

**NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL**

**CABINET – 18 NOVEMBER 2014**

Title of report	<b>NWLDC APPROACH TO COMMUNITY RIGHTS</b>
Key Decision	a) Financial No b) Community Yes
Contacts	Councillor Alison Smith MBE 01530 835668 <a href="mailto:alison.smith@nwleicestershire.gov.uk">alison.smith@nwleicestershire.gov.uk</a>  Director of Services 01530 454555 <a href="mailto:steve.bambrick@nwleicestershire.gov.uk">steve.bambrick@nwleicestershire.gov.uk</a>  Head of Community Services 01530 454832 <a href="mailto:john.richardson@nwleicestershire.gov.uk">john.richardson@nwleicestershire.gov.uk</a>
Purpose of report	To agree the Council’s approach to the exercise of Community Rights in the district and to seek delegated authority for the Director of Services to decide Community Asset Transfers on an initial 5 year lease to test viability
Reason for Decision	To provide a framework for Community Rights requests
Council Priorities	Value for Money Business and Jobs Homes and Communities Green Footprints Challenge
Implications:	
Financial/Staff	To be delivered through existing staffing levels and budgets
Link to relevant CAT	Asset Management Group
Risk Management	Not applicable
Equalities Impact Screening	Not applicable
Human Rights	Not applicable
Transformational Government	The Community Rights Policy enables communities to deliver services for themselves within the provisions of the Localism Act 2011

Comments of Head of Paid Service	The report is satisfactory.
Comments of Section 151 Officer	The report is satisfactory.
Comments of Monitoring Officer	The report is satisfactory.
Consultees	CASE (Co-operative and Social Enterprise) a Leicester based organisation which gives free advice, training and support to community organisations
Background papers	<p>Localism Act 2011  <a href="http://www.legislation.gov.uk/ukpga/2011/20/contents/enacted">http://www.legislation.gov.uk/ukpga/2011/20/contents/enacted</a></p> <p>Making Assets Work: The Quirk Review of community management and ownership and management of public assets (DCLG, May 2007)  <a href="http://webarchive.nationalarchives.gov.uk/20120919132719/www.communities.gov.uk/publications/communities/makingassetswork">http://webarchive.nationalarchives.gov.uk/20120919132719/www.communities.gov.uk/publications/communities/makingassetswork</a></p> <p>NWLDC's Asset Disposal Policy 2008  <a href="https://www.nwleics.gov.uk/files/documents/asset_disposal_policy/ASSET%20DISPOSAL%20POLICY.docx">https://www.nwleics.gov.uk/files/documents/asset_disposal_policy/ASSET%20DISPOSAL%20POLICY.docx</a></p>
Recommendations	<p><b>THAT CABINET:</b></p> <p><b>1) APPROVES THE COUNCIL'S APPROACH TO THE EXERCISE OF COMMUNITY RIGHTS IN THE DISTRICT;</b></p> <p><b>2) DELEGATES AUTHORITY TO THE DIRECTOR OF SERVICES IN CONSULTATION WITH THE PORTFOLIO HOLDER TO DECIDE COMMUNITY ASSET TRANSFERS ON AN INITIAL 5 YEAR LEASE TO TEST VIABILITY</b></p>

## 1.0 THE LOCALISM ACT 2011 AND THE INTRODUCTION OF COMMUNITY RIGHTS

- 1.1 The Localism Act 2011 ("the Act") came into force on 15 November 2011 and with it came numerous changes to the laws governing Local Authorities. The Government's aim was to "pass power back to where it belongs"; to communities and local people.
- 1.2 Amongst other things the Act provides a range of rights including the Community Right to Bid and the Community Right to Challenge.
- 1.3 The Community Right to Bid gives communities the opportunity to nominate assets they can evidence as having community value and once verified as such, have them listed. This process ensures that if the assets are put up for sale, communities are given more time to raise finance and prepare to bid for them.

