

BABERGH DISTRICT COUNCIL and MIDSUFFOLK DISTRICT COUNCIL

From: Head of Communities	Report Number: JSC/08/14
To: Joint Scrutiny Committee	Date of meeting: 28 May 2014

REVIEW OF THE COMMUNITY RIGHTS INTRODUCED IN THE LOCALISM ACT 2011.

1. Purpose of Report

- 1.1 To update the Joint Scrutiny Committee on how the new Community Rights have been used by communities since their introduction.

2. Recommendation

- 2.1 That the Joint Committee agrees that Members and Officers continue the current support for Community Rights as outlined in the report.

The Committee is able to resolve this matter.

3. Financial Implications

- 3.1 There are no specific financial implications identified from this report.

4. Risk Management

- 4.1 The nature of this report is such, that a risk management assessment is not needed

5. Consultations

- 5.1 Discussions have been held with various officers to establish the current position.

6. Equality Analysis

- 6.1 The content of this report is such that there are no equality issues arising from this report although the review itself will consider any equality impacts.

7. Shared Service / Partnership Implications

- 7.1 This report in itself has no shared service / partnership implications. However, much of the work to deliver aspects of the Localism Act has been carried out in partnership with others.

8. Key Information

- 8.1 The Communities Team hold responsibility for providing advice and support to local communities who wish to utilise the new powers and rights contained in the Localism Act. The links below provide access to each council's website where lots of information is provided, along with links to other independent sources of advice and support.

- 8.2 <http://www.babergh.gov.uk/your-community/community-rights/>
- 8.3 <http://www.midsuffolk.gov.uk/your-community/community-rights/>
- 8.4 Following the approval given by members in July last year, to the processes and delegated authority arrangements for each of the new Community Rights the websites have been updated to include information about how each council will deal with nominations. This report covers the interest and latest position for each council with regard to the Community Right to Bid (CRTB) and the Community Right to Challenge.
- 8.5 Taking the Community Right to Challenge first – there has been no interest shown in using this right, either through informal discussions, or from formal written expressions of interest. Both councils have received an FOI request from the EADT asking for details about the number of expression of interest received and the actions taken to promote this right.
- 8.6 With regard to the Community Right to Bid (Assets of Community Value Regulations), there has been considerable interest from communities in finding out what this right can do, and several nominations have been received, and several properties listed formally as Assets of Community Value (ACV).
- 8.7 The types of properties which have been nominated have also been very varied. Please follow the links below to see the Lists of Assets of Community Value, and List of Land nominated by Unsuccessful Community nominations for each council. (Please scroll down the web page to find links to the lists).
- 8.8 <http://www.midsuffolk.gov.uk/your-community/community-rights/community-right-to-bid-for-assets-of-community-value/how-the-community-right-to-bid-works/>
- 8.9 <http://www.babergh.gov.uk/your-community/community-rights/Community-Right-to-Bid-for-Assets-of-Community-Value/how-the-community-right-to-bid-works/>
- 8.10 You will also find in Appendix 1 an Overview of Nominations/Enquiries for CRTB. From this you will see that discussions have taken place with local communities with regard to possible nominations for School Facilities shared with the community – ie School Halls, Playing Fields, Theatres. In addition, as well as the expected Village Halls, Pubs and Shops we have been approached about Car Parks and Public Toilets.
- 8.11 One of our decisions to list a pub (The Bull Inn at Thorpe Morieux) as an Asset of Community in Babergh has been challenged by the owner. This resulted in us making a reciprocal arrangement with St Edmundsbury and Forest Heath DC, whereby they carried out the Review of our decision, and we carried out a Review for one of their decisions, which was also for a pub. In both cases it was concluded that the property should not have been listed, although for different reasons. The reasons given for the review decision for our property are given on the Babergh List of Unsuccessful Community Nominations. Feedback was given to the nominating group, in order to support them if they wished to submit a revised nomination.

- 8.12 Over recent months at a national level, several cases have been challenged at the First Tier Tribunal level, (an owner can appeal to the First Tier Tribunal if their request for a Review of the decision to list their property as an ACV is unsuccessful). The outcomes here are mixed, with some being upheld and some overturned. There are some principles that have been established but it is also clear that each case is judged on its merits, and particular circumstances at the time.
- 8.13 A number of nominations and enquiries have been received regarding local pubs, in some cases these have been put up for sale. A local group at Bentley were one of the first to utilise the CRTB powers, and provided the first example of a community interest company successfully raising the funds and securing the purchase of the local village pub – The Case is Altered at Bentley. A similar situation occurred at Stonham Aspal, but in this case the local group were unable to raise the funds to secure the purchase. Punch Taverns owned both these pubs, and indeed own a number of pubs in both districts, and several have been nominated as these have been put up for sale as part of the group's debt restructuring process. Greene King the local brewer, have also had a number of their pubs nominated. Others are in private ownership like The Bull Inn at Thorpe Morieux in Babergh.
- 8.14 Pubs have been a hot topic nationally as well, because of the permitted development (PD) rights that exist which allow an owner to change the use of the pub to another use in the same Use Class – ie to other retail use. CAMRA have been lobbying heavily to secure a change in the law to close this loophole. Most recently The National Planning Policy Framework (Community Involvement) Bill has been put