

Committee: Cabinet

Agenda Item

Date: 19 February 2013

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Title: Assets of Community Value

Portfolio Holder: Cllr Barker and Rolfe

Key decision: No

Summary

1. The Localism Act 2011 introduces a concept of an 'Asset of Community Value'. Section 87 of the Localism Act places a duty of Local Authorities to 'maintain a list of land in its area that is land of community value'.
2. Officers have requested submission from Parish and Town Councils and this report reports the responses.

Recommendations

3. A) To agree that those assets listed in Appendix 1 are included on the Assets of Community Value list.
B) To agree that those assets listed in Appendix 2 are included on the Unsuccessful Community Nominations list.

Financial Implications

4. There are direct financial implications arising at this stage which relate to the formal process of identifying and contacting asset owners and registering an asset as a Land Charge. These costs can be met from existing budget and staff resources.
5. There is also an unquantifiable financial risk to the Council once the scheme is operational, as described in the report. This needs to be kept under review and at an appropriate time consideration should be given to establishing a contingency reserve to mitigate the risk to the Council's budget.

Background Papers

6. Submissions for consideration as Assets of Community Value
7. Comments received

Impact

- 8.

Communication/Consultation	Notice to the owner is required.
Community Safety	No impact.

Equalities	The duty will effect all equally.
Health and Safety	No impact.
Human Rights/Legal Implications	Pursuant to s.19 Human Rights Act 1998 the Secretary of State has certified that in his opinion the Localism Act is compatible with the Convention rights. The designation of Community Assets will form a Land Charge.
Sustainability	No impact.
Ward-specific impacts	Affects all wards
Workforce/Workplace	Work will be coordinated within the Planning and Housing Policy, Land Charges and Legal Teams.

Situation

9. The Localism Act 2011 introduces a concept of an 'Asset of Community Value'. Section 87 of the Localism Act places a duty of Local Authorities to 'maintain a list of land in its area that is land of community value'.
10. Section 87 states as follows "*s. 87 of the Act requires local authorities to maintain a list of land and buildings in their areas which are of community value. Entry of an asset on the list lasts for 5 years although it may be able to be removed earlier in certain circumstances which may be specified in secondary legislation. Subject to the Act and any regulations made under it the form of the list is in the local authority's discretion.*"
11. An Asset is of community value if (in the opinion of the local authority) either:
 - The current use furthers the social wellbeing or interests of the local community; and
 - it is realistic to think that at some time in the next five years the Asset will further the social wellbeing or social interests of the community or
 - there was a time in the recent past when a use of building or land had furthered the social wellbeing or interests of the community; and
 - it is realistic to think that in the next five years the building/land could further the social wellbeing or interests of the community.
12. Although it is for the local authority to determine whether an Asset falls within the criteria to be included in the list s. 89 provides that Assets may only be included in the list in response to a community nomination (a parish council or a voluntary or community body with a local connection) or in circumstances contained in secondary legislation. In addition to the List of Assets of

Community Value the council must also maintain a list of land which has been the subject of unsuccessful community nominations.

13. The Act defines social wellbeing/interest as: cultural interest, recreation interest and sporting interests which is a fairly wide definition.

Purpose of Community Assets

14. This approach requires the identification of assets that exist within communities but often remain hidden or unacknowledged. Many communities already own community halls and have run these facilities successfully for decades. It is important for all communities to consider what buildings or services are important to the community. This could be the community centre, shop, pub, church, park etc. Many important facilities have been lost to communities over recent years as a result of change of use. The introduction of the List is the Government's way of allowing Communities to step in and purchase Assets with money raised by the community so that they can be kept open and useable.
15. Within our District we have some of examples of where similar action has already been taken. For example in Debden there is a community shop which has been run successfully for many years.
16. If an Asset is listed then the owner cannot dispose of it unless:
- 1) They have notified the District Council.
 - 2) No written request from a community interest group that they wish to be treated as a potential bidder has been received within 6 weeks of notification to dispose or such a request was received and the full moratorium period of 6 months has ended.
 - 3) The protected period (18 months) has ended.
17. In addition to this protection draft policy RET2 – Loss of Village Shops and Other Facilities in the Development Management Development Plan Document requires any property identified on the list of Assets of Community Value to demonstrate 4 criteria before consent for a change of use could be approved.

Assessment

18. Officers have assessed these submissions against the test set out in the Act and recommend that those in Appendix 1 be added to the 'Assets of Community Value list'. Those submissions not considered to meet the tests are included in the 'Unsuccessful Community Nominations list' in Appendix 2.
19. Some of the requests are considered to be invalid and further information has been requested but they cannot be considered until such a time as this has been submitted.

20. In line with paragraph 8 of The Assets of Community Value (England) Regulations 2012 the Council have taken all practicable steps to give information that it is considering listing the land to the relevant Parish Council, owner of the land, freeholder and occupant. This has taken the form of letters where the owner is clear and site notices in all other cases.

21. The Council has received a number of representations against the inclusion of various sites. These are from Audley End Estate, owners of Hallingbury Mill, Ashdon Baptist Church, Ashdon Village Museum, Chrishall Methodist Church and Network Rail. These comments have all been taken into account as part of the officer assessment. The letters are available as part of the background papers.

Conclusion

22. The Council has received a number of valid requests for consideration. This work has been completed and is set out in both Appendix 1 and Appendix 2 of this report.

Risk Analysis

23.

Risk	Likelihood	Impact	Mitigating actions
Compensation may be payable if the value of the Asset declines from the time of notification to the Council to final sale.	3 – Fluctuations in property value are common and unpredictable.	3 – Unquantifiable as this will depend on the number of Assets included on the List, the number which come up for sale, the amount of community interest in purchasing the Asset and any fluctuation in property value.	Carefully scrutinise submissions for inclusion on the Asset List so as to ensure only those which comply with the criteria are included.

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.