

# AGENDA



For a meeting of the
<b>COUNCIL</b>
to be held on
<b>THURSDAY, 13 DECEMBER 2012</b>
at
<b>2.00 PM</b>
in the
<b>COUNCIL CHAMBER, COUNCIL OFFICES, ST. PETER'S HILL, GRANTHAM</b>
<b>Beverly Agass, Chief Executive</b>

Members of the Council are invited to attend the above meeting to consider the items of business listed below.

1. **UPDATES TO THE CONSTITUTION**

Report of the Constitution Committee Chairman.

**(Enclosure)**

## REPORT TO COUNCIL

**REPORT OF:** CHAIRMAN OF THE CONSTITUTION COMMITTEE –  
COUNCILLOR RAY WOOTTEN

**REPORT NO:** LDS085

**DATE:** 13 December 2012

<b>TITLE:</b>	<b>Recommendations from the Constitution Committee - 6<sup>th</sup> December 2012</b>	
<b>KEY DECISION OR POLICY FRAMEWORK PROPOSAL:</b>	n/a	
<b>PORTFOLIO HOLDER: NAME AND DESIGNATION:</b>	Councillor Paul Carpenter – Portfolio Holder for Governance and Communication	
<b>CONTACT OFFICER:</b>	Lucy Youles – Head of Legal and Democratic Services (Monitoring Officer) E-mail: <a href="mailto:l.youles@southkesteven.gov">l.youles@southkesteven.gov</a> Telephone: 01476 406105	
<b>INITIAL IMPACT ASSESSMENT:</b>	Carried out and appended to the report: n/a	Full impact assessment Required: n/a
<b>Equality and Diversity</b>		
<b>FREEDOM OF INFORMATION ACT:</b>	This report is publicly available via the Your Council and Democracy link on the Council's website: <a href="http://www.southkesteven.gov.uk">www.southkesteven.gov.uk</a>	
<b>BACKGROUND PAPERS</b>	<p>The Council's Constitution  <a href="http://www.southkesteven.gov.uk/index.aspx?articleid=1974">http://www.southkesteven.gov.uk/index.aspx?articleid=1974</a>                      Localism Act 2011  <a href="http://www.legislation.gov.uk/ukpga/2011/20/part/5/chapter/3/enacted">http://www.legislation.gov.uk/ukpga/2011/20/part/5/chapter/3/enacted</a>                      Non-statutory Guidance  <a href="http://www.communities.gov.uk/publications/communities/righttobidadvicenote">http://www.communities.gov.uk/publications/communities/righttobidadvicenote</a>                      Empowering Communities: making the most of local – A Councillor's Guide  <a href="http://locality.org.uk/wp-content/uploads/Empowering-communities-making-the-most-of-local-assets-a-councillors-guide.pdf">http://locality.org.uk/wp-content/uploads/Empowering-communities-making-the-most-of-local-assets-a-councillors-guide.pdf</a></p>	

## 1. RECOMMENDATIONS

It is recommended that Council approve the recommendations made by the Constitution Committee at its meeting on the 6<sup>th</sup> December 2012 as follows:

- 1.1 At page 104 of the Constitution relating to delegations to the Property Development Manager add:

**8. In consultation with the Portfolio Holder for Governance and Communication, to determine the regulations and procedures from time to time applicable in accordance with the Localism Act, The Assets of Community Value (England) Regulations 2012 and guidance issued relating to applications to include a property on the list of assets of community value.**

**9. In consultation with the Head of Finance and the Head of Legal and Democratic Services in accordance with the provisions of the Assets of Community Value (England) Regulations 2012,**

- **to consider correctly completed applications received to nominate a property to be included on the list of assets of community value and**
- **to determine applications to include a property on the list of assets of community value or on the list of assets which have not been included on the list of community assets.**
- **To consider and determine applications for compensation received from owners or former owners of property which has been included on the list of assets of community value.**

- 1.2 At page 93 of the Constitution relating to delegations to the Strategic Director Corporate Focus (Section 151 Officer) add:

**27. To consider and determine applications for a review of a listing and applications received for compensation received from the owner of any property included on the list of assets of community value in accordance with the Assets of Community Value (England) Regulations 2012.**

## 2. PURPOSE OF THE REPORT

- 2.1 The purpose of this report is to detail the recommendations made by the Constitution Committee at its meeting on the 6<sup>th</sup> December 2012 to Council for approval. The report made to the Constitution Committee and minutes of the Constitution Committee meeting of the 6<sup>th</sup> December are attached to this report at the Appendix for information.

## 3. DETAILS OF REPORT

- 3.1 The details of the recommendation and the reasons for the recommendations are given in the minutes of the Constitution Committee meeting attached to this report and the reports made to that meeting.
- 3.2 The Council is required to put in place a process for considering and determining applications received from community groups to list assets of community value. All

correctly completed applications must be determined within 8 weeks of receipt. Delegation to officers is requested to enable applications to be determined within statutory timescales and current resource provision. Evaluation criteria for applications received have been determined in accordance with regulations which are detailed in the report appended to this report.

