

<b>Subject:</b>	Community Right to Bid Policy and Guidance Review	<b>Status:</b>	For Publication
<b>Report to:</b>	Overview and Scrutiny Cabinet	<b>Date:</b>	5 <sup>th</sup> February 2018 14 <sup>th</sup> March 2018
<b>Report of:</b>	Committee and Member Services Manager	<b>Portfolio Holder:</b>	Regulatory Services
<b>Key Decision:</b>	<input checked="" type="checkbox"/> Forward Plan <input checked="" type="checkbox"/>	<b>General Exception</b>	<input type="checkbox"/> <b>Special Urgency</b> <input type="checkbox"/>
<b>Equality Impact Assessment:</b>	Required:	No – Initial EIA only	Attached: No – Initial EIA only
<b>Biodiversity Impact Assessment</b>	Required:	No	Attached: No
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<b>1.</b>	<b>RECOMMENDATION(S)</b>
1.1	Cabinet agree the proposed amendments to the policy and guidance for the Community Right to Bid process as detailed in the tracked changes of Appendix 1 relating to: <ul style="list-style-type: none"> <li>• Minor amendments including rewording, post titles, contacts and formatting.</li> <li>• Removal of the sample forms and updates to the flowcharts.</li> <li>• Process amendments including future nomination decisions.</li> </ul>
1.2	That all future minor amendments to the policy and guidance to be delegated to the Monitoring Officer in consultation with the Portfolio Holder.

## 2. PURPOSE OF REPORT

2.1 To review and amend the existing Community Right to Bid: Assets of Community Value policy and guidance.

2.2 The policy and guidance was agreed at Cabinet on 23<sup>rd</sup> October 2013 and is now due for review. As part of the review minor amendments have been made to the policy and guidance in addition to amendments to the process following feedback from councillors undertaking the nomination reviews. These amendments are shown in the tracked changes of Appendix 1.

## 3. CORPORATE PRIORITIES

3.1 The matters discussed in this report impact directly on the following corporate priorities:

- **A connected and successful Rossendale that welcomes sustainable growth:** our priority is to ensure that we are well connected to our residents, key partners and stakeholders. We want to make the most of every pound we spend and we are always looking for new and innovative ways to make the resources we do have, work harder for us.

## 4. RISK ASSESSMENT IMPLICATIONS

4.1 All the issues raised and the recommendations in this report involve risk considerations as set out below:

- Reviewing and carrying out local authority responsibilities from the Localism Act 2011.
- Governance of the process and associated reputational risks.
- Having a consistent corporate procedure in place to deal with Community Right to Bid nominations for assets of community value.
- Potential financial risks for the Council associated with appeals and compensation.
- Additional costs to the Council for land searches and land registry requirements

associated with the process.

## **5. BACKGROUND AND OPTIONS**

- 5.1 The current policy has been in place for the past 4 years and was developed following the introduction of the Localism Act 2011.
- 5.2 The policy which is based on the requirements of the Act is now due for review. As part of this review the comments received from members making the decision on nominations has been taken into account, alongside other proposed amendments.
- 5.3 Minor amendments made to the policy and guidance also include contact detail updates and the removal of the sample forms which were provided for members information whilst the original policy and guidance was under development. The deleted nomination form and asset register are now included on the new website as downloadable documents and sit alongside the policy and guidance on the Community Right to Bid web page (and are therefore, at present duplicated).
- 5.4 When the policy and guidance was originally approved in October 2013, delegation for minor amendments was given to the Director of Business in consultation with the Portfolio Holder. As this post no longer exists the report recommends that delegation is given for minor amendments to the Monitoring Officer in consultation with the Portfolio Holder.
- 5.5 The current process requires all nominations to be considered by the Consultation Working Group, who decide if nominations meet the criteria in the Act and the policy.
- 5.6 Assets such as privately or publically owned land, or buildings, may be nominated where it is considered that they have a 'community value'. An asset of community value is an asset that furthers the social well-being or social interests of the local community (or has done in the recent past). Social interests can include cultural, recreational and sporting interests.

The Act also specifies the following:

A building or land is deemed to be of community value if, in the opinion of the Council:

- It is at least partly within the local authority's area.
- Its actual current use furthers the social wellbeing and interests of the local community, or a use in the recent past has done so.
- That use is not an ancillary one – e.g. a space used for an annual village fete.
- For land in current community use it is realistic to think that there will continue to be a use which furthers social wellbeing and interests, or for land in community use in the recent past it is realistic to think that there will be community use within the next 5 years (in either case, whether or not that use is exactly the same as the present or past).
- It does not fall within one of the exemptions (Schedule 1). For example, resident property, land and building used for statutory undertakings.

