

<b>Committee:</b>	Cabinet	<b>Date:</b>
<b>Title:</b>	Assets of Community Value Review and recommendations	Thursday, 1 July 2021
<b>Portfolio Holder:</b>	Councillor Day, Portfolio Holder for Communities, Youth, Public Safety, Emergency Planning and liaison with the Police and Fire & Rescue Service	
<b>Report Author:</b>	Joanna Hill, Planning Policy Officer jhill@uttlesford.gov.uk	<b>Key decision:</b> No

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## Summary

1. The purpose of this report is to provide a review of Uttlesford's list of Assets of Community Value (ACV), the way that ACV are decided and the way ACV and the Community Right to Bid process is managed.
2. Uttlesford had 87 ACV in June 2020, one of the highest number in local authorities in England. Learning from recent ACV nominations and awareness that there is misunderstanding about the role of benefits of ACV has contributed to the need for a more rigorous, analytical approach in deciding nominations and to encourage higher quality nominations with accurate supporting evidence.
3. Following the review, the nomination form and guidance has been updated.

## Recommendations

4. That Cabinet adopt the recommendations of the ACV & Community Right to Bid Review, including the move to delegated decision making, **ALLOWING A 4-WEEK WINDOW TO ENABLE COUNCILLORS TO CALL IN NOMINATIONS TO BE DECIDED BY COMMITTEE.**
5. That Cabinet endorse the use of the updated nomination form and guidance.

## Financial Implications

6. The cost of managing ACV and the Community Right to Bid process is met from existing budget and staff resources. They relate to the formal process of liaison with nominating bodies; identifying and contacting asset owners; time of Planning Policy and Legal Officers and, if relevant, registering an asset as a Land Charge.

7. There is also an unquantifiable financial risk to the Council, if there is a claim for compensation.

### Background Papers

8. The following papers were referred to in the preparation of this report and are available for inspection from the author:
- Assets Of Community Value Review (2021)
  - Draft Asset of Community value nomination form
  - Draft Assets of Community Value guidance

### Impact

9.

Communication/ Consultation	The Review has consulted neighbouring Local Authorities to share best practice. The recommendations have been reviewed by UDC Legal and the Assets of Community Value & Local Heritage List Committee
Community Safety	No impact.
Equalities	The ACV and Community Right to Bid process is an evidence based, fair mechanism to identify and list buildings or land that are valued by the community.
Health & 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.  If the land is included on the list of Assets of Community Value it will form a Land Charge.
Sustainability	Assets of Community Value contribute to social sustainability.
Ward-specific impacts	All.
Workforce/ Workplace	Work will be coordinated within the Planning and Housing Policy, Land Charges and Legal Teams.

## Situation:

10. Uttlesford had 87 Assets of Community Value (ACV) in June 2020, these are detailed in the ACV Review (2021). UDC has recently learnt from the legal challenge on *The Gate Inn* nomination and the complex case of *Andrewsfield Airfield*. UDC Legal & Governance has identified the need to move from rubber-stamping ACV nominations to a more analytical approach; and the requirement for evidence of usage by the local community.
11. In 2020/2021 there may be 12 nominations submitted for re-listing. However, in 2022 there could be 27 and in 2023 there could be 38 nominations to re-list. there may also be a surge in further nominations for public houses resulting from the negative impact of the Covid-19 pandemic on hospitality.
12. Moving forward there is a need to communicate the benefits of ACVs, and what the Community Right to Bid can and cannot achieve; to encourage higher quality nominations supported by reliable evidence; and for a greater rigour in determining whether or not an Asset is listed.
13. Delegated decisions are the norm in other Local Authorities, with only exceptional cases going to Cabinet or Committee. This also allows a senior officer, who has no previous involvement in a nomination, to review a case, should an owner appeal a listing decision.
14. The review makes the following recommendations:
  - 14.1 To improve the quality of nominations by:
    - The requirement to submit detailed supporting information or evidence
    - Improve the nomination form and guidance to outline the types of evidence required
    - Consider digital submission, enabling material to be uploaded e.g. documents, activity programmes, screen grabs and links
    - Require recent site photographs (taken within last 12 months)
  - 14.2 Provide further guidance to communicate the benefits of Community Right to Bid and what it does not do e.g. stop sale or development of an asset or enable a community to purchase an asset at reduced cost. With the aim to increase understanding and relevance of nominations
  - 14.3 Communicate with nominating bodies at an early stage before a nomination is accepted or validated:
    - Seek to persuade inappropriate nominations or nominations with insufficient evidence to improve the evidence submitted or withdraw the nomination

- Nominations with insufficient supporting information or evidence which are not improved or withdrawn will be moved straight to the List of ACV not listed and the nominating body will be informed
  - In the case that the land is already owned by the UDC, a parish council or community group, advise to seek other legal mechanisms to protect the land. Nominations of this nature without a clear rationale for why they should be listed, given the land is owned or leased by the Council or nominating body, will be moved straight to the List of Assets not listed, and the nominating body will be informed
- 14.4 Incorporate Legal input from the beginning of a nomination, to identify any potential issues early.
- 14.5 Contact Parish Councils 6 to 12 months in advance of ACV expiry dates to inform them when an ACV will expire and the requirements for nomination.
- 14.6 Develop the ACV assessment template to outline the evidence against the key regulatory requirements; highlight risk including financial and legal.
- 14.7 Make the recommendation to Cabinet that ACV decisions are delegated:
- Informing the Ward Councillors of nominations within their Wards and providing a 4 week window (from the validation date) to allow Councillors the opportunity to call in nominations to be decided by the Assets of Community Value & Local Heritage List Committee
  - ACV assessment and recommendation will be prepared by a Planning Policy Officer
  - Decision review and sign off will be made by a senior manager of the Local Plan & New Communities Team, following consultation with the Assistant Director Governance and Legal, and the Cabinet member who is Chair of the Assets of Community Value & Local Heritage List Committee
- 14.8 Develop the Decision template to communicate the reason why / why not to list an Asset.
- 14.9 Improve letter templates to communicate the steps in the process in plain English, the implications and any action required.
- 14.10 Provide training as required.

## In conclusion

15. Planning Policy Officer recommends that Members consider the review and adopt the recommendations, including the move to delegated decisions with the opportunity for Councillors to call in a nomination within 4 weeks of validation.
16. Planning Policy Officer also recommends that the updated procedure, guidance and nomination form are adopted, to better communicate the benefits of ACV and the Community Right to Bid and better define the supporting information or evidence required.

## Risk Analysis

17.

Risk	Likelihood	Impact	Mitigating actions
Process that lacks rigour and is open to legal challenge	1	2.	Communicate other means to protect buildings and land that are valued by the community.

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.