#### **4. OTHER OPTIONS CONSIDERED**

- 4.1 The Council has a duty to determine applications received to list assets of community value. No other options have been considered.

#### **5. RESOURCE IMPLICATIONS**

- 5.1 The proposals are made to ensure that the provisions of the Localism Act can be implemented within current budget provision.

#### **6. RISK AND MITIGATION**

- 6.1 Risk has been considered as part of this report and any specific high risks are included in the table below:

<b>Category Risk</b>	<b>Action / Controls</b>
Delay in consideration of applications	Delegation to officers to consider applications immediately on receipt

#### **7. ISSUES ARISING FROM EQUALITY IMPACT ASSESSMENT**

- 7.1 No assessment is required in respect of this report.

#### **8. CRIME AND DISORDER IMPLICATIONS**

- 8.1 No crime and disorder implications arise as a result of this report

#### **9. COMMENTS OF FINANCE SECTION**

- 9.1 There are no financial implications resulting from this report.

#### **10. COMMENTS OF LEGAL AND DEMOCARATIC SERVICES**

- 10.1 The Council must put in place robust processes to consider applications made in respect of this right. Consideration of applications will involve technical application of strict criteria determined by the legislation and guidance. Applications must be determined in accordance with time limits determined by the legislation.

#### **11. COMMENTS OF OTHER RELEVANT SERVICE MANAGERS**

- 11.1 None relevant

#### **12. APPENDIX**

Report to Constitution Committee – LDS083 - COMMUNITY RIGHT TO BID  
(Assets of Community Value) - DELEGATIONS.  
Minutes of Constitution Committee meeting – 6<sup>th</sup> December 2012

# REPORT TO CONSTITUTION COMMITTEE

**REPORT OF:** HEAD OF LEGAL AND DEMOCRATIC SERVICES

**REPORT NO:** LDS083

**DATE:** 6<sup>TH</sup> DECEMBER 2012

<b>TITLE:</b>	COMMUNITY RIGHT TO BID (Assets of Community Value) - DELEGATIONS	
<b>KEY DECISION OR POLICY FRAMEWORK PROPOSAL:</b>	Constitution change	
<b>PORTFOLIO HOLDER: NAME AND DESIGNATION:</b>	Councillor Paul Carpenter – Portfolio Holder for Governance and Communication	
<b>CONTACT OFFICER:</b>	Lucy Youles Head of Legal and Democratic Services <a href="mailto:l.youles@southkesteven.gov.uk">l.youles@southkesteven.gov.uk</a> Tel:01476 406105	
<b>INITIAL IMPACT ANALYSIS:</b>	Carried out and Referred to in paragraph (7) below	Full impact assessment Required: Not applicable
<b>Equality and Diversity</b>		
<b>FREEDOM OF INFORMATION ACT:</b>	This report is publicly available via the Your Council and Democracy link on the Council's website: <a href="http://www.southkesteven.gov.uk">www.southkesteven.gov.uk</a>	
<b>BACKGROUND PAPERS</b>	Localism Act 2011 <a href="http://www.legislation.gov.uk/ukpga/2011/20/part/5/chapter/3/enacted">http://www.legislation.gov.uk/ukpga/2011/20/part/5/chapter/3/enacted</a> Non-statutory Guidance <a href="http://www.communities.gov.uk/publications/communities/righttobidadvicenote">http://www.communities.gov.uk/publications/communities/righttobidadvicenote</a> Empowering Communities: making the most of local – A Councillor's Guide <a href="http://locality.org.uk/wp-content/uploads/Empowering-communities-making-the-most-of-local-assets-a-councillors-guide.pdf">http://locality.org.uk/wp-content/uploads/Empowering-communities-making-the-most-of-local-assets-a-councillors-guide.pdf</a>	

## 1. RECOMMENDATIONS

The Constitution Committee recommend to Council the amendments to the scheme of delegation to enable applications to be determined relating to the Community Right to Bid (Assets of Community Value) as follows:

1.1 At page 104 of the Constitution relating to delegations to the Property Development Manager add:

**8. In consultation with the Portfolio Holder for Governance and Communication, to determine the regulations and procedures from time to time applicable in accordance with the Localism Act, The Assets of Community Value (England) Regulations 2012 and guidance issued relating to applications to include a property on the list of assets of community value.**

**9. In consultation with the Head of Finance and the Head of Legal and Democratic Services in accordance with the provisions of the Assets of Community Value (England) Regulations 2012,**

- **to consider correctly completed applications received to nominate a property to be included on the list of assets of community value and**
- **to determine applications to include a property on the list of assets of community value or on the list of assets which have not been included on the list of community assets.**
- **To consider and determine applications for compensation received from owners or former owners of property which has been included on the list of assets of community value.**

1.2 At page 93 of the Constitution relating to delegations to the Strategic Director Corporate Focus (Section 151 Officer) add:

