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<b>REPORT TO:</b>	<b>Finance &amp; Management Committee</b>	<b>AGENDA ITEM: 10</b>
<b>DATE OF MEETING:</b>	<b>6<sup>th</sup> December 2012</b>	<b>CATEGORY: RECOMMENDED</b>
<b>REPORT FROM:</b>	<b>CHIEF EXECUTIVE</b>	
<b>MEMBERS' CONTACT POINT:</b>	<b>Head of Corporate Services, KEVIN STACKHOUSE (Ext. 5811)</b>	<b>DOC:</b>
<b>SUBJECT:</b>	<b>Assets of Community Value – Community Right to Bid</b>	<b>REF:</b>
<b>WARD AFFECTED:</b>	<b>All Wards</b>	<b>TERMS OF REFERENCE: FM 01</b>

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### **1.0 Reason for Exempt**

1.1 The report is not exempt.

### **2.0 Recommendations**

2.1 That the implementation of the Community Right to Bid be noted.

2.2 That the Director of Operations, in consultation with the Vice Chair of Finance & Management Committee and a nominated Member from the Opposition Group, be granted delegated authority to determine any applications,

2.3 That the Chief Executive, in consultation with the Chair of Finance & Management Committee and a nominated Member from the Opposition Group, be granted delegated authority to determine any requested review of the original decision,

2.4 That details of the successful and unsuccessful nominations be reported within the annual Asset Management Plan.

### **3.0 Purpose of the Report**

3.1 This report advises Committee on the introduction of the Community Right to Bid for assets of community value under the Localism Act 2011, and seeks approval to the consultation and decision-making process upon receipt of any applications.

3.2 As the Council must decide whether to list a nominated asset within 8 weeks of receipt, a Committee resolution for each application appears impractical. This report therefore proposes that the Director of Operations be granted delegated authority to determine these applications in consultation with the Vice Chair of Finance & Management Committee, with the outcome of these decisions reported within the annual Asset Management Plan.

## 4.0 Detail

### Background

4.1 As part of the Localism Act, Parish Councils and other local community bodies have been granted the right to bid for assets of community value, as and when they are placed on the market for sale.

4.2 Assets of community value are defined as those having 'a current or recent use which furthers the social wellbeing or interests of the local community, and where it is realistic to think there could be a future use - not necessarily in the same way - which will further this social wellbeing or social interest'. These assets could include village shops, pubs, community centres, libraries etc which, if sold into private use, would be a real loss to the community. Residential premises are excluded from listing.

4.3 From 21<sup>st</sup> September 2012 community bodies can submit nominations to the District Council for private or publicly owned property which they consider have community value.

4.4 The Council must then determine whether the nominated asset meets the definition of an asset of community value within 8 weeks of receipt. The Council must then:

- notify the owner and community body if a nomination is approved, explaining the consequences and right to appeal,
- maintain a register of listed assets (including publishing the list, registering nominated assets with Land Registry, providing copies and making this list available for free inspection),
- maintain a list of unsuccessful nominations, including the reasons for rejection,
- undertake an internal review of the initial decision if subsequently requested by the owner,
- Make representations to an independent tribunal if the owner then elects to appeal the listing.

4.5 No further action is then taken until either:

- 5 years have elapsed, whereupon any nomination is removed from the list, with the Council obliged to notify the community group and owner of the deletion, or
- The owner elects to sell the property during the 5 year period.

4.6 Should the owner of a listed property wish to sell they must notify the Council. In turn, the Council must advise the community body that made the nomination and publicise the information in the local area. Any community body then has 6 weeks to express an interest in bidding for the property. If a community body expresses such an interest the Council must notify the owner, and they are then precluded from selling the property for 6 months from the date of the original notice.

4.7 During this 6 month period the owner is not permitted to exchange contracts with any other party. The owner can however market the property during this period, and is not obliged to ultimately accept any offer from the community body. Thus the

legislation does not give the community the right to buy the asset, it merely provides time for them to raise funds and formulate a bid for the owner's consideration.

4.8 Nevertheless the decision whether to list an asset as having community value is significant to both the owner and the Council. The owner will be precluded from selling their property for 6 months from their initial decision to sell and, in recognition of the potential impact, the legislation renders the Council liable for any costs and losses incurred by the owner as a consequence of the listing. The financial implications of this liability are detailed in Section 5.

4.9 Whilst no nominations have yet been received, the Council must establish the roles and procedures to ensure nominations are processed and listed in accordance with the legislation criteria and timetable.

4.10 It is proposed that the Corporate Asset Manager will be responsible for the administration of the Right to Bid process and maintenance of the related lists.

4.11 Upon receipt of a nomination, the Corporate Asset Manager must notify the property owner and Parish Council (if they are not party to the nomination). He will also consult Local Ward Members and the Council's Development Management Manager, Planning Policy Manager, Culture & Community Manager and Head of Housing and Environmental Services.

4.12 It is recommended that the responses are then referred to the Director of Operations to determine the application in consultation with the Vice Chair of Finance & Management Committee. If it is accepted that the nomination has been made in the correct form by a qualifying community body and is an asset of community value, then the Director of Operations will be obliged to accept the listing. A report to Committee is likely to be impractical given the overall 8 week timescale imposed by the Localism Act.

4.13 If the owner subsequently asks for a review of this decision, this appeal must be undertaken by different individuals. It is therefore recommended that the Chief Executive undertake this review in consultation with the Chair of Finance & Management Committee.

4.14 If the owner remains dissatisfied with the decision to list they are then entitled to refer the matter to Lands Tribunal for final determination, with the council liable for the costs.

## **Consultations**

4.15 Consultations have been conducted with the Director of Community Services, Head of Corporate Services, Head of Community & Planning, Head of Housing & Environmental Services, Development and Building Control Manager, Planning Policy Manager and Culture & Communities Manager. Their comments are included within the report.

## **5.0 Financial Implications**

5.1 The Department for Communities and Local Government has paid a 'burden payment' of £4,873 to the Council on 15<sup>th</sup> October 2012, and further payments will be

made in 2013 and 2014. These payments relate to costs associated with the new duties under the Community Right to Bid.

5.2 These funds will be required to administer the process and, in particular, to pay any compensation sums due to owners who have incurred loss or expenditure as a consequence of their property being listed.

5.3 The Government will also meet the cost of compensation payments which exceed £20,000 in a financial year, occurring as a result of either one large claim or a combination of smaller claims.

## **6.0 Community Implications**

6.1 Implementing the procedures necessary to embrace the Community Right to Bid will ensure the Council is working with the community to protect buildings and amenities which have great local significance.

## **7.0 Corporate Implications**

7.1 The Community Right to Bid contributes significantly to the Council's Lifestyle Choices by supporting the well-being of communities and residents.