

HAVANT BOROUGH COUNCIL

Scrutiny Board

7 November 2017

Assets of Community Value Policy Review

For Recommendation

Key Decision No

Report By: Communities and Housing Scrutiny and Policy Development Panel

1.0 EXECUTIVE SUMMARY

1.1 The scrutiny was established to review the Assets of Community Value policy and procedures.

2.0 RECOMMENDATIONS

2.1 It is recommended that Cabinet:

2.1.1 agrees to the Council's website being updated to contain clear information for the public detailing exactly what an Asset of Community Value (ACV) is, how they can apply, what can and cannot be used as a reason for the application and the requirements for groups submitting nominations;

2.1.2 agrees to Councillors being sent information to enable clear direction to be given to residents;

2.1.3 agrees to the Local Plan be amended to include information on how the Council considers ACV applications;

2.1.3 agrees to a review of the resources used by the Council to facilitate the ACV process;

2.1.5 requests the Monitoring Officer to amend the Constitution to reflect the Cabinet's delegation of authority to determine nominations for the listing of AVCs to the Cabinet Lead for Communities and Housing (Minute 83/3/2013); and

2.1.6 delegates authority to the Head of Communities and Housing to select up to three Councillors to sit on the Assets of Community Value Panel on a meeting by meeting basis, provided that these Councillors are not members of the Cabinet or where the asset concerned is not within their ward.

3.0 STRATEGY

3.1 The improvement of information available to the public signals the Council's continuing strategic focus for public service excellence, while in-keeping with the drive for active and prosperous communities in the Borough.

4.0 LEGAL

4.1 The Localism Act 2011 and the subsequent Assets of Community Value (England) Regulations 2012 set out the duties and requirements of the Council in relation to ACV. This is not a discretionary service therefore, the Council cannot levy a charge to recover its costs.

4.2 There may be legal costs associated with appeals.

5.0 RESOURCES

5.1 It will depend upon the volume and intensity of any Community Rights interest as to whether services can provide the required support within existing financial resources. Further financial constraints will exacerbate difficulties in delivering support within the resources available.

5.2 In terms of compensation payments, it remains to be clarified who would bear the associated costs, but any Council liability may cause a pressure on the Council's revenue budget.

5.3 The recommendations seek to review the Council's resources when determining the ACV process.

6.0 STAKEHOLDERS

6.1 Whilst the initial framework for managing the implementation has been put in place, it is likely that adjustments may need to be made once First Tier Tribunal decisions have been made on nomination and compensation appeals.

6.2 This Right has an effect on the Council as a landowner as the Council holds a wide range of assets that are likely to meet the nomination criteria. It is important, therefore that the process for managing nominations is transparent, ensuring that all land and property owners in the area are treated equitably.

6.3 Equally, this right will impact on capital receipts planning whereby additional time will be required to allow for managing any bids from community interest groups to sites that are listed as assets of community value.

7.0 RISKS

7.1 The legislation requires a response from the Council to ACV nominations to be provided within 8 weeks of receipt.

7.2 Owners may claim compensation for loss and expense occurred through the asset being listed or previously listed. This includes claims arising from a delay in entering into a binding agreement to sell that is wholly caused by the interim or full moratorium period or legal expenses incurred in a successful appeal to the Tribunal. The format for any claim and timescales are specified in the Regulations.

8.0 METHODOLOGY

8.1 Full details of the methodology of the project is set out in a separate Findings Pack

9.0 CONCLUSIONS

9.1 The Panel found that the Council was only able to handle a few nominations at a time due to the limited number of staff available to undertake this function. This lack of resources restricted how far the Council could promote this facility (Sections H and J of the Findings Pack).

9.2 The Council's form, procedures and policy compared well with other Council and is considered fit for purpose subject to the policy being updated to reflect the officer who currently chairs the meeting (Section I of the Findings Pack).

9.3 The Council's website could be improved however as the amount of information available was less compared to other local authorities and did not encourage nominations. An improvement in the website could also lead to an improvement in the standards of the nominations thereby reducing the workload of the Community Manager and enabling the Panel to determine more nominations.

9.4 Further to this aim, the Panel considers that all Councillors should receive further information on the ACV process, to enable clear direction and information to be given to residents. Informing Councillors of the process could reduce the workload of the Community Manager and at the same time enable the Council to deal with more nominations.

9.5 The current statutory function represented a financial burden on the Council Tax payer as the service was provided free of charge. The Panel discussed the feasibility of levying a small charge to recover some of the administration costs. However, it was advised that as this was a statutory service, the Council could not levy such a charge.

9.6 The listing of an asset of community value is not automatically taken into account as a material consideration when determining a planning application, though the planning authority may choose to regard it as a material consideration in any individual case. The Panel did not consider this particularly helpful to community groups or landowners and that reference should be included in its Local Plan.

- 9.7 From interviews with officers on the Assets of Community Value Panel, it was clear to Panel members that the procedure was an extremely time-dependant process and although there were a number of prescribed stages there was considerable interpretation and ambiguity that required local determination for each nomination. Any changes to these processes had to take into account the limited resources available and the strict timetable imposed by legislation. The Panel felt that the resources used in undertaking the nomination process should be reviewed to ensure that officer time was available for this procedure.
- 9.8 The Panel felt it was important that the Cabinet Lead for Communities and Housing held responsibility for deciding on nominations, as this maintained Councillor oversight of the process. The Panel recognised however that this process needed to be properly stated within the Constitution to ensure proper decision-making procedures are followed.
- 9.9 Further to this, the Panel were keen to encourage as much Councillor involvement in the process as possible, and considered that the appointment of Councillors onto the decision-making Panel would provide this, while also providing an insight into the matters that have to be considered when determining a nomination. The Panel also considered that the appointment of councillors onto the panel will give councillors a greater involvement in the decision making process and at the same time give them and insight into the matters that have to been considered when determining a nomination. The selection of Councillors for the Panel should be on a meeting by meeting basis to give all those eligible councillors an opportunity to gain experience of the process in action and increase their knowledge. Appointments to this Panel will not be permitted to members of the Cabinet or ward councillors where the asset concerned is within their ward, to ensure the avoidance of the appearance of bias or contravening the rules of natural justice. Instead, ward Councillors would be encouraged to provide representations to support bids from community groups.
- 9.10 For the same reason, it is recommended that the appointment of a Councillor to the decision-making Panel is not made to a Cabinet member, to avoid the appearance of a member being both an advocate on behalf of their residents and an adjudicator on an application.

10.0 Background Papers

[Public Findings Pack](#)

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