**27. To consider and determine applications for a review of a listing and applications received for compensation received from the owner of any property included on the list of assets of community value in accordance with the Assets of Community Value (England) Regulations 2012.**

## 2. PURPOSE OF THE REPORT

The purpose of the report is to set out proposed amendments to the Constitution required to put in place a process to determine nominations received to include property on the list of assets of community value. The proposals include delegations to the Property Development Manager in consultation with the Portfolio Holder for Governance and Communication to make provision for the process, delegations to the Property Development Manager in consultation with the Head of Finance and the Head of Legal and Democratic Services to consider and determine nominations made to include property on the list of assets of community value and relevant applications for compensation and delegation to the Strategic Director Corporate Focus to consider and determine applications for review of listings and compensation. All delegations are proposed to be carried out in accordance with the Assets of

Community Value (England) Regulations 2012 which are attached to the report at Appendix A.(the Regulations)

### **3. DETAILS OF REPORT**

.A report and presentation considered by the Communities Policy Development Committee (PDG) setting out the provisions relating to assets of community value is attached at Appendix B. The PDG considered aspects of the process and recommended that a report should be made to the Constitution Committee to consider the delegations set out in the recommendations. The report introduced a proposed form of application, the contents of the list of assets of community value and the criteria to be used for determination of nominations which are recommended for use in the delegations proposed. The decisions required are technical and must be carried out in accordance with the Regulations .

A nomination to include a property on the list of assets of community value could be received at any time and must be considered within 8 weeks of receipt. Incomplete applications will be rejected with details of the further information needed. Complete applications must be determined in accordance with the Regulations and the proposed evaluation criteria.

### **4. OTHER OPTIONS CONSIDERED**

The Council has a duty to determine applications received to list assets of community value. No other options have been considered.

### **5. RESOURCE IMPLICATIONS**

The proposals are made to ensure that the provisions of the Localism Act can be implemented within current budget provision.

### **6. RISK AND MITIGATION**

Risk has been considered as part of this report and any specific high risks are included in the table below:

<b>Category Risk</b>	<b>Action / Controls</b>
Delay in consideration of applications	Delegation to officers to consider applications immediately on receipt

### **7. ISSUES ARISING FROM IMPACT ANALYSIS**

Equality impact analysis not required

### **8. CRIME AND DISORDER IMPLICATIONS**

No crime and disorder implications

**9. COMMENTS OF FINANCIAL SERVICES**

There are no financial implications relating to the proposed amendments.

**10. COMMENTS OF LEGAL AND DEMOCRATIC SERVICES**

The Council must put in place robust processes to consider applications made in respect of this right. Consideration of applications will involve technical application of strict criteria determined by the legislation and guidance. Applications must be determined in accordance with time limits determined by the legislation.

The legislation permits each authority to set its own regulations relating to the issues detailed in the recommendation of this report

**11. COMMENTS OF OTHER RELEVANT SERVICES**

None relevant

**12. Appendices**

Appendix A - Assets of Community Value (England) Regulations 2012

Appendix B - Report to Communities PDG - LDS083 – Community Right To Bid and Presentation

# REPORT TO COMMUNITIES P.D.G.

**REPORT OF:** Head of Legal and Democratic services

**REPORT NO:** LDS082

**DATE:** 22<sup>nd</sup> November 2012

<b>TITLE:</b>	COMMUNITY RIGHT TO BID	
<b>KEY DECISION OR POLICY FRAMEWORK PROPOSAL:</b>	KEY DECISION	
<b>PORTFOLIO HOLDER: NAME AND DESIGNATION:</b>	Councillor Paul Carpenter - Portfolio Holder for Governance and Communication	
<b>CONTACT OFFICER:</b>	Lucy Youles – Head of Legal and Democratic Services – <a href="mailto:l.youles@southkesteven.gov.uk">l.youles@southkesteven.gov.uk</a> ; <a href="tel:01476406105">tel:01476406105</a> Richard Wyles – Head of Finance – <a href="mailto:r.wyles@southkesteven.gov.uk">r.wyles@southkesteven.gov.uk</a> ; <a href="tel:01476406210">tel:01476406210</a>	
<b>INITIAL IMPACT ANALYSIS:</b>	Carried out and Referred to in paragraph (7) below	Full impact assessment Required: No
<b>Equality and Diversity</b>		
<b>FREEDOM OF INFORMATION ACT:</b>	This report is publicly available via the Your Council and Democracy link on the Council's website: <a href="http://www.southkesteven.gov.uk">www.southkesteven.gov.uk</a>	
<b>BACKGROUND PAPERS</b>	Localism Act 2011 <a href="http://www.legislation.gov.uk/ukpga/2011/20/part/5/chapter/3/enacted">http://www.legislation.gov.uk/ukpga/2011/20/part/5/chapter/3/enacted</a> Non-statutory Guidance <a href="http://www.communities.gov.uk/publications/communities/righttobidadvicenote">http://www.communities.gov.uk/publications/communities/righttobidadvicenote</a> Empowering Communities: making the most of local – A Councillor's Guide <a href="http://locality.org.uk/wp-content/uploads/Empowering-communities-making-the-most-of-local-assets-a-councillors-guide.pdf">http://locality.org.uk/wp-content/uploads/Empowering-communities-making-the-most-of-local-assets-a-councillors-guide.pdf</a>	

