

## COMMUNITY & SOCIAL AFFAIRS COMMITTEE

17th JUNE 2015

### REPORT OF HEAD OF COMMUNITIES & NEIGHBOURHOODS

#### COMMUNITY RIGHT TO BID POLICY REVIEW

##### 1.0 PURPOSE OF REPORT

- 1.1. To outline the proposals resulting from a review of the current Community Right to Bid process policy for Melton Borough Council.
- 1.2. Members approve the revised process for dealing with nominations and review requests relating to the Community Right to Bid Policy

##### 2.0 RECOMMENDATIONS

- 2.1 **Members note and approve the reviewed Community Right to Bid Nomination and Review/Appeal process.**

##### 3.0 KEY ISSUES

###### Background

- 3.1 The Community Right to Bid (Assets of Community Value (England) Regulations in legislation) was one of a number of new rights introduced in the Localism Act 2011 and came into effect 21 September 2012. Melton Borough Council has a statutory duty to adhere to the above legislation.
- 3.2 The Community Right to Bid allows communities and parish councils to nominate buildings or land for listing by Melton Borough Council as an asset of community value. An asset can be listed if its principal use furthers (or has recently furthered) their community's social well-being or social interests (which include cultural, sporting or recreational interests) and is likely to do so in the future.
- 3.3 When an owner of a listed asset wishes to sell a building or a piece of land, a moratorium on the sale (of up to six months) may be invoked, providing local community groups with a chance to raise finance, develop a business plan and make a bid to buy the asset on the open market.
- 3.4 The owner of an asset included in the list of community assets may ask us to review our decision, if they are not happy. Melton Borough Council must make this decision within 8 weeks of the review request being received.
- 3.5 The Council's current nomination process involves taking an asset of community value nomination to the Committee of Community and Social Affairs for decision.

- 3.6 The Council's current nomination review policy states 2 levels of consultation- a review undertaken by a senior officer, independent of the original decision making process, and then to the Head of Communities and Neighbourhoods. If the owners are still unhappy with review decision it is taken as an appeal to an external First Tier Tribunal based in Leicester.

### **Motivations for a Review**

- 3.7 **Response timescales-** Statutory legislation states that the local authority is required to make a decision in response to an asset nomination, or a request for a decision review, within 8 weeks. These timescales can be difficult to adhere to due to the frequency of relevant Committee meeting schedules, which form part of the Council's current decision process.
- 3.8 MBC's definition of the "**recent past**"- our policy states that "A building or land is deemed to be of community value if, in the opinion of the Melton Borough Council:
- A principal use of the building or land in the recent past (**two years in Melton District**) furthered the social interests or social wellbeing of the local community and it is realistic to think that within five years the building or land can brought back into use that furthers the social interest or wellbeing of the local community, whether or not in the same way as before.

The timescale for this definition of the recent past has confused nominating groups, as this is inconsistent with many other Local Authorities, who use a timescale of **5 years**. Statutory guidance also indicates that 5 years is the timescale appropriate for this definition. It is recommended that the policy is revised to use a timescale of 5 years.

- 3.9 Currently we allow a review/appeal process for nominating groups. Statutory guidance indicates that there is no automatic right of appeal for nominating groups. This has caused issues with regards to the length of time the review process takes and increases the risk of the asset owner claiming compensation from the Council. It is therefore proposed that no automatic right of appeal for nominating groups is included in the revised policy process.
- 3.11 Early discussions have concluded on a preliminary new process for the policy (see Appendix A for diagrammatic representation):
- Instead of the initial Asset nomination decision falling to the next available Committee meeting, which often falls outside of necessary timescales for decisions, the original nomination decision will be made by the Head of Communities and Neighbourhoods.
  - If the Asset owner is not happy with the initial decision made by the Head of Community & Neighbourhoods regarding the Asset nomination, a review will then go to the Community and Social Affairs Committee for a review decision.

This could provide an opportunity for a **verbal hearing** for the asset owner, as directed in Schedule 2 of The Assets of Community Value (England)

Regulations 2012. Moreover, nominating groups have no automatic right to a review or appeal according to the Regulations.

- If the owner is still not happy with the outcome of the decision, then it is at this stage the appeal/review can then be taken to a First Tier Tribunal.

#### **4.0 POLICY AND CORPORATE IMPLICATIONS**

4.1 The Community Right to Bid has direct implications around:

- Encouraging strong, healthy and resilient communities.
- To effectively manage demand delivering well-respected value for money customer focused services with pride and efficiency.

#### **5.0 FINANCIAL AND OTHER RESOURCE IMPLICATIONS**

5.1 No direct financial Implications have been identified.

#### **6.0 LEGAL IMPLICATIONS/POWERS**

6.1 This is set out in the Localism Act 2011 Part 5 Chapters 2 and 3 and Assets of Community Value (England) Regulations 2012:

6.2 Local Authorities must keep a 'List of Assets of Community Value'; the legislation sets out in detail the process they must enter into and what information they must include.

6.3 The legislation also outlines the definition of an asset of community value, which groups can legitimately nominate an asset, the appeals process for land owners, timescales for groups interested in buying land or property on the list, and compensation available to the owners of land or property on the list

6.4 The Head of Communities & Neighbourhoods in consultation with the Solicitor to the Council will ensure the Council fulfils its legal responsibilities with regards to the implications relating to the Community Right to Bid.

#### **7.0 COMMUNITY SAFETY**

7.1 No direct Community safety Implications have been identified.

#### **8.0 EQUALITIES**

8.1 A comprehensive Impact assessment was carried out by central government in relation to the Community Right to Bid Policy in June 2012 and is available from the following link:

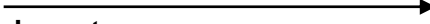
[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/8505/2168557.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/8505/2168557.pdf)

An Equalities Impact has not been carried out on this process; the equality analysis has shown no direct or indirect negative implications, the process relates directly to assets rather than people. The Nomination form for the Community Right Bid process will be available through the council's website and in hard copy and will be reviewed annually.

## 9.0 RISKS

### 9.1 Probability

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|                        |   |                     |                 |                         |
|------------------------|---|---------------------|-----------------|-------------------------|
| Very High<br>A         |   |                     |                 |                         |
| High<br>B              |   |                     |                 |                         |
| Significant<br>C       |   |                     |                 |                         |
| Low<br>D               |   | 1,2                 |                 |                         |
| Very Low<br>E          |   |                     |                 |                         |
| Almost Impossible<br>F |   |                     |                 |                         |
|                        | I<br>Neg-<br>ligible  | II<br>Marg-<br>inal | III<br>Critical | IV<br>Catast-<br>rophic |
|                        |  |                     |                 |                         |
|                        | <b>Impact</b>   |                     |                 |                         |

| Risk No. | Description  |
|----------|--|
| 1        | New policy is not adopted by members.  |
| 2        | The process is too long increasing the risk of the asset/land owner claiming compensation from the Council for financial costs incurred from delays caused by an inconsistent and inefficient process. |
| 3        |  |
| 4        |  |
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## 10.0 CLIMATE CHANGE

10.1 No Direct Implications have been identified.

## 11.0 CONSULTATION

11.1 The Community Right to Bid process is designed to be Community driven and allow communities to take a more active role in their communities.

## 12.0 WARDS AFFECTED

12.1 All wards are affected.

Contact Officer: Harrinder Rai/Amy Scoins

Date: 29<sup>th</sup> May 2015

Appendices: A- Right to Bid Flowchart1

Background Papers: Localism Act 2011, Asset of Community Value (England) 2012

Reference:

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