

REPORT NUMBER WSC 145/12

PRESENTED BY COUNCILLOR D WESTCOTT,
LEAD MEMBER FOR COMMUNITY & CUSTOMER

DATE 7TH NOVEMBER 2012

Consideration of nominations received to list Assets of Community Value under the Community Right to Bid Legislation

1. PURPOSE OF REPORT

To review nominations received and the recommendations from CMT under the Localism Act 2011 Part 5 – The Community Right to Bid.

2. RECOMMENDATIONS

- 2.1. It is recommended that Cabinet:
- 2.2. Accept the nomination for the Notley Arms, Monksilver. TA4 4JB to be listed as an Asset of Community Value
- 2.3. Accept the nomination for the Shurton Inn, Shurton. TA5 1QE to be listed as an Asset of Community Value.

3. RISK ASSESSMENT (IF APPLICABLE)

Risk Matrix

Description	Likelihood	Impact	Overall
The key risk is reputational in that the council considered not to have dealt with the matter appropriately	3	3	9
<i>Approved processes in place. CMT considering the nomination and Cabinet determining the nomination. Scrutiny to undertake any internal reviews requested by the land/building owner</i>	1	3	3

The scoring of the risks identified in the above table has been based on the scoring matrix attached to the agenda. Each risk has been assessed and scored both before the mitigation measures have been actioned and after they have.

4. BACKGROUND INFORMATION

The Localism Act 2011 places requirements on the council to maintain a list of land/buildings in its area that it considers land of community value.

The Community Right to Bid provides the right to nominate land/buildings as Assets of Community Value.

An initial process to ensure that the Council fulfils its duties under this part of the Act was endorsed by Council at its meeting held on 24th October, 2012.

Under this process, nominations will initially be evaluated by the Corporate Management Team (CMT) who will make a recommendation for Cabinet to determine. This part of the process shall be completed within 8 weeks of the nomination being received. CMT considered the nominations that are the subject of this report on 29/10/12

- 4.1. Under the relevant regulations it is clear that if a land/building is in the local authority's area, is nominated by a 'relevant body', is not an excluded land/building type and meets the definition of community value then the local authority must list it and inform the interested parties.
- 4.2. A 'relevant body' is defined as a parish council, a voluntary/community body, a neighbourhood forum or a community group with 21+ local members.
- 4.3. An excluded land/building type is defined as a wholly residential property including associated land and a residential caravan park

In terms of making a decision on this matter therefore, the first three criteria should be clear cut in terms of location within the district, being a 'relevant body' and not being an excluded land/building type. Where there is some discretion to be exercised is as to whether the land/building in question meets the definition of 'community value'. In this context, 'community value' is defined as a land/ building where its main use has recently been or is presently being used to further the social wellbeing or social interest of the local community and could do so in the future, it is important that consideration of this issue is to be seen as transparent and consistent in relation to all nominations received.

If accepted, the asset will be placed on the local land charge register and a restriction applied on the land registry (If it is registered).

If the asset is accepted for nomination, the owner has the right to request an internal review by the council. It is proposed that Scrutiny Committee should undertake any such review. If the owners remain in disagreement with the listing following the review, they have a right to appeal to an independent tribunal under HM Courts and Tribunals.

- 4.4. Once an asset has been listed nothing further happens until the owner decides to sell the land/building. Unless an exemption applies, for example the land/building is for sale as a 'going concern', the owner will only be able to dispose of the asset after 6 weeks unless an expression of interest is received from a community group to be treated as a potential bidder.
If the council receives an expression of interest, then the full 6 months moratorium applies, providing the community with time to prepare a bid. After the moratorium period, the owner is free to sell to whomever they chose and at whatever price.

If a planning application is submitted regarding a land/building that has been listed as an asset of community value, the listing will be a material consideration when the planning authority determines the application.

- 4.5. Listing Nomination for **The Notley Arms, Monksilver. TA4 4JB**

Two Nomination applications have been received to list the Notley Arms as an Asset of Community Value. Notwithstanding the number of applications received, a building will only

be listed once. The information submitted by both applicants has been considered when determining the nomination request.

