

SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL

REPORT TO: Economic Development Portfolio
Holder's Meeting

11 June 2015

LEAD OFFICER: Director, Health & Environmental Services

ASSETS OF COMMUNITY VALUE: PROTOCOL & COMPENSATION

Purpose

1. To introduce a protocol for the administration of Assets of Community Value, including the Council's statutory duties and responsibilities.
2. To provide information about the Council's statutory duties and financial liabilities in relation to possible compensation claims, resulting from the implementation of the Assets of Community Value legislation.
3. This is not a key decision. However, it has been brought before the Portfolio Holder because further information was requested about the processes being followed by officers and the financial implications of implementing the Assets of Community Value legislation.

Recommendations

4. That the Portfolio Holder
 - (a) notes and comments on the protocol for Assets of Community Value (Appendix A).
 - (b) notes and comments on the Council's duties and financial liability with regard to compensation claims.

Reasons for Recommendations

5. The protocol brings together in one place information held previously in a number of different locations and formats and aims to rationalise the content on the Council's webpage: <https://www.scambs.gov.uk/community-right-bid> It does not introduce new information and conforms with Part 5 Chapter 3 of the Localism Act 2011 and the Assets of Community Value Regulations 2012, and is in accordance with the Department for Communities and Local Government's 'Community Right to Bid: Non-statutory advice note for local authorities'.
6. The Council has some liability to pay compensation in certain circumstances as a result of the introduction of the Assets of Community Value legislation. Information about making a compensation claim is included in the protocol for owners of Assets. Additional details are included in this report for information.

Background

7. The Localism Act 2011 introduced an obligation on local authorities to consider the listing of Assets of Community Value nominated by local community interest groups, and keep a publically available register of those assets both approved and unapproved for listing. This process is known as the Community Right to Bid (Assets of Community Value in legislation) and came into force in October 2012.

8. The Government has said it intends to undertake post-legislative scrutiny of the Community Rights later in 2015. In anticipation of this, the House of Commons Communities and Local Government Committee undertook consultation on the Community Right to Bid in 2014 and has since produced a report (Feb 2015) containing recommendations for immediate changes and for what the Government should consider as part of the forthcoming review.
9. The Government's consultation co-incided with an Economic Development Portfolio Holder request for information about the processes we are following as a local authority and so the development of a protocol became timely.
10. The accompanying appendix to the report gives details of the changes made to planning legislation with regard to ACV-listed "Class A4 Drinking Establishments" that were implemented based on the recommendations for immediate change outlined above. No further information is available regarding the timescales for the post-legislative review of the Community Rights but as a local authority we expect to comment and will report to the Economic Development Portfolio Holder as appropriate.
11. The report seeks to clarify the Council's position and the limit of its liability when answering claims for compensation that arise out of the implementation of the Assets of Community Value legislation.

Considerations

Assets of Community Value Protocol

12. The protocol seeks to outline the steps within the Council's process and to simplify what can be complex legislation. It is placed on the Council's website, along with forms and other information that remains relevant, including: the register of successful and unsuccessful nominations; the asset nomination form; an expression of interest for a community group wishing to be treated as a bidder for an asset; an FAQ document about permitted development rights.
13. The protocol seeks to provide clarity for officers, Council members, owners and potential nominators under the following key headings:
 - (a) Nominating bodies
 - (b) What qualifies as an ACV
 - (c) The Register
 - (d) Relevant disposal
 - (e) Moratorium ("window of opportunity")
 - (f) Receiving and assessing a nomination for an ACV
 - (g) Listing review
 - (h) Compensation
 - (i) Enforcement
14. The protocol is based on information previously included on the Council's website and builds on good practice from across the country.
15. The protocol conforms with Part 5 Chapter 3 of the Localism Act 2011 and the Assets of Community Value Regulations 2012, and is in accordance with the Department for

Communities and Local Government's 'Community Right to Bid: Non-statutory advice note for local authorities'.

