

# Notes of Informal Meeting on Community Right to Bid & Assets of Community Value Monday 1<sup>st</sup> July 2019

## PRESENT

### Councillors

L. Gibson

D. Haynes

L. Jones

J. Kershaw

N. Sharp

L. White

M. Wilson

### CW&C

Kathryn Jones - Corporate Property Asset Manager – Public Sector

### Non-Parish Councillors

Public – 3

Kathryn Jones gave a presentation on the Right to Bid and Assets of Community Value which included the following information:

The right to bid was included in the Localism Legislation and allows community groups including Parish Councils to register assets of Community Value. The legislation provides the right to bid not to buy.

Currently CW&C have 45 assets listed of which 28 are public houses, 16 applications have been refused by CW&C largely because the community use of the asset was too historic.

A community group of at least 21 electors can register a community asset.

Members of a community group have to have a connection with the area which has quite a wide definition.

The legislation has a number of grey areas.

Applications to register an asset of community value need to include a range of information:

The must include a description of the land to be included.

The freeholder's details

The reason the asset's registration is being requested.

A plan showing the area of the asset to be included in the bid, land which may belong the asset but which is not in community use, e.g. a field attached to a public house to which there is no public asset cannot be registered.

The asset must be in public use and contribute to the well-being of the community or must have been used for this in the very recent past.

It must be realistic that the asset can have a continued use in the future.

When giving examples of community benefits they must be specific, including dates and numbers of people involved and be current or in the very recent past as this evidence is much harder to challenge.

It was noted when Judges consider challenges they look in detail at the future viability of the asset.

The Asset is then registered for 5 years and can be registered again after that period.

Once registered if an asset is put up for sale an interim moratorium of 6 weeks can be triggered during that time a community group (not necessarily the group who registered the asset) can decide to make a bid to buy the asset triggering an additional 4.5 months to the moratorium preventing the sale of the asset.

If the moratorium is not triggered or it is decide not to bid for the asset a second moratorium cannot be triggered for another 18 months.

All forms to register an asset of community value are available on the CW&C website. Due to some technical issues it was recommended to check the form has been received by CW&C if there has been no response to the submission in a week.

When an application to register an asset is received by CW&C they will check the application is valid and includes all the necessary information.

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They will also notify the owner and occupant of the asset, although it was noted this is not required by the legislation legal advice to CW&C stated this was best practice, as one of the first registrations was challenged by the owner/occupant as they had not been notified.

CW&C will also notify the ward councillor.

Following consultation the Director of Place will review the application and make the decision on whether or not an asset should be registered.

The owner then has up to 8 weeks to challenge the decision, if challenged the decision would then be reviewed by a different Director.

That decision can be challenged by the owner at a first level tribunal and can then be taken to an upper level tribunal. The nominator has no right of review if the application is turned down. To date only 1 CW&C decision has gone to an upper level tribunal which was won by CW&C. As such it is important that application forms include all relevant information and are accurate not exaggerated.

Once an Asset is registered a restriction and local land charge is placed on the title deeds as such a selling the asset without following the legislation could invalidate the sale.

The Assets of community value can be demolished without triggering the process.

Triggering the moratorium can only be done by bodies who have a specific legal status including Parish Councils, friends of groups and charities and they must have a proper constitution.

CW&C has no role and will take no part in the purchasing negotiations. The seller can sell the asset to whoever he or she likes at whatever price they decide.

If the asset owner has got planning permission for an alternative future use for the asset it will weaken the case to register the asset.

A brief review of the Assets suggested for registration was carried out. It was noted the list was very long and would involve a lot of work as such the Parish Council needed to prioritise items for registration.

It was important to understand which items are exempt from registration including dwellings.

It was suggested a number of items will have protection through CW&C policy and the neighbourhood plan including some open space.

It was noted that schools have a specific process which has to be undertaken for them to be disposed of, as do Church of England churches.

Land which can be registered has to have public access and some form of community value.

Permissive footpaths it was suggested would be worth considering for registration.

Trees should be protected through TPOs or by being in a Conservation Area.

It was noted when looking at assets for registration it was important to look at how viable it was to retain and maintain them in the future.

It was noted that if an asset is being sold as a going concern the moratorium cannot be triggered and the group who had registered the asset would not be notified.

The Chairman thanked Ms Jones for attending the meeting.

It was agreed in the first instance the Parish Council should consider registration of the 2 existing public houses in Tattenhall, the Spar/village shop and Post office.

Ann Wright  
05 07 19.