## **1. RECOMMENDATIONS**

It is recommended that the Communities Policy Development Group consider the provisions of the Localism Act 2011 and the non-statutory Guidance relating to the Community Right to Bid (Assets of Community Value) and consider the provisions for a draft procedure to include:

- The form in which an application can be made to include an asset on the list. See draft form A attached to this report
- The content of an entry in the list – see draft form B attached to this report.
- The meaning of a voluntary or community body.
- The meaning of asset of community value.
- The conditions that have to be met for a person to have a local connection sufficient to represent a voluntary or community body with a local connection.
- The procedure to be followed to decide whether or not an asset should be included on the list. . A draft list of criteria is attached at Form C attached.
- The procedure to be followed in connection with a review and claim for compensation relating to a decision to include an asset on the list.

## **2. PURPOSE OF THE REPORT**

The purpose of the report together with the presentation to be made is to inform Members of the provisions relating to the community right to bid sufficient for Members to consider the issues listed in the recommendations above. A presentation relating to the right will be made to members at the meeting.

## **3. DETAILS OF REPORT**

The Community Right to Bid is one of a number of new rights for communities introduced by the Localism Act 2011. The Community Right to Bid came into force on 21 September 2012 following the publication of the Assets of Community Value (England) Regulations. The Community Right to Bid is commonly known as the assets of community value scheme. The scheme gives communities the opportunity to identify assets of community value and have them listed, and when they are put up for sale communities are given time to raise finance and bid for them. The right to bid impacts on all public bodies, either as local authorities required to administer the scheme or as land owners of land that may be nominated as an asset of community value. This report relates to this authorities duty to maintain the list of community assets.

The legislative provisions determine that it is for each local authority to make its own provisions on the form and contents of the list of community assets subject to the criteria set out in the Localism Act and the Regulations.

The matters listed in the recommendation are referred to in the Regulations and the non-statutory guidance. This Council must consider its process for considering applications to include a property on the list of community assets, its process for considering reviews and the process for considering applications for compensation. The determination of any application will involve technical property, legal and financial consideration. It is proposed that the consideration of applications to include properties on the list and applications for

compensation be delegated to the Property Development Manager in consultation with the Head of Finance and the Head of Legal and Democratic Services. It is proposed that applications for a review of any decision be considered by the Strategic Director - Corporate Focus in consultation with the relevant portfolio holder. Any delegation will be reported to the Constitution Committee

**4. OTHER OPTIONS CONSIDERED**

The Council has no other alternative but to make provision for the management and administration of the process to consider applications for properties to be included on the list of assets of community value.

**5. RESOURCE IMPLICATIONS**

It is proposed that the management and administration of the process relating to this right is provided within existing budget provision.

**6. RISK AND MITIGATION**

Risk has been considered as part of this report and any specific high risks are included in the table below:

Category Risk	Action / Controls
Delay in consideration of applications	Delegation to officers to consider applications immediately on receipt

**7. ISSUES ARISING FROM IMPACT ANALYSIS**

To be considered following determination of the process to be adopted

**8. CRIME AND DISORDER IMPLICATIONS**

None

**9. COMMENTS OF FINANCIAL SERVICES**

**10. COMMENTS OF LEGAL AND DEMOCRATIC SERVICES**

The Council must put in place robust processes to consider applications made in respect of this right. Consideration of applications will involve technical application of strict criteria determined by the legislation and guidance. Application must be determined in accordance with time limits determined by the legislation.

The legislation permits each authority to set its own regulations relating to the issues detailed in the recommendation of this report

**11. COMMENTS OF OTHER RELEVANT SERVICES**

## **12. APPENDICES:**

Form A – draft form of application.

Form B – draft list for properties to be included on the list

Form C – draft criteria for consideration of applications to include a property on the list.

<p style="text-align: center;"><b>SOUTH KESTEVEN DISTRICT COUNCIL</b></p> <p style="text-align: center;"><b>ASSETS OF COMMUNITY VALUE – THE COMMUNITY RIGHT TO BID</b></p> <p style="text-align: center;"><b>NOMINATION FORM</b></p>
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**Section A: About your organisation**

**A1 Organisation's name and address**

Name of organisation*
Address including postcode

*\*full name as written in your constitution or rules (if appropriate)*

**A2 Contact details**

Name
Position in organisation
Address including postcode
Daytime telephone no.
Email address
How and when can we contact you?*

*\*by email or phone, and days of the week and/or times of day you would prefer*

**A3 Type of organisation**

Description	Put a cross against all those that apply	Registration number of charity and/or company (if applicable)
Neighbourhood forum		
Parish Council		
Charity		
Community interest company		
Unincorporated body		
Company limited by guarantee		
Industrial and provident society		

**A4 Number of members registered to vote locally** (unincorporated bodies only)

In the case of an unincorporated body, at least 21 of its members must be registered to vote in the South Kesteven district. If relevant, please confirm the number of such members. If they are registered to vote in the area of a neighbouring local authority, rather than in South Kesteven, please confirm which area that is.