Both nominations applications were from a relevant body, one from Monksilver parish council and another from a community group consisting of 21+ local members.

The Notley Arms, as a public house, is not in any of the excluded categories.

The information submitted supports the definition as an asset of community value, furthering the social wellbeing or social interest of the local community and it is therefore recommended by CMT that the Notley Arms, Monksilver be listed as such.

Evidence to support the nomination is provided in Section 3 of the application forms submitted [see Appendix A-application from Monksilver Action Group-Notley Arms] and [see Appendix B-application submitted by Monksilver Parish Council]

In accordance with the procedure, the owner of the property and Monksilver parish council have been notified of the nomination. Under section 91 of the Act, these persons will also be notified of the decision.

4.6. Listing nomination for **Shurton Inn. Shurton. TA5 1QE**

A nomination application has been received to list the Shurton Inn as an Asset of Community Value.

The nomination was from a relevant body – Stogursey parish council.

The Shurton Inn, as a public house, is not in any of the excluded categories.

The information submitted supports the definition as an asset of community value, furthering the social wellbeing or social interest of the local community and it is therefore recommended by CMT that the Shurton Inn. Shurton be listed as such.

Evidence to support the nomination is provided in Section 3 of the application form submitted [see Appendix C-application from Stogursey Parish Council]

In accordance with the procedure, the owners of the property and Stogursey parish council have been notified of the nomination. Under section 91 of the Act, these persons/bodies will also be notified of the decision reached by cabinet.

5. FINANCIAL/RESOURCE IMPLICATIONS

5.1. If the asset is accepted for listing, the council need to register the restriction with the Land Registry, the costs associated with this is estimated at £50 per property.

5.2. If the Building/land is put up for sale and the Assets of Community Value moratorium applies, the owner can make a claim to the council for compensation. The council are liable for compensation costs up to £20k in any financial year, this can be from a number of small claims or a single large claim. Any compensation costs over the £20k will be covered by DCLG.

6. SECTION 151 OFFICER COMMENTS

6.1. A sum of £20k to cover potential compensation claims has been included in the draft Medium Term Financial Plan in accordance with the Council's request.

7. EQUALITY & DIVERSITY IMPLICATIONS

7.1 The Community Right to Challenge policy objectives encourages a greater diversity of service provider as it provides for the ability for voluntary and community sector bodies to compete to run services.

7.2 The Assets of Community Value policy offers greater opportunities for community involvement in the consideration of community assets, potentially leading to increased community benefit.

8. CRIME AND DISORDER IMPLICATIONS

8.1. None in respect of this report

9. CONSULTATION IMPLICATIONS

9.1. In accordance with the requirements of the Localism Act 2011- Part 5 and the council's agreed process, the owner of the property being nominated and the local parish council are given notice of the nomination application. The council will also notify the relevant member/s, whose ward the property being nominated is within.

9.2. The council will notify the relevant body that submitted the nomination, the owner, parish council and ward member/s of the decision to list the property as an asset of community value. If the nomination is unsuccessful, the council must provide the relevant body that made the nomination with the council's reasons for its decision.

9.3. In accordance with the requirements of the Localism Act 2011- Part 5, the council must maintain a list of assets of community value and a list of assets nominated unsuccessfully. These lists will be published on the council's website and made available for free inspection by any person at the council's offices in Williton and Minehead.

10. ASSET MANAGEMENT IMPLICATIONS

10.1. None specific to the nominations being considered in this report

11. ENVIRONMENTAL IMPACT IMPLICATIONS

11.1. None in respect of this report

12. LEGAL IMPLICATIONS

12.1 This report arises from the Council needing to put in place processes to ensure that it fulfils its obligations under the provisions of the Localism Act 2011.

REPORT TO A MEETING OF CABINET TO BE HELD ON 7TH NOVEMBER 2012

CONTACT OFFICER: BRUCE LANG
TEL. NO.DIRECT LINE: 01984 635200
EMAIL: BDLANG@WESTSOMERSET.GOV.UK