

Committee: Cabinet

Agenda Item

Date: 2 August 2012

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**Title: Community Rights in the Localism Act 2011
– preliminary report**

Portfolio Holder: Cllr Howard Rolfe

Item for noting prior to further report

Summary

1. This report introduces the four “community rights” expressed in the Localism Act 2011, prior to further consideration at the October Cabinet meeting. The four community rights are: to challenge, to bid, to build and neighbourhood planning.

Recommendations

2. That the report is noted

Financial Implications

3. There will be financial implications for the Council regarding each of the “community rights” and these will be considered in detail in the report to the October meeting

Background Papers

4. The following papers were referred to by the author in the preparation of this report and are available for inspection from the author of the report.

Various Government papers on implementing the Localism Act

Impact

- 5.

Communication/Consultation	The substance of the community rights will need to be communicated locally
Community Safety	None at this stage
Equalities	There will be implications for equality and diversity matters which will become clear as the Council decides how it wishes to take the legislation forward. An EQIA has been commenced
Health and Safety	None at this stage

Human Rights/Legal Implications	Planning by referendum will raise significant issues
Sustainability	Implicit in all the community rights
Ward-specific impacts	All wards are affected
Workforce/Workplace	Implementation of the community rights will have implications for the planning service and corporate core

Situation

The Community Right to Challenge – brought into force 27th June 2012

6. The Community Right to Challenge aims to help communities bid to take over local authority and fire and rescue authority services that they feel they could run better or differently on behalf of the authority. If a community group, charity, parish council or group of staff is able to identify a service that they would like to run, the Community Right to Challenge gives them the power to submit an expression of interest to the authority to take it over. If the local authority accepts the expression of interest, they must run a competitive procurement exercise for the service which the interested group takes part in. The implications for Council finances and resources are implicit.

The Community Right to Bid – not yet brought into force (expected autumn)

7. The right to bid will give community groups a chance to prepare and bid to buy community buildings and facilities that are important to them, for example the: village shop, pub, community centre, children's centre, allotment, or library. The right will include private as well as public assets.
8. Parish Councils and local voluntary or community bodies will draw up a draft list of assets of community value, which will be assessed against criteria [yet to be announced by Government], by the District Council. The District Council will be required to keep a list of all assets of community value.
9. If an owner of a listed asset wants to sell it they would be required to notify the local authority that would in turn have to notify interested parties. If local groups are interested in buying the asset they will have six months to prepare a bid to buy it before the asset can be sold. They would not have “first refusal”, but what the right to bid does do is to make the local community aware that an asset is on the market before the “sold” signs appear.
10. The Council will incur costs from compiling, refereeing and maintaining the list of community assets. The Council could also be liable to claims for compensation.

Neighbourhood Planning and the community right to build – came into force 12th April 2012

11. Neighbourhood Planning allows local areas to come together to establish general planning policies for development and use of land in their neighbourhood, which then becomes part of the development plan.

Neighbourhood plans of a kind already exist in some areas of the District, usually called parish plans, but the Localism Act makes neighbourhood plans part of the legal framework.

12. Neighbourhood Planning and Community Right to Build Orders must be in line with the National Planning Policy Framework (NPPF) and in general conformity with strategic elements of the local plan. Great Dunmow Town Council and Saffron Walden Town Council are preparing a neighbourhood plan, and we are working with RCCE on several other parish plans.
13. The Community Right to Build goes hand in hand with this process and allows a community to draw up a Community Right to Build Order which, *if supported in a local referendum*, enables small local development to go ahead without going through the normal planning application process.
14. Communities are free to use property developers, should they wish to do so or enter into partnerships such as with a housing association to manage their homes.
15. It will be for communities themselves to determine the type of development they want to see. Communities will be able to build family homes to sell, affordable housing for rent, sheltered housing for older local residents, or low cost starter homes for young local families struggling to get in the housing ladder. Alternatively they may decide to build shops, businesses or local facilities such as a village hall or community centre. It will be up to them.
16. All profits deriving from a Community Right to Build Order proposal must be used for the benefit of the community.
17. Communities should have the freedom to develop housing and other facilities that they agree they want, subject to a limited number of exclusions and conditions. The local planning authority will have a role in ensuring the requirements are met and bring into force the order where appropriate. In addition, local authorities will have a key role in advising community organisations in developing their proposals as set out in the National Planning Policy Framework.
18. All those on the local government electors' register in the neighbourhood area will be entitled to vote. And if more than 50 per cent of people voting support the order then the Local Planning Authority must approve the order. If 50 per cent or fewer of the people voting support the order then the Local Planning Authority must refuse the order.
19. The Government has appointed "Locality" – "the leading nationwide network of settlements, development trusts, social action centres and community enterprises" - to provide a support hub that will provide help and advice to communities who want to bring forward community led development through Community Right to Build

Risk Analysis

Risk	Likelihood	Impact	Mitigating actions
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The procurement exercise would not guarantee that the group initiating the process would be awarded the contract	3	3	The Council will need to be confident that outsourcing a service or function is the right choice in principle
The listing of an asset would not give the PC/community group first preference to bid. .	4	3	Community groups need to be made aware of this at the outset
The owner can claim compensation for loss of income etc from the District Council, who will be expected to administer a scheme. The resource implications for the Council in all respects will be considerable	4	4	Methods of minimising or eliminating the potential for and impact of claims will need to form part of the process of assembling the list
The administration of the build order process could be more time consuming for the Council and community than the planning application process it is supposed to sidestep	2	4	The most appropriate means of proceeding will need to be thought through by the proposers of any scheme
The referendum process also excludes people under 18 years of age from having any influence in local development which they do at present through the planning application process	4	4	The proposers of any scheme will need to show how the views of those ineligible to vote have been accommodated

1 = Little or no risk or impact

2 = Some risk or impact – action may be necessary.

3 = Significant risk or impact – action required

4 = Near certainty of risk occurring, catastrophic effect or failure of project.