**A5 Local connection**

Your organisation must have a local connection, which means that its activities are wholly or partly concerned with the administrative area of South Kesteven District Council or a neighbouring local authority. In some cases this will be obvious, eg. a parish council in South Kesteven, or an organisation whose activities are confined to the district. Your local connection may not be obvious, please explain what your organisation's local connection is.

FORM A

**A6 Distribution of surplus funds** (certain types of organisation only)

If your organisation is an unincorporated body, a company limited by guarantee, or an industrial and provident society, its rules must provide that surplus funds are not distributed to members, but are applied wholly or partly for the benefit of the local area (ie. within the administrative area of South Kesteven or a neighbouring local authority). If relevant, please confirm that this is the case, and specifically which area this applies to.

**A7 More about your organisation**

What are the main aims and activities of your organisation?

**A8 Your organisation's rules**

<b>Please send us a copy of the relevant type of document for your organisation, and put a cross in the next column to indicate which one this is</b>	<b>X</b>
Memorandum and Articles of Association (for a company)	
Trust Deed (for a trust)	
Constitution and/or rules (for other organisations)	
Terms of Reference	

FORM A

**Part B: About the land or building(s) you are nominating**

**B1 Description and address**

What it is the land or building used for?
Name of premises (known locally as)
Address including postcode

**B2 Map or Sketch plan**

Please include (here or on a separate sheet) a sketch plan or map identifying the land. This should show:-

- The boundaries of the land that you are nominating
- The approximate size and position of any building(s) on the land.
- The names of any roads bordering the site.

FORM A

**B3 Owners and others with an interest in the building or land**

You should supply the following information, if possible. If any information is not known to you, please say so.

	<b>Name(s)</b>	<b>Address(es)</b>
Names of all current occupants of the land		
Names and current or last known addresses of all those owning the freehold of the land (ie. owner, head landlord, head lessor)		
Names and current or last known addresses of all those having a leasehold interest in the land (ie. tenant, intermediate landlord, intermediate lessor)		

**B4 Why you think the building or land is of community value**

Note that the following are not able to be assets of community value:-

- A building wholly used as a residence, together with land “connected with” that residence. This means adjoining land in the same ownership. Land is treated as adjoining if it is separated only by a road, railway, river or canal.
- A caravan site.
- Operational land. This is generally land belonging to the former utilities and other statutory operators.

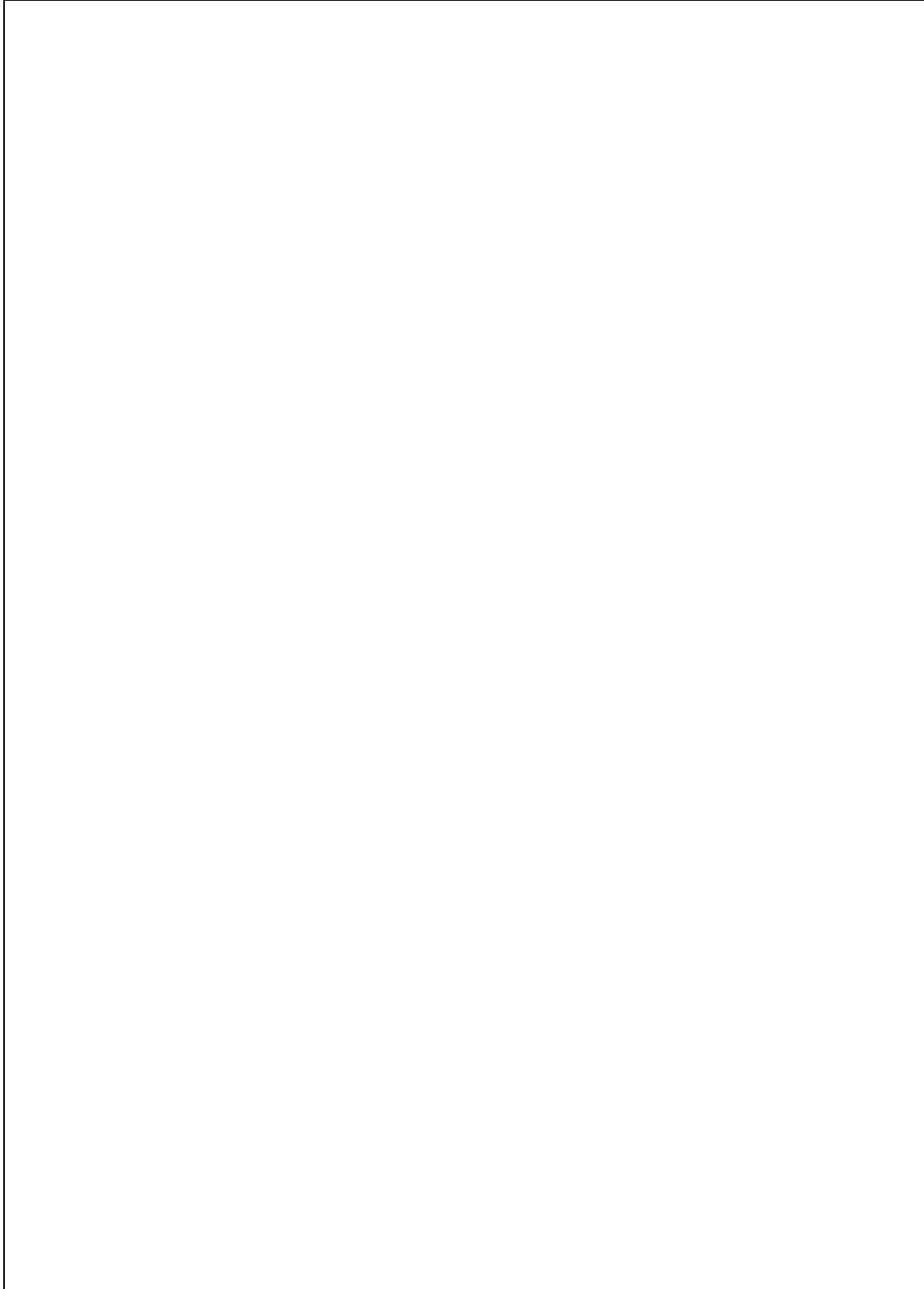
Does it currently further the social wellbeing or social interests\* of the local community, or has it done so in the recent past? If so, how?