- 5.7 During the last 4 years there have been 4 nominations:  
2013 – Old Bacup Conservative Club – accepted  
2013 – Bacup Market Hall - rejected  
2014 – Haslingden Baths – accepted  
2017 – The Great Tree, Haslingden – rejected
- 5.8 As nominations are few, members of the Consultation Working Group are usually required to undertake training on the requirements and criteria of the Community Right to Bid process

prior to meeting to make a decision on the nominations received.

- 5.9 At the last meeting in May 2017 members suggested the possibility of the Monitoring Officer making the decision on future nominations, since the criteria was specific and was not something that could be amended. In addition to this, training would not be required each time a nomination was received and the decision could be made in a more timely manner.
- 5.10 Members are asked to review the proposed amended policy and procedures for Community Right to Bid/Assets of Community Value, and suggest any additional changes prior to Cabinet agreement.
- 5.11 Should the proposed changes be agreed the Council's Constitution would require amending at Part 3 Terms of reference – Consultation Working Group and Part 3 Delegations to Specific Officers – The Monitoring Officer. In relation to these it is proposed to include any necessary amendments in the next Constitution Review.

#### **COMMENTS FROM STATUTORY OFFICERS:**

##### **6. SECTION 151 OFFICER**

- 6.1 The costs of any compensation payments fall upon the Council. Any such compensation is not expected to be material and consequently there are no specific resources set aside.

##### **7. MONITORING OFFICER**

- 7.1 Legal comments are included in the body of the report.

##### **8. POLICY IMPLICATIONS AND CONSULTATION CARRIED OUT**

- 8.1 The Localism Act 2011 requires the Council to maintain an Assets of Community Value Register and undertake duties in relation to the Right to Bid regulations.
- 8.2 In relation to the Equality Act 2010 and the protected characteristics, an Initial Equality Impact Assessment (IEIA) was undertaken during the development of the policy and guidance in 2013. A full impact assessment was not deemed necessary as impact across the protected characteristics was assessed to be neutral. The scheme contributes positively to equality of opportunity as it enables community groups to nominate assets of community value and the opportunity to bid, buy and run valued local amenities (if they come onto the open market and gives time to prepare to bid before the asset goes on sale). The IEIA has been revisited as part of this review and there have been no subsequent changes to this assessment.
- 8.3 Consultation was undertaken during the original development of the policy. Further consultation has been undertaken with Legal Services, Management Team and the Portfolio Holder as part of this review. Feedback from individual members involved in considering the nominations has also been taken into consideration as part of the review process.
- 8.4 The policy was reviewed by members of the Overview and Scrutiny Committee on 5<sup>th</sup> February 2018 where the following recommendations were made:
1. That the Overview and Scrutiny Committee recommends that Cabinet accepts the amendments to the policy and guidance for the Community Right to Bid Process.
  2. That all minor amendments to the policy and guidance are delegated to the Monitoring Officer in consultation with the Portfolio Holder.
- In addition, it was requested that a breakdown of the changes be added to the recommendation going to Cabinet. A breakdown summary has now been incorporated into the recommendation of this report at 1.1 as well as signposting to the tracked changes already provided in Appendix 1.

## 9. CONCLUSION

9.1 The Council is required to ensure it has an efficient and effective process in place to deal with nominations and associated processes under Community Right to Bid introduced by the Localism Act 2011. It is proposed that the revised policy and guidance is agreed as the Council's formal approach to this process.

Background Papers	
Document	Place of Inspection
Community Right to Bid Nomination Form	<a href="https://www.rossendale.gov.uk/downloads/file/13722/nomination_form">https://www.rossendale.gov.uk/downloads/file/13722/nomination_form</a>
Asset Register	<a href="https://www.rossendale.gov.uk/downloads/file/13723/asset_register">https://www.rossendale.gov.uk/downloads/file/13723/asset_register</a>
The Assets of Community Value (England) Regulations 2012	<a href="http://www.legislation.gov.uk/ukdsi/2012/9780111525791/contents">http://www.legislation.gov.uk/ukdsi/2012/9780111525791/contents</a>
Department for Communities and Local Government	<a href="#">Community Right to Bid Non-Statutory Guidance</a>
Revised Initial Equality Impact Assessment (Item E1 Appendix 2)	<a href="https://www.rossendale.gov.uk/meetings/meeting/1068/overview_and_scrutiny_committee">https://www.rossendale.gov.uk/meetings/meeting/1068/overview_and_scrutiny_committee</a>