

# 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