

BRECKLAND COUNCIL

Report of: Mark Kiddle-Morris, Executive Member for Assets & Strategic Development.

To: Cabinet – 18 June 2013

(Author: Christopher Dean, National Management Trainee)

Subject: Localism Act 2011

Purpose: The Localism Act was introduced in November 2011. The purpose of this report is to update Members on the work undertaken thus far to ensure the Council's full compliance with the Act and to seek agreement that a Community Asset Register is introduced in line with the aforementioned legislation.

Recommendation(s):

- a) To note for information the activity already undertaken to ensure compliance with the Localism Act 2011, and the establishment of a Community Assets Register as outlined in body of the report and in compliance with the Localism Act 2011;
- b) To agree a policy of no compensation payments with regards to loss of income due to the moratorium on sale imposed by registration on the Community Assets Register (i.e. compensation for delay or failure to sell as a result of registration NOT loss of property value through the sale)

1.0 BACKGROUND

1.1 The Localism Act was introduced in November 2011. The aim of the act was to devolve more decision making powers from central government to local communities and councils. The act covers a wide range of issues related to local public services, with a particularly focus on the general power of competence, community rights, neighborhood planning and housing.

1.2 The key measures of the act were grouped under four main headings: -

- a) new freedoms and flexibilities for local government
- b) new rights and powers for communities and individuals
- c) reform to make the planning system more democratic and more effective
- d) reform to ensure decisions about housing are taken locally

1.3 Further information on the Localism Act 2011 can be found on the Department of Communities and Local government website.

1.4 The Act includes a number of important measures and further detail on these is provided at Appendix B. In addition, an update is given on the actions already undertaken by the Council to meet these requirements. The Council has made a number of changes as required by the act.

1.5 The Community Right to Bid came into force in September 2012. The Community Right to Bid allows communities to nominate buildings and land that they consider to be of value to the community, to be included on a local authority maintained list (Community Asset Register). If any of the assets on the register are put up for sale, the community is given a window of opportunity to express an interest in purchasing the asset, and another window of opportunity to bid.

1.6 Breckland District Council is developing a Community Asset Register as required by the act.

2.0 Community Asset Register

2.1 This report recommends that BDC introduce a Community Asset Register to comply with the requirements of the Localism Act 2011 and the Community Right to Bid process. The proposed process for developing and maintaining the Register is provided at Appendix A.

2.2 A Community Assets Register is a facility for residents of Breckland to express an interest in a building or piece of land because of its 'Community Value'. Once a building or piece of land is registered the owner must observe certain restrictions on the sale process – designed to allow community interest groups to create and submit a suitable bid.

2.3 The purpose of the Register is to protect property and spaces valuable to local communities from being lost through sale to developers without a chance for the community to produce an offer to challenge the sale. Community value is described as '*a non-ancillary use that benefits the community*', and private property can be nominated.

2.4 BDC currently holds no Community Assets Register nor has a process for managing an expression of interest. The process need not be a complicated mechanism, requiring only a spreadsheet of decisions (approved, rejected and pending) to be updated regularly and published on the website. There are only limited examples of working schemes available from elsewhere in the country. However, the Act is already in force and managing the register is a statutory requirement. Therefore, it is imperative to establish a register and protocol for processing applications.

2.5 The definitions of a Community Asset are clearly explained (non-residential property with a non-ancillary use of benefit to the community) but more nuanced to assess. As elected representatives, council members have the mandate to make such political or disputed decisions on behalf of the community. The assessment of a potential community asset is one of local knowledge as well as political authority; therefore the decision could rest with the member of the council whose ward contains the asset in question.

2.6 Members will have access to advice from officers on matters of legislation, but as the council has now been granted the general power of confidence, there is little beyond the stated definition of a "community asset" to transgress.

2.7 A process for appeals against the initial decision is included in the legislation, and the decision for such will need to be taken by the first tier tribunal.

2.8 A process for compensation for property owners affected by the registered status of their building/land is included in the process. This compensation does not refer to any reduction in value of the building, nor any losses resulting from a sale under the market value. It specifically refers to any costs or losses resulting from the delay in sale that the legislation creates.

