

LOCALISM ACT 2011: COMMUNITY RIGHT TO BID (ASSETS OF COMMUNITY VALUE)

Cabinet Member(s)	Councillor Ray Puddifoot Councillor Douglas Mills Councillor Jonathan Bianco
Cabinet Portfolio(s)	Leader of the Council Improvement, Partnerships and Community Safety Finance, Property and Business Services
Officer Contact(s)	Boe Williams-Obasi, Planning, Environment, Education and Community Services Kevin Byrne, Central Services
Papers with report	None

1. HEADLINE INFORMATION

Summary	This report describes the new Community Right To Bid brought in by the Localism Act 2011. It sets out the implications for Hillingdon and recommends a process for considering nominations from voluntary and community groups to add land and buildings in public or private ownership to a list of 'assets of community value' maintained and published by the Council.
Contribution to our plans and strategies	Our built environment.
Financial Cost	The costs of compliance with the community right to bid will depend on the level of demand for use of the power by local community groups and organisations.
Relevant Policy Overview Committee	Corporate Services and Partnerships
Ward(s) affected	All

2. RECOMMENDATIONS

That the Cabinet:

- 1. Notes the expected commencement of the Community Right to Bid from October 2012 and the potential implications for Council property as outlined in this report;**
- 2. Agrees to adopt the outline process for maintaining lists of assets of community value as detailed in this report;**
- 3. Delegates responsibility for further development of the process for listing assets of community value in Hillingdon to the Deputy Chief Executive and Corporate Director, Planning, Environment, Education and Community Services in discussion with the Leader of the Council and the Cabinet Member for Finance, Property and Business Services.**

Reasons for recommendation

The Council will be obliged to consider any nominations that may be received under the community right to bid once the provisions commence from October 2012. The provisions impose a delay on the sale of land and buildings in private and public ownership, including Council properties, so it is necessary to have a process in place to respond correctly to any nominations that may be received.

Alternative options considered / risk management

The Council could decide not to adopt a process to receive nominations. This would, however leave the Council open to legal challenge.

Policy Overview Committee comments

None.

3. INFORMATION

Supporting Information

1. The Localism Act 2011 introduced the 'community right to bid', alongside other community rights¹. The right places a new duty on local authorities to maintain and publish a list of assets - land and buildings - in its area that are considered to have 'community value', as well as a list of unsuccessful nominations. The community right to bid for assets of community value is expected to come into force from October 2012.
2. The intention behind the policy is to give communities new powers to help them save local facilities threatened with closure. The provisions allow community organisations a chance to bid to take over assets and facilities which they regard as important to the community. Government consultation in 2011 suggested that facilities could include village shops, pubs, community centres, children's centres or library buildings.

¹ [Localism Act 2011](#) Part 5 Chapter 3 Sections 87-108;
[The Assets of Community Value \(England\) Regulations 2012](#)

