

## RECORD OF EXECUTIVE DECISION

Tuesday, 18 December 2012

**Decision No:** (CAB 12/13 9413)

DECISION-MAKER:	CABINET
PORTFOLIO AREA:	RESOURCES
SUBJECT:	COMMUNITY RIGHT TO BID - DECISION MAKING & GOVERNANCE
AUTHOR:	ALI MEW

### THE DECISION

- (i) That authority be delegated to the Communities Manager to consider and determine Nominations to List Assets of Community Value following consultation with the ward councillors in which the property is located and other consultees as appropriate, including relevant Council officers, representatives from partner agencies and community spokesperson/people as relevant and appropriate;
- (ii) That authority be delegated to the Senior Manager – Communities, Change and Partnership to consider and determine Reviews of the Listing of Assets of Community Value following consultation with the Cabinet Member for Communities and Cabinet Member for Resources and other consultees as appropriate, including relevant Council officers, representatives from partner agencies and community spokesperson/people as relevant and appropriate;
- (iii) That authority be delegated to the Senior Manager - Property, Procurement and Contract Management to agree the payment of compensation;
- (iv) That authority be delegated to Chief Internal Auditor (Head of Partnership) to determine Compensation Reviews.
- (v) That authority be delegated to the Head of Legal, HR and Democratic Services to approve the application and removal of Local Land Charges and Title Restrictions on a Listed property's title preventing disposal of the property in accordance with the Regulations; and
- (vi) That the Governance Committee be requested to review the governance arrangements pertaining to the Council's Community Right to Bid scheme as part of the annual review of the Council's Constitution, and recommend any amendments as necessary.

## REASONS FOR THE DECISION

1. The Regulations came into force on 21<sup>st</sup> September 2012. There is currently no authority in place for any officer within the Council to determine any Nomination for listing an Asset of Community Value, to determine a Review request made against a decision to List or for the approval for the payment of compensation made by an affected owner.
2. The potential number of Nominations, Reviews and Compensation claims is unknown at this stage. In order to manage the decision making process in the most effective and efficient manner the provision of delegated powers permitting officer decision making is considered the most appropriate mechanism for processing these type of applications given the statutory timescales imposed.
3. A decision cannot be taken by Senior Manager for Property, Procurement and Contract Management in respect of Nominations and Reviews as a conflict of interest arises where the City Council owns a property that has been nominated. From a property point of view it may be preferable to the Council for a nominated property not to be listed, as listing could delay disposal and affect dealings with the property in future. The decision should therefore be made by an officer who is, and can be seen to be, independent of the property function. In addition, whilst the decisions affect property, the regulations enable Community Empowerment, and therefore the decision needs to be made on a community benefit rationale. It is not a decision about property per se, but about whether property has, or could have, a community benefit. The key issue is therefore about community benefit, not the property itself.
4. The Regulations mean the Council will need to make decisions not just on its own property but also on property owned by private individuals and other Public and Private Sector bodies in the City. A transparent approach to Community Value needs to be taken through the decision making process which can be achieved by the Communities Manager being the lead officer involving other consultees as appropriate.
5. At the point of Listing after Nomination or Review, the Council is required to place a Local Land Charge against the property and place a restriction on the title in order to prevent owners selling without complying with the Regulations. The removal of these restrictions is a legal function (as it affects property that is not owned by the Council as well as property that is) and authority to remove following compliance should fall to the Head of Legal, HR and Democratic Services.
6. The owners of properties that are listed and are subject to the moratorium periods and prescribed disposal procedures, are entitled to claim for compensation from the Council for losses and expenses incurred as a result of the listing, and thereby delaying a disposal by moratorium periods of the 6 and 20 week windows of opportunity. The assessment and negotiation of the claim relates to property issues and should therefore be determined by the Senior Manager – Property, Procurement and Contract Management.
7. The compensation claimant has the right to request a Review of the compensation offer. The Review is to be taken by an officer of appropriate seniority and a person who has not taken part in the original claim decision. The Review must be undertaken within 8 weeks of the request for a Review. The Review therefore will be determined by Chief Internal Auditor (Head of Partnership) as a senior officer who has not been involved in any previous decisions associated with the property. The Delegation is required in order to comply with the timescales set out by the Regulations.

## **DETAILS OF ANY ALTERNATIVE OPTIONS**

1. Decision making to be conducted through Cabinet – rejected due to the timescale imposed by the Regulations and the ability for the owner to seek an oral hearing. A Nomination must be determined within 8 weeks of submission. A Review request is to be made within 8 weeks from 'Listing' and enables the owner to request an oral hearing for the Review.
2. Utilise existing delegated authority – there is not any existing delegated authority within the Officer Scheme of Delegation which covers the various authorities required for these new regulations.

## **OTHER RELEVANT MATTERS CONCERNING THE DECISION**

Cabinet agreed to accept the recommendation of the Overview and Scrutiny Management Committee held on 13<sup>th</sup> December 2012 that the Cabinet Member for Resources ensure that Ward Councillors are kept apprised of the process throughout any potential community bid.

## **CONFLICTS OF INTEREST**

None

## **CONFIRMED AS A TRUE RECORD**

We certify that the decision this document records was made in accordance with the Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2000 and is a true and accurate record of that decision.

Date:  
18 December 2012

Decision Maker:  
The Cabinet

Proper Officer:  
Sue Lawrence

## **SCRUTINY**

Note: This decision will come in to force at the expiry of 5 working days from the date of publication subject to any review under the Council's Scrutiny "Call-In" provisions.

Call-In Period expires on

Date of Call-in ( <i>if applicable</i> ) ( <i>this suspends implementation</i> )
Call-in Procedure completed ( <i>if applicable</i> )
Call-in heard by ( <i>if applicable</i> )
Results of Call-in ( <i>if applicable</i> )