Could it in future further the social wellbeing or social interests\* of the local community? If so, how? (This could be different from its current or past use.)

\*These could be cultural, recreational and/or sporting interests, so please say which one(s) apply.

**B5 How could the building or land be acquired and used in future?**

If it is listed as an asset of community value, community interest groups and others (not just limited to your organisation) will get the opportunity to bid for it if it comes up for sale. Please set out how you think such a group could fund the purchase of the building or land, and how they could run it for the benefit of the community.

A large, empty rectangular box with a thin black border, intended for the user to provide their answer to the question above. The box is currently blank.

**Section C: Submitting this nomination**

**C1 What to include**

- The rules of your organisation (question A8).
- Your map or sketch plan (question B2).

**C2 Signature**

*By signing your name here (if submitting by post) or typing it (if submitting by email) you are confirming that the contents of this form are correct, to the best of your knowledge.*

Signature

**C3 Where to send this form**

You can submit this nomination:-

- **By post to:** Head of Legal and Democratic Services, South Kesteven District Council, Council Offices, St. Peter's Hill, Grantham, Lincolnshire NG31 6PZ or
- **By email to:** [l.youles@southkesteven.gov.uk](mailto:l.youles@southkesteven.gov.uk)



**SOUTH KESTEVEN DISTRICT COUNCIL**

**Evaluation Criteria for the consideration of Assets of Community Value - to be considered only when all the relevant information has been received from the nominator and other interested parties**

<b>PART A NON-DISCRETIONARY CRITERIA</b>
<p><b>A1. Is the nominating organisation an eligible body to nominate?</b></p> <p>The types of organisations eligible for making a nomination are currently defined in Regulation 5 of the Assets of Community Value (England) Regulations 2012 as below:</p> <ul style="list-style-type: none"> <li>(a) a body designated as a neighbourhood forum pursuant to section 61F of the Town and Country Planning Act 1990(b);</li> <li>(b) a parish council;</li> <li>(c) an unincorporated body— <ul style="list-style-type: none"> <li>(i) whose members include at least 21 individuals, and</li> <li>(ii) which does not distribute any surplus it makes to its members;</li> </ul> </li> <li>(d) a charity;</li> <li>(e) a company limited by guarantee which does not distribute any surplus it makes to its members;</li> <li>(f) an industrial and provident society which does not distribute any surplus it makes to its members; or</li> <li>(g) a community interest company</li> </ul>
<p><b>A2. Does the nominating body have a local connection to the asset nominated?</b></p> <p>“Local Connection” is defined in detail in Regulation 4 of the Assets of Community Value (England) Regulations 2012.</p>
<p><b>A3. Does the nomination include the required information about the asset?</b></p> <p>This is set out in Regulation 6 of the Assets of Community Value (England) Regulations 2012 as follows:</p> <ul style="list-style-type: none"> <li>(a) a description of the nominated land including its proposed boundaries;</li> <li>(b) a statement of all the information which the nominator has of— <ul style="list-style-type: none"> <li>(i) the names of current occupants of the land, and</li> <li>(ii) the names and current or last-known addresses of all those holding a freehold or leasehold estate in the land</li> </ul> </li> </ul> <p>And;</p> <ul style="list-style-type: none"> <li>(c) a clear map showing the location of the property with an indication of the extent of the land included in the nomination</li> </ul>
<p><b>A4. Does the asset meet the definition of asset of community value and is not</b></p>

