

TONBRIDGE & MALLING BOROUGH COUNCIL

TONBRIDGE FORUM

26th November 2012

Report of the Chief Executive

1 COMMUNITY RIGHT TO BID

To set out the details of the Government's recently introduced Community Right to Bid.

1.1 Community Right to Bid

1.1.1 The Community Right to Bid has been introduced as part of the Government's Localism Act and has recently come into force. It allows town/parish councils and local community groups the opportunity to nominate a local site or building to be included on a register of 'assets of community value'.

1.1.2 It should be noted from the outset that the inclusion of any asset on the register **does not** provide a right for a parish/town council or community group to acquire the property. There is no 'community right to buy'. However, should the landowner wish to dispose of an asset included on the register, there will be a moratorium that will impose a delay of its disposal of up to six months. This could allow time for the town/parish council or community group to consider whether it is able to raise funding and purchase the asset itself. Even if this is achieved, there is no obligation on the landowner to sell the asset to that body.

1.1.3 The key criteria to be used when making a judgement as to whether an asset should be included on the register are as follows:

- The extent to which the current (main) use of the asset furthers the social well-being or social interests of the local community; and,
- The extent to which the current (main) beneficial use of the Asset might realistically continue in the future.

1.1.4 Land uses specifically excluded from this process are residential property and any garden/adjoining land, licensed caravan sites and operational land used by statutory undertakers.

1.1.5 In summary, the process for nominating an asset to the register is as follows:

- a town/parish council or community group must first request that a community asset should be included on the register to be held by the Borough Council.
 - The Borough Council must assess each nomination received and decide whether the asset meets the criteria as set out by Government. If it decides it does not meet the criteria, the site is placed on a separate register of assets nominated but not listed. If it agrees to the nomination, the site is placed on the register of community assets and the owner(s) of the asset have to be informed.
 - Landowners then have the right to appeal against that decision. The appeal is made to the Borough Council in the first instance but must be considered by someone other than the officer making the initial decision. If the owner remains unsatisfied, he can make a further appeal to an independent tribunal.
- 1.1.6 There is no restriction on what an owner can do with their property, once listed, so long as it remains in their ownership. Similarly, following the moratorium period, there is no obligation on the landowner to sell to any party even though a bid may have been made by a Parish Council or Community Group. However, the Government Advice Note says that it is open to Local Planning Authorities to decide whether the listing of an asset of community value should be a material consideration should an application for change of use is submitted.
- 1.1.7 Where an asset has been listed and the owner wishes to dispose of it, he must first notify the Council of his intention to do so. This information is added to the register and the group making the original nomination is also informed and wider publicity about the intended disposal needs to be given. There is then a six week period within which a community group can notify the Council that it wishes to be treated as a potential bidder for the asset and can request a full moratorium period of six months be imposed. This, in theory, could allow that group an opportunity to raise its own funding to acquire the asset in negotiation with the owner.

1.2 Compensation Issues

- 1.2.1 Compensation may be payable to the landowner if, having had his property included on the register, he incurs additional costs as a result of the delay of any sale. The Borough Council would be responsible for meeting the first £20,000 of each claim which the Government says will be covered by the new burdens elements of the Council's general financial settlement. However, as the Government has only made provision for meeting the costs of 40 such claims per year, it is unlikely that such provision would cover the actual costs incurred by the Borough Council, particularly if a number of claims came forward. If costs of any claims exceed £20,000, an application can be made by the Borough Council to Government to cover these.

1.3 The Borough Council's Role

- 1.3.1 The Borough Council must assume responsibility for processing nominations to the community assets register, including any appeals submitted. Importantly, the Borough Council itself has no power to list assets on their own initiative – it must be nominated. Information about the process, a detailed guidance note and an on-line nomination form has been uploaded to the Council's website, and in due course, should successful nominations be received, the register of community assets would also be accessible from that portal (as would the register of nominated assets that have not been registered).

1.4 Conclusions

- 1.4.1 Parish and Town Councils, along with community groups, therefore have the opportunity to start to make nominations to the register. However, before this is undertaken, it is recommended that government guidance on this matter is considered carefully. This is available from the following web link:

<http://www.communities.gov.uk/documents/communities/pdf/2229703.pdf>

- 1.4.2 The Borough Council's online nomination form and further guidance can be accessed at:

<http://www.tbmc.gov.uk/services/community-and-living/community-advice/community-engagement>

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