- 1.4 The Community Right to Bid arose in response to concerns that during the past decade many communities have lost local amenities and buildings that are of great importance to them. As a result they find themselves deprived of the assets that can help to contribute to the development of vibrant and active communities.
- 1.5 The Council has a process for Assets of Community Value (approved by Cabinet on 5 March 2013), the new Community Rights guidance document at Appendix 1 replaces the existing process.
- 1.6 To date the Council has approved and listed the following assets;
- Greenhill Playing Fields, Cropston Drive, Coalville
  - The Storey Arms, Main Street, Osgathorpe
  - The Bath Grounds, Station Road, Ashby de la Zouch
  - The Jolly Sailor, Main Street, Hemington
  - Snibston Discovery Centre and associated land, Ashby Road, Coalville
  - Moira Road Car Park, Moira Road, Donisthorpe
- 1.7 The Community Right to Challenge aims to encourage more community-focused, locally led action by providing an important tool, presenting an opportunity for communities or council employees to take over local services that they think they can run differently and better.
- 1.8 This right enables certain not for profit voluntary organisations or a group of local authority employees the opportunity to demonstrate how a service could be delivered differently whilst still meeting the needs of the community. If the Council accepts that the proposal complies with legal requirements within the Act, a procurement process must commence.
- 1.9 The Community Rights guidance document at Appendix 1 together with this report seek to set out the Council's response to the legislation and supports the exercise of these community rights across the district.

## **2.0 COMMUNITY ASSET TRANSFER**

- 2.1 In 2007 the policy document 'Making Assets Work: The Quirk Review of community management and ownership of public assets' concluded strongly in favour of local ownership and management of public assets, a position which was implemented by the previous government through place-shaping and empowerment policy initiatives, including the establishment of the Asset Transfer Unit.
- 2.2 When disposing of land, local authorities should seek the best consideration reasonably available. However, local authorities are legally able to transfer their land and buildings to community based organisations at 'less than best consideration' (below market value) under the General Disposal Consent (England) 2003, where the asset to be disposed of has an undervalue of less than £2 million and that disposal at under value will help secure the promotion or improvement of the economic, social or environmental well-being of the area.
- 2.3 The Council currently has an Asset Disposal Policy approved in 2008, through which land that has been declared surplus to requirements is moved into the disposal process unless it is likely to accrue a premium value if retained.

- 2.4 However the Community Asset Transfer also allows the lease of other Council land and properties when a community organisation approaches the Council and evidences that it meets the criteria set out in the Act.
- 2.5 To enable timely consideration for the benefit of those community organisations it is recommended that Cabinet delegates authority to the Director of Services to consider proposals based upon officer recommendations through the Asset Management Group.
- 2.6 Whilst the term Community Asset Transfer relates primarily to long leasehold (from 25-99 years) or freehold arrangements to voluntary or community organisations, the proposed approach follows Local Government Association recommendations to offer an initial 5 year lease to test the viability of the project.
- 2.7 Towards the end of this initial 5 year lease, consideration for any further longer lease periods will be brought to Cabinet if the community group is able to satisfactorily evidence viability to the Asset Management Group.

### **3.0 FINANCIAL IMPLICATIONS**

- 3.1 Delivery of community rights processes in itself has no financial or resource implications for the Council as it will be managed within existing staffing structures.
- 3.2 The financial implications for each future Community Asset Transfer will be considered on a case by case basis.
- 3.3 Within the Community Right to Bid an opportunity exists for landowners (other than local authorities) to claim compensation for loss and expense incurred, that they can evidence, through the asset being listed as an Asset of Community Value. A claim for compensation must be made to the Council within 13 weeks from the end of the interim or full moratorium, as appropriate, or from the date when the land ceases to be listed.
- 3.4 If the Council refuses a compensation claim, the landowner has a legal right to have this decision reviewed. If still unsatisfied the landowner retains a right to appeal to an independent tribunal.
- 3.5 The Community Right to Challenge triggers existing procurement processes rather than presenting any further financial burden to the Council.
- 3.6 If an expression of interest is received about a service already out to tender, the applicant will be advised to submit to that tender process. If the expression of interest refers to works already carried out within an existing contract for which the Council would be penalised, this contract must be allowed to run its course and then the applicant can engage in any future procurement process.
- 3.7 It should be noted that for those expressions of interest that do meet the Community Right to Challenge and do trigger a procurement process, all bids will be assessed against an agreed evaluation matrix and contracts awarded to the highest scoring submission.