Compensation

16. Private owners and former owners of assets that have been placed on the Council's register of Assets of Community Value may claim compensation for loss and expense incurred through the asset being listed or previously listed.
17. Details of the process to be followed are in section 11 of the protocol (Appendix A).
18. As with other costs incurred by local authorities in meeting the requirements placed on them, the estimated costs of compensation were reflected in the 'New Burdens' funding associated with the implementation of the ACV legislation. The compensation element of the new burdens funding was estimated on the basis of 40 successful claims for compensation across all administering local authorities over a year.
19. The amounts received by this Local Authority and paid into the General Fund are as follows:

Financial Year	Sum Received (£)
2012/13	4,873
2013/14	7,855
2014/15	7,855
2015/16	No further ACV new burdens funding

20. The figures above include both the cost of administering the new requirements and the Department for Communities and Local Government's (DCLG's) estimate of the cost of compensation claims.
21. The Local Authority is liable for the first £20,000 worth of claim or claims (in total) where a claim for compensation is successful. The Government will meet costs of compensation payments of over £20,000 of compensation costs in a financial year. This could occur through a local authority paying out over £20,000 on one large claim or as a combined total on a number of smaller claims in any financial year.
22. This Council has held the new burdens funding it received within 'General Fund Reserves'. Any claim made against the Council would be evaluated and, where necessary, met (to the extent of its liability i.e. £20,000) from General Fund Reserves.
23. In order to assess the likelihood of a claim being made, officers have sought information from DCLG (and Locality, the DCLG's public-facing information and guidance arm relating to Community Rights) about the number and level of claims being made nationally. To date, Development Managers at Locality have no knowledge of any claims for compensation nationally and have stated this is a low-risk activity, provided that good protocols are in place and these are followed.

Options

24. To note and comment on the protocol and the additional information within the report relating to compensation.

Implications

25. In the writing of this report, taking into account financial, legal, staffing, risk management, equality and diversity, climate change, community safety and any other key issues, the following implications have been considered:

Legal

26. The protocol remains in line with the regulations and guidance. The Legal and Democratic Services Manager has been involved in the process to date and in drafting the elements relating to Class 4A Drinking Establishments. The Legal Team is involved as a matter of course in any exceptional nominations, i.e. those that fall outside the parameters of a straightforward listing.

Risk Management

27. By producing a clear protocol the Council seeks to enable all parties to navigate the sometimes complex legislation as smoothly as possible, whilst signposting to further support and guidance where applicable. The protocol also highlights to owners and nominators a change in planning legislation that removes permitted development rights from Class 4A Drinking Establishments. In order to ensure that the scheme is administered in line with legislation, at the request of officers, the process will be subject to Internal Audit in 2015/16.

Financial

See paragraphs 15-22 on compensation.

Consultation responses (including from the Youth Council)

28. None.

Effect on Strategic Aims

Aim – Engage with residents, parishes and businesses to ensure we deliver first class services and value for money

29. The Community Right to Bid, whilst being a statutory process, potentially helps to sustain successful and vibrant villages.

Background Papers

Where [the Local Authorities \(Executive Arrangements\) \(Meetings and Access to Information\) \(England\) Regulations 2012](#) require documents to be open to inspection by members of the public, they must be available for inspection: -

- (a) at all reasonable hours at the offices of South Cambridgeshire District Council;
- (b) on the Council's website; and
- (c) in the case of documents to be available for inspection pursuant to regulation 15, on payment of a reasonable fee required by the Council by the person seeking to inspect the documents at the offices of South Cambridgeshire District Council.

Communities and Local Government Committee Report, Feb 2015:

<http://www.publications.parliament.uk/pa/cm201415/cmselect/cmcomloc/262/26205.htm>

Department for Communities and Local Government's Community Right to Bid: Non-statutory advice note for local authorities:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/14880/Community_Right_to_Bid_-_Non-statutory_advice_note_for_local_authorities.pdf

Part 5 Chapter 3 of the Localism Act 2011:

<http://www.legislation.gov.uk/ukpga/2011/20/part/5/chapter/3>

The Assets of Community Regulations 2012:

<http://www.legislation.gov.uk/uksi/2012/2421/contents/made>

More information about Community Right to Bid on the Council's website:

<https://www.scams.gov.uk/community-right-bid>

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