2.9 The Council will need to decide upon a compensation policy as the details are not included in the Act. Central government has committed to paying any compensation in excess of £20,000 over the course of a financial year, but this is up for review in 2015. As the act is a new piece of legislation we have no information on what a compensation policy will cost. This report therefore recommends that a policy of no compensation payments with regards to loss of income due to the moratorium on sale imposed by registration on the Community Assets Register is put in place.

3.0 OPTIONS

- 3.1 Create a Community Asset Register adjudicated and administered by officers.
- 3.2 Create a Community Asset Register adjudicated by members and administered by officers.
- 3.3 Agree a policy for the payment of compensation to the owners of assets included on the register.
- 3.4 Agree a policy of not providing compensation payments.

4.0 REASONS FOR RECOMMENDATION(S)

- 4.1 By having the Community Asset Register adjudicated and administered by officers standard practices and procedures would be developed and followed but members' local knowledge would likely not be utilised on a case-by-case basis.
- 4.2 By adjudicating for the Community Asset Register, members would be applying their local knowledge to their work for the council and exercising the authority of their mandate (with the assistance of officers as required) - therefore promoting local democracy, which in turn further promotes the Localism Agenda.
- 4.3 By having a policy of compensation payment the Council exposes itself to financial risk. Without data over a sufficiently long period it is impossible to accurately predict the cost of a compensation policy. Central government has committed to paying any compensation in excess of £20,000 over the course of a financial year, which limits the range of costs, but this is up for review in 2015.
- 4.4 By having a policy of not paying compensation, the Council avoids exposure to the risk of up to £20,000 per year until 2015 – and an unknown level of financial risk in following years.

5.0 EXPECTED BENEFITS AND TIMELINES

- 5.1 The benefit of the Community Assets Register will be that residents concerned about developers interested in important community buildings and spaces will have a means of preserving them. It will also benefit members to be seen in action by the residents of their wards, raising local political awareness.
- 5.2 As the registration process is initiated by the public and governs property sales it is impossible to define periods when it will or will not be required for reference but the maintenance of the register will be ongoing.

6.0 IMPLICATIONS

6.1 Carbon Footprint & Environmental Issues

- 6.1.1 No carbon footprint or environmental implications are expected from establishing a Community Assets Register.

6.2 Constitution & Legal

- 6.2.1 The Community Assets Register will entail legal restrictions on the sale of property and in the event that these restrictions are found to have been breached the sale will be legally void. The Council will be expected to uphold this but not to actively search for sales in breach of restrictions. If a legal case is put forward the register may be

requested as evidence, therefore older versions of the register will need detailed archiving.

6.2.2 Statutory requirement to have a Register in place.

6.3 **Contracts**

6.3.1 No contracts implications are expected from establishing a Community Assets Register.

6.4 **Crime and Disorder**

6.4.1 No crime or disorder implications are expected establishing a Community Assets Register.

6.5 **Equality and Diversity & Human Rights**

6.5.1 All decisions made regarding the Community Assets Register will reference the Council's Equality, Diversity and Human Rights policy. There is an appeal process for owners but not for applicants, but these are not designed to handle claims of breaching council policy or the law – any such claims are for the relevant legal body.

6.6 **Financial**

6.6.1 The Community Asset Register will be managed using current resources and will therefore be cost neutral.

6.7 **Risk Management**

6.7.2 Any building or open space that requires inclusion on the risk register will be included alongside registration as a community asset or a failed application on a case by case basis

6.8 **Staffing**

6.8.1 The Community Asset Register will be managed using current resources and will therefore require no new staff.

6.8.2 No staffing implications are expected from establishing a Community Assets Register.

6.9 **Stakeholders / Consultation**

6.9.1 Regarding the Community Assets Register, ward members will be consulted over the nominations in their wards and required to respond to the nominating party and nominated property owner (when the property is not a council asset). Asset management will be consulted when the nominated property is a council asset. In cases where the owner objects to a decision to list their property the Localism Portfolio holder may consult Community Development, Legal, Planning or an other department relevant to the case.

6.10 **Other**

6.10.1 No other implications were identified at the time of writing

6.0 **WARDS/COMMUNITIES AFFECTED**

6.1 All Breckland wards are affected

Background papers:-

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Key Decision:

Yes

Appendices attached to this report:

Appendix A – Community Assets Register Process Proposal

Appendix B – Implementation Plan

Appendix C – Example Nomination Form