estate in land –

- (1) part of which is land included in a local authority’s list of assets of community value, and
- (2) part of which is land not included in any local authority’s list of assets of community value.

that it is possible to reach one part from another without crossing land owned by somebody else. However there are two qualifications to be taken into account:

- Firstly, “a single owner” has an expanded meaning covering more than simply the same person or joint owners. It includes also trustees of different trusts of land which was settled by the same settlor – see definition of “single owner” in regulation 1.
- Secondly, where it would otherwise be reasonable to regard the land as one coherent parcel, the fact that it is crossed by a road, railway, canal or river in other ownership is to be ignored.

Annex B

Glossary

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|--|---|
| <i>Asset</i> | A building or other land |
| <i>The Community Right to Bid</i> | The name by which the Assets of Community Value scheme is commonly known. |
| <i>Land of community value</i> | Building or other land whose main (i.e. “non-ancillary”) use furthers the social wellbeing or social interests of the local community, or has recently done so, and is likely to do so in the future. See section 88 of the Act. |
| <i>List of assets of community value</i> | A list maintained by a local authority of land in its area of community value. See section 87 of the Act. |
| <i>Voluntary or community body</i> | A group which can nominate land, so long as it has a local connection with the land. See regulation 5. |
| <i>Local connection</i> | The requirement that a group’s activities and use of any profits (where relevant) must be concerned with the local authority area or a neighbouring authority area. In the case of a parish council, the requirement is that it must share a border with the relevant area in which the asset lies. See regulation 4. |
| <i>Relevant disposal</i> | The transfer of the freehold, or the grant or assignment of a lease originally granted for at least 25 years, giving vacant possession to the new owner. See section 96 of the Act. |

Exempt disposal

A relevant disposal for which the land owner does not have to observe section 95(1) of the Act. There are two sorts of exempt disposal:

- one where the owner does notify the local authority of intention to sell, so that the moratorium applies, but can sell during the moratorium to a community interest group;
- fully exempt disposals where the owner can simply go ahead without notifying the local authority at all. These are set out in section 95(5) of the Act and Schedule 3 to the Regulations.

Moratorium period

A period of time during which the owner of listed land cannot make a non-exempt relevant disposal, other than to a voluntary or community body. There are two moratorium periods (see section 95(6) of the Act), both running from the same start date (when the owner notifies the local authority of an intention to sell):

- the interim moratorium - 6 weeks;
- the full moratorium - 6 months.

Protected period

A period of 18 months (running from the date the owner notified the local authority of an intention to sell). Once any moratorium period has finished, the same owner can sell during the remainder of the protected period without having to comply with the section 95 requirements again.

Listing review

A review by a local authority at the request of the owner of their decision to list a building or other land as an asset of community value. See section 92 of the Act, and for procedure on the review Schedule 2 to the Regulations.

| | |
|---------------------------------|--|
| <i>Compensation review</i> | A review by a local authority at the request of the owner of their decision in response to a claim for compensation for loss or expense caused by listing their building or other land as an asset of community value. See section 99 of the Act, regulation 16, and for procedure on the review Schedule 2 to the Regulations. |
| <i>Conveyancer</i> | The owner of listed, or formerly listed, land will in some circumstances have to provide a certificate by a conveyancer that a disposal has not contravened section 95(1) of the Act. "Conveyancer" in this context has the meaning given in rule 217A of the Land Registration Rules 2003, including a solicitor, a barrister, and a licensed conveyancer. |
| <i>The Act</i> | The Localism Act 2011 |
| <i>Community interest group</i> | <p>A group which, for land with which it has a local connection, may –</p> <ul style="list-style-type: none"> ○ ask to be treated as a potential bidder for listed land which the owner wishes to sell, thus triggering the full moratorium of 6 months ○ buy listed land during the moratorium period ○ nominate land for listing (since the requirements for a voluntary or community body include the requirements for a community interest group). <p>It must be a charity or community interest company, or a non-profit distributing industrial and provident society or company limited by guarantee.</p> <p>See sections 89 and 95, and regulations 5 and 12.</p> |
| <i>Nomination</i> | A request to the relevant local authority that land be entered on its list of assets of community value, containing the information specified in regulation 6. See also section 89 of the Act. |

(Note that although the Act allows for a possible distinction between community nominations and other nominations, the regulations provide only for community nominations – therefore all nominations will be community nominations.)

Local authority

In England, a district council, county council for an area with no district councils, London borough council, the Common Council of the City of London, or the Council of the Isles of Scilly. See section 106 of the Act.

Restriction on the Land Register

An entry on the register preventing dealing with the land until the requisite condition has been complied with – in this case set out in Form QQ to be added to Schedule 4 to the Land Registration Rules 2003:

No transfer or lease is to be registered without a certificate signed by a conveyancer that the transfer or lease did not contravene section 95(1) of the Localism Act 2011.

Ineffective transfer of land

A purported disposal of land which in fact does not have any effect – ownership of the land remains with the original owner.

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