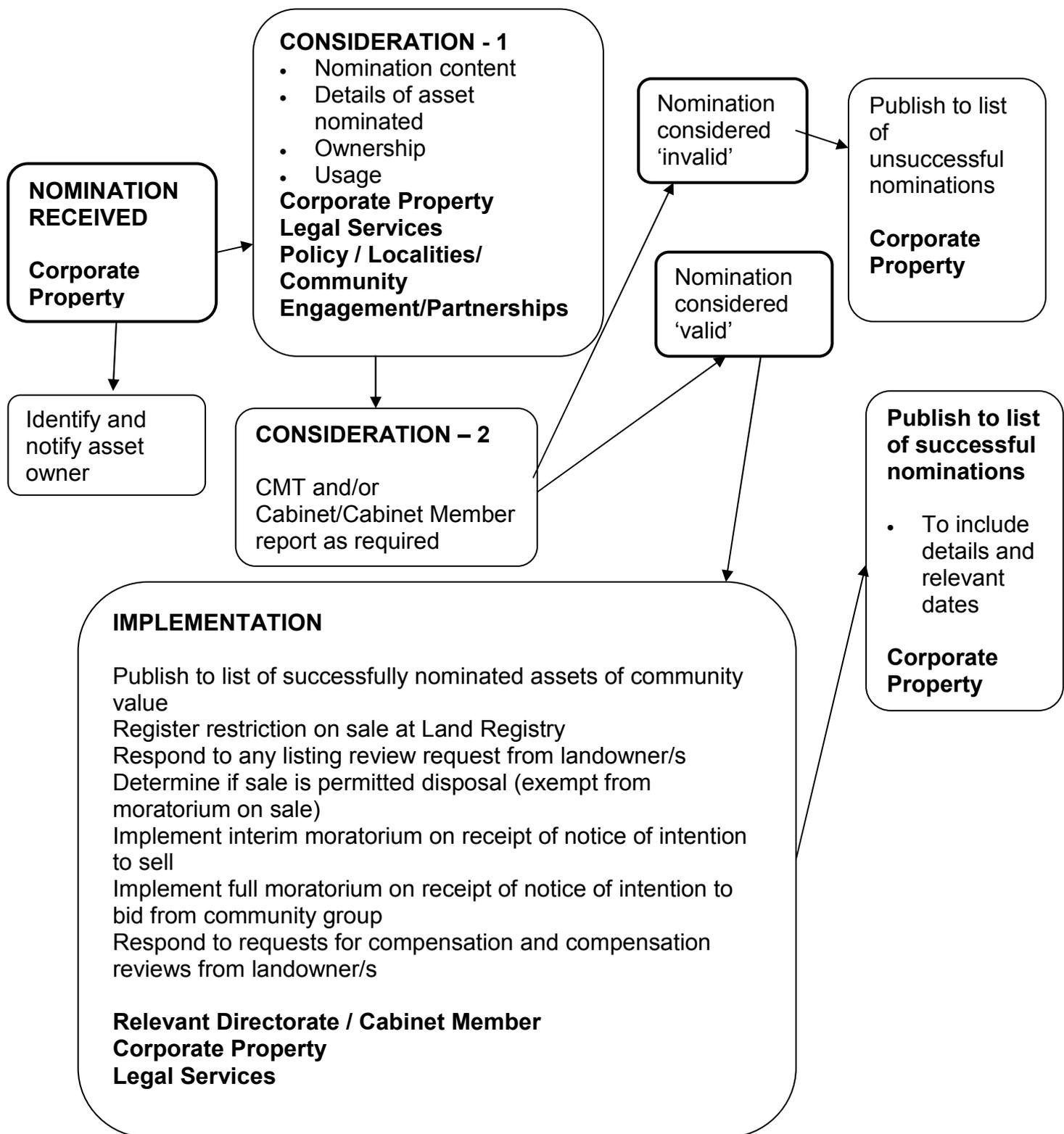
3. In practice, any land or building may be nominated as an asset of community value. Property must be nominated by a community or voluntary group with a local connection, either by being directly connected with Hillingdon or with a neighbouring area. Community groups may be unincorporated with at least 21 members, charities, limited not for profit companies, industrial or provident societies, or community interest companies.
4. Assets may be privately or publicly-owned (including Council properties). Residential properties and operational land such as that adjacent to rail lines are exempt from listing.
5. 'Community value' is defined as a building or land, the actual current use of which furthers the social wellbeing or social interests of the local community. The use must not be ancillary and if the use relates to the recent past it must be reasonable to think that this could happen again within five years.
6. While considering the listing of a nominated asset within eight weeks of receiving a nomination, the local authority must inform the landowner, freeholder or leaseholder and any occupants about the nomination. If the asset is listed, a restriction is entered on the Land Register by the local authority to delay any sale of the asset.
7. Any proposed sale of a listed asset of community value will trigger an 'interim moratorium' of six weeks, in which a community interest group may ask to be treated as a potential bidder. If a group expresses interest in buying the asset, the owner is not allowed to sell it for up to 6 months.
8. Owners will be able to claim compensation from the local authority for any loss incurred as a result of their property being listed. There will be a right to appeal to a Tribunal on compensation decisions.
9. As with the Community Right to Challenge, considered by Cabinet in June 2012, the government has contracted with Locality, a community enterprise organisation, to provide advice and support to groups seeking to understand and make use of community rights including the community right to bid.²

