

**5 March 2019**

**Community, Health and Housing Committee**

**Asset of Community Value – Shenfield 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 Shenfield 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 15 January 2019 from Shenfield and Hutton (morning) WI (Charity no. 291804) 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 12 March 2019 which is why this 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. 1.15 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 Shenfield and Hutton (morning) WI are a registered charity as such 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. Shenfield and Hutton (morning) WI operates in the Shenfield and Hutton area and has 113 members living locally.
- 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:

**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 especially Shenfield and Hutton.

**What is the current/recent use of the asset?** The nominated asset's current usage is as a community library.

**How well is the asset used?** The nominee states that the library has a footfall of about 300 people per week (75,000 visits per annum). It currently provides a reading and book lending service. The nominee states that the usage is one of the highest in Essex. The library has 4,000 active users, supports 30 book clubs, had a summer reading challenge in which 35 staff and volunteers taught 900 children to read. It also provides books on prescription (mental health) and magazine and newspapers.

**What will be the impact if the usage ceases?** The nominee states that "there will be a decrease in cultural activity in the area due to the loss of display area for local art group. There will be lower book lending and reading (as Brentwood Library is more distant) and lower likelihood of local primary school children walking to or visiting a library. Increase social isolation and loneliness of elderly people, carers (including young mothers) and people with social, mental or physical disabilities. Decrease in local recreational activities as it is a meeting place for several book clubs, has display stands for local societies/clubs to display their membership activities, less walking to library (and more driving) and loss of venue for social groups (e.g. knit and natter, meditation group). Loss of a safe haven for breast feeding mothers (only place in locality) and secondary school children doing homework whilst awaiting return of their parents from work. More difficulties for those without a computer to access the internet and many government departments. Decrease in amount of public accessing public consultation documents."

**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.* Provides a resource for information especially those that are not able to access via on line. It also acts as a community centre which promotes family and community

wellbeing and supports a safe and cohesive community. Examples include baby massage; baby and toddler rhyme time twice a week; meditation group 9 three times a month); knit and natter (fortnightly); monthly art displays from local groups; coffee and crime (monthly); online/computer access; information about local clubs/societies; it provides a safe space for children to do homework; home tutoring and exam venue for excluded pupils; provides a venue for public consultation documents such as highways; Council recycling bags; hearing aid batteries. See also 4.10.

**How is the asset regarded by the local community (community consultation, evidence of support)?** There is an on-line petition to 'Save Shenfield Library' which has been signed by over 1,000 people.

- 4.8 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.
- 4.9 The recent usage of Shenfield 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 wellbeing or social interests of the local community.
- 4.10 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 be one main '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. Shenfield 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.
- 4.11 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 Shenfield 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 Shenfield 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**

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- 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 Shenfield Library is Essex County Council. Brentwood Borough Council has the right to list the land as the land sits within Brentwood Councils 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**

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- 8.1 The Council has a statutory responsibility to comply with the provisions as set out in the Localism Act and 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.

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.

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.

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. 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.

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 A – Nomination of land Shenfield Library

Appendix B – Site Map

Appendix C – Provisions under the Localism Act 2011 relating to Assets of Community Value.

**12.0 Background documents**

Localism Act 2011

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