<p><b>one of the categories that cannot be assets of community value as set out in Schedule 1 of the assets of Community Value(England) Regulations 2012, as summarised below:</b></p> <ol style="list-style-type: none"> <li>1. A residence together with land connected with that residence</li> <li>2. Land in respect of which a site licence is required under Part 1 of the Caravan Sites and Control of Development Act 1960</li> <li>3. Operational land as defined in section 263 of the Town and Country Planning Act 1990.</li> </ol>	
<p><b>IF “YES” TO ALL OF PART A MOVE TO PART B IF “NO” TO ONE OR MORE OF PART A, INFORM NOMINATOR THAT NONINATION IS INELIGIBLE. PLACE ON LIST OF UNSUCCESSFUL NOMINATIONS.</b></p>	
<p><b>PART B - ESTABLISHING THE NON-ANCILLARY USE THAT THE APPLICATION IS BASED ON</b></p>	
<p><b>B1. Is the current or recent use which is the subject of the nomination an actual and non-ancillary use?</b></p> <p>NOTE 1: A working definition of “recent past” is “within the past three years”</p> <p>NOTE 2: A working definition of “non-ancillary” is that the use is not providing necessary support (e.g. cleaning) to the primary activities carried out in the asset, but is itself a primary, additional or complementary use.</p>	
<p><b>If the current or recent usage that is the subject of the nomination is actual and non-ancillary, go to PART C</b></p> <p><b>If not, PLACE ON LIST OF UNSUCCESSFUL NOMINATIONS</b></p>	
<p><b>PART C – Determining whether the use furthers social wellbeing or social interests</b></p>	
<b>Criteria</b>	<b>Weighting</b>
<p><b>C1. Who</b> benefits from the use?</p> <p>Does it meet the social interests of the community as a whole and not simply the users/customers of the specific service?</p> <p>Who will lose if the use ceases?</p>	25%
<p><b>C2. Is</b> any aspect of the use actively discouraged by the Council’s Policy and Budget Framework?</p>	25%
<p><b>C3. Why</b> is the usage seen as having social value in the context of the community on whose behalf the application is being made?</p>	25%
<p><b>C4. How</b> strongly does the local community feel about the usage as furthering their social interests?</p>	25%
<p><b>If the above meets a minimum scoring of 55%, go to Step D</b></p>	

<b>PART D – Realism of future usage</b>
<b>D. Is it realistic to think (for “current” uses) there will continue to be social use of the building or other land or (for “recent” uses) that it is realistic to think that there will be community use again within the next five years?</b>
D1. Has the building/land-take/space/legal requirement for this usage changed significantly since its initial use so that the asset is not fit for purpose?
<b>IF NO to D1 above, PLACE ON REGISTER OF ASSETS OF COMMUNITY VALUE</b>
<b>IF YES to D1 above, go to D2</b>
D2. Could the asset be made fit for purpose practically and within reasonable resource requirements and within timescales?
<b>IF YES to D2 above, PLACE ON REGISTER OF ASSETS OF COMMUNITY VALUE</b>
<b>IF NO to D2 above, PLACE ON LIST OF UNSUCCESSFUL NOMINATIONS</b>



*Your council working for you*

# **COMMUNITY RIGHT TO BID**

Communities PDG update

Richard Wyles

# Outline

- The provisions give local groups a right to nominate a building or other land for listing by the LA as an asset of community value.
- Ensure that when a listed asset is to be sold, local community groups are given a fair chance to make a bid to buy it on the open market
- Nothing further will happen unless and until the owner decides to dispose of the asset

# Nominating an asset

- Open to parishes, community organisations and constituted neighbourhood forums
- The LA will have 8 weeks to make a judgement about whether the asset meets the definition as set out in the Act
- If the asset is nominated then the LA must place the asset on a list and notify all parties
- The owner has a right to appeal if they choose by an internal review process

# Nominating an asset

- If the LA does not agree that the asset should be listed they must place it on a list of assets called 'nominated but not listed'
- Once an asset is listed nothing further will happen unless and until the owner decides to dispose of it
- If the owner does decide to dispose, then they must notify the LA of their intention

# Moratorium

- Once the owner has notified the LA there is then a 6 week period to allow community interest groups to make a written request to be treated as a potential bidder
- If none come forward then the owner can sell after the 6 week period has elapsed
- If a request is forthcoming then a full 6 month moratorium will operate. During this period the owner may continue to market but cannot exchange contracts (unless to the community group)
- After the moratorium period the owner is free to sell to whomever they choose and at whatever price

- The provisions do not restrict in any way who the owner of a listed asset can sell their property to, or at what price.
- However they do put a requirement on the owner to notify the LA if they are choosing to sell the asset and the provisions do place time restrictions on the disposal process

