



Policy and Resources Committee – 15 September 2014

Revision of Community Right to Bid Policy

Purpose of report

To present to councillors a proposed revision to the officer delegations under the Community Right to Bid process which is required to recognise the exceptional circumstances in which the Executive Director or Chief Executive may have a conflict of interest in a nomination.

1.0 Background

- 1.1 The Community Right to Bid (CRtB) was introduced as part of the Localism Act 2011 (the Act) and came into force on 21 September 2012. The CRtB gives people the chance to bid to buy and take over the running of assets that are of value to the local community. Local groups are given the right to nominate a building or land for listing by the local planning authority as an Asset of Community Value. When a listed asset is to be sold, local community groups will have a chance to make a bid to buy it on the open market, as a six month moratorium would be in place which prevents the disposal taking place to other buyers during this period.
- 1.2 In December 2012 the council adopted a policy which sets out the way in which the Council will deal with any nominations it receives and the subsequent disposal of assets. (The adopted policy can be found at http://www.east-northamptonshire.gov.uk/site/scripts/download_info.aspx?downloadID=1865&fileID=5230). The majority of the process is governed by legislation contained within the Act and leaves little scope for discretion. The non-statutory advice note provided by the Department for Communities and Local Government suggests that decisions on listing and listing reviews must be taken by senior officers. In the policy the initial decision to list be delegated to the Executive Director (in consultation with the Chair of Policy and Resources Committee and the relevant ward councillors), and any listing reviews be delegated to the Chief Executive. At the time it was unclear what the local impact would be and no deputies for the Executive Director or Chief Executive were agreed.

2.0 Proposed Revision to the Policy

- 2.1 A nomination was recently been received to nominate an Asset of Community Value in which the Executive Director had a conflict of interest. The changes to the Constitution agreed at the recent July meeting provided that the Chief Executive could exercise any delegation to an officer where it wasn't explicitly restricted. The Chief Executive therefore made the determination. This did however leave the council exposed in terms of who should determine any subsequent request for a review.
- 2.2 It is therefore proposed that the Policy be amended as follows to provide flexibility in any such future cases (and to provide for a review in this case):

4.10 Responsibility for deciding whether to list a nomination as an asset of community value has been delegated to the Executive Director (or Head of Resources and Organisational Development if the Executive Director has a conflict of interest). The decision will be taken after, in consultation with the Chairman of the Policy & Resources Committee and the ward member(s) for the location of the asset.

4.14 If the asset is listed by the Council and the owner contests the listing, he or she can ask the Council to review the decision. Responsibility for reviewing a listing has been delegated to the Chief Executive (or the Executive Director or Head of Resources and Organisational Development as appropriate if there is a conflict of interest).

2.3 In addition the Scheme of Delegation (Part 3.2) of the Constitution should be amended as follows:

That decision- making be delegated to the Head of Resources and Organisational Development, Executive Director ~~Monitoring Officer~~ and Chief Executive, in consultation with the Chairman of the Policy and Resources Committee and the ward member for the location of the asset (or members if the area overlaps wards) in respect of decisions on registration of assets of community value under the Community Right to Bid legislation.

3.0 Equality and Diversity Implications

3.1 There are no equality and diversity implications arising from this policy as it is largely governed by legislation. Decisions on whether to list a building or land as an asset of community value will need to be taken using the criteria set out in the legislation.

4.0 Legal Implications

4.1 The Localism Act (“the Act”) was enacted on 15 November 2011 and the Assets of Community Value provisions in Part 5 Chapter 3 were commenced for England at the same time as the Regulations made under those provisions came into force, both on 21 September 2012. The legislation places requirements on local authorities in England, including district councils.

6.0 Risk Management

6.1 The changes proposed in this report reduce the risk of the council being unable to determine nominations under the Community Right to Bid legislation within its agreed policy.

7.0 Financial Implications

7.1 There are no financial implications arising from the proposal to revise the policy as indicated.

8.0 Corporate Outcomes

8.1 Revision to the policy would contribute to the Corporate Outcome of Effective Management.

11.0 Recommendation


11.1 The Committee is recommended to approve the proposed change to Community Right to Bid Policy outlined in paragraph 2.2.

[Reason: To enable to the Council to implement the Community Right to Bid legislation in a wider range of circumstances]

11.2 The Committee is requested to recommend that full Council approve the change to the Scheme of Delegation as follows:

That decision- making be delegated to the Head of Resources and Organisational Development, Executive Director and Chief Executive, in consultation with the Chairman of the Policy and Resources Committee and the ward member for the location of the asset (or members if the area overlaps wards) in respect of decisions on registration of assets of community value under the Community Right to Bid legislation.

[Reason: To enable to the Council to implement the Community Right to Bid legislation in a wider range of circumstances]

Legal	Power: Part 5 Chapter 3 of the Localism Act 2011				
	Other considerations: Community Right to Bid: Non-statutory advice note for local authorities				
Background Papers: Community Right to Bid Policy – paper to Policy and Resources Committee December 2012 Adopted Community Right to Bid Policy					
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Date: 23/7/14					
CFO 3/9/14		MO		CX	

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