Issues

10. The community right to bid provisions will give community groups an opportunity to prepare a bid to purchase land or buildings which they regard as valuable to the community. There is no additional funding for groups to use to buy any asset, whether in private or public ownership.
11. The legislation creates a detailed set of rules and criteria involving property law to which local authorities are required to adhere. Initial consideration by the local authority of any nomination which may be received will require careful scrutiny of the following matters:
 - a. Whether the nomination includes all the necessary information
 - b. the composition and standing of the nominating group
 - c. the nature and extent of the group's local connection
 - d. whether the nominated asset is land or buildings which may be listed

² <http://locality.org.uk/movement/policy/community-rights/>

- e. whether the nominated asset is or has recently been used to further social wellbeing or social interests locally
 - f. who owns the land or buildings, whether freehold or leasehold, and whether there are any occupants of part of any buildings.
12. Once this information has been collated and the nomination deemed legitimate, the local authority will need to decide whether or not to list the land or buildings as an asset of community value. Lists of both successful and unsuccessful nominations must be maintained and published. If the asset is determined to be properly nominated and agreed to be listed by the local authority as an asset of community value, the local authority will need to ensure the following elements are included in a process:
- a. A list of assets of community value to be maintained with full details and published
 - b. a list of unsuccessful nominations also to be published
 - c. a procedure for registering restrictions on land at the Land Registry
 - d. a procedure for responding to listing review requests from landowners
 - e. a procedure for implementing interim and full moratoriums on sales of listed assets, and for determining whether the sale is exempt from the provisions and can proceed
 - f. a procedure for considering claims for compensation from owners of listed assets who incur loss or expense as a result of listing, and any subsequent tribunal appeal.
13. An outline process is shown in the diagram below.



Financial Implications

14. At this stage it is not possible to estimate how many nominations, if any, may be received from voluntary or community groups. Because the quantum is unknown it is difficult to give precise details. Receipt of nominations will involve officer time. Successful listing of an asset will incur Land Registry charges and may involve handling requests for compensation from landowners in respect of loss or expense incurred as a result of the listing of their property.

15. The Council itself might incur costs as a result of any nomination to list a Council property. Successful listing of a Council property would result in potential delay to any proposed sale.

4. CORPORATE IMPLICATIONS

Corporate Finance

Corporate Finance notes that it is not yet possible to comment on specific financial implications arising from the introduction of Community Right to Bid from October 2012, however it is expected that any officer time and other administrative costs will be contained within existing revenue budgets.

In the event that Council properties held for sale are listed as assets of community value, any financial implications will be reported and managed through existing monthly capital monitoring processes.

Legal

Part 5, Chapter 3 of the Localism Act 2011 deals with assets of community value. The Act sets out a statutory framework, with details to be filled in by Regulations issued by the Government.

Draft Regulations have been issued which have been given the title, 'The Assets Community Value [England] Regulations 2012' but they are not in force yet and no definitive date has been given as to when this will happen.

The draft Regulations are very prescriptive in nature and when they are enacted, detailed legal advice will be required so as to ensure that they are correctly interpreted and followed by the Council in further developing the process for listing assets of community value in Hillingdon.

Corporate Property and Construction

Corporate Property has been jointly responsible for production of this report and will lead on reviewing any proposals for listing of assets that may be received under the new procedures.

6. BACKGROUND PAPERS

NIL