# List of assets

- The LA is required to maintain 2 lists – those of nominated assets and those of assets nominated unsuccessfully
- They are to be published publically and made available to all
- Assets to be listed for a period of 5 years
- Section 88 defines ‘an actual current use of the building or other land that is not an ancillary use furthers the social wellbeing or social interests of the local community, and it is realistic to think that there can continue to be non-ancillary use of the building or other land which will further the social wellbeing or social interests of the local community’
- Exemptions include: residential property including gardens, outbuildings and other associated land, residential caravan land

# Listing review

- An owner has the right to request the LA review its listing decision (<8 weeks from the notification date)
- To be reviewed by an officer who did not take part in the decision to list
- Owner may make representation in writing or orally – review to be undertaken within 8 weeks
- The owner and the LA will bear their own review costs

- If the owner is not satisfied with the outcome of the internal review they have the right to refer to Tribunal
- Compensation – private owners may claim compensation for loss and expense incurred through the asset listed or previously listed. This will include a claim arising from a period of delay in entering into a binding agreement to sell which is wholly caused by the interim or moratorium period
- Costs of compensation payments under £20K will be met by the LA but some funding will be made available via the New Burdens funding

# MINUTES

CONSTITUTION COMMITTEE  
THURSDAY, 6 DECEMBER 2012



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## COMMITTEE MEMBERS PRESENT

Councillor Susan Sandall  
Councillor Adam Stokes (Vice-Chairman)  
Councillor Raymond Wootten (Chairman)

## OFFICERS

Head of Legal and Democratic Services (Lucy Youles)  
Democratic Officer (Lucy Bonshor)

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### 13. APOLOGIES

Apologies for absence were received from Councillor Auger and Councillor Shorrocks.

### 14. DISCLOSURE OF INTERESTS

None disclosed.

### 15. MINUTES OF THE MEETING HELD ON 24TH SEPTEMBER 2012

The minutes of the meeting held on 24th September were agreed as a correct record of the decisions taken.

### 16. AMENDMENTS TO THE CONSTITUTION: COMMUNITY RIGHT TO BID (ASSETS OF COMMUNITY VALUE) - DELEGATIONS

#### Decision:

*The Constitution Committee recommends to Council the following changes to the Scheme of Delegation to enable applications to be determined relating to the Community Right to Bid (Assets of Community Value):*

- 1.1 *At page 104 of the Constitution relating to delegations to the Property Development Manager add:*

**8. In consultation with the Portfolio Holder for Governance and Communication, to determine the regulations and procedures from time to time applicable in accordance with the Localism Act, The Assets of Community Value (England) Regulations 2012 and guidance issued relating to applications to include a property on the list of assets of community value.**

**9. In consultation with the Head of Finance and the Head of Legal and Democratic Services in accordance with the provisions of the Assets of Community Value (England) Regulations 2012,**

- **to consider correctly completed applications received to nominate a property to be included on the list of assets of community value and**
- **to determine applications to include a property on the list of assets of community value or on the list of assets which have not been included on the list of community assets.**
- **To consider and determine applications for compensation received from owners or former owners of property which has been included on the list of assets of community value.**

**1.2 At page93 of the Constitution relating to delegations to the Strategic Director Corporate Focus (Section 151 Officer) add:**

**27. To consider and determine applications for a review of a listing and applications received for compensation received from the owner of any property included on the list of assets of community value in accordance with the Assets of Community Value (England) Regulations 2012.**

Members had before them report LDS083 which set out proposed amendments to the Constitution required to put in place a process to determine nominations received to include property on the list of assets of community value. A report and presentation had been considered by the Communities PDG who had recommended that a report should be made to the Constitution Committee to consider amending the scheme of delegation as highlighted in the report. The scheme had been introduced by the Localism Act. There were clear rules and regulations which had to be followed both for the types of bodies putting nominations forward and how these were processed. There was a clear role for Members in accordance with guidance working with communities to identify assets of community value. The guidance issued referred to nominations being considered by officers. There were specific regulations about which organisations could nominate assets and decisions had to be made within an eight week period. Although the Council held 6 meetings a year it would not be appropriate to call a Council meeting just to discuss one application where decisions had to be made relatively quickly. If a property was put on a list the person who owned the property could request a review. The guidance

recommended reviews were considered by an officer of appropriate seniority.

The delegations proposed were to the Property Development Manager in consultation with the Governance and Communications Portfolio Holder to determine the process in accordance with regulations and to the Property Development Manager in consultation with, the Head of Legal and Democratic Services and the Head of Finance to process and determine applications. The process followed would be in accordance with the regulations. The forms relating to applications, listing and evaluation were noted.

A short discussion followed on the size and type of group that was allowed to nominate a community asset and the type of building that would and would not be listed as a community asset.

Any asset that was listed would be registered as a Local Land charge, however, the person selling the asset was not obliged to sell to the community group but they must allow six months for that group to raise the funds to put in a bid. Applications for compensation could also be received.

It was proposed, seconded and agreed that the recommendations as outlined in report LDS083 be recommended to Council for approval.

## **17. CLOSE OF MEETING**

The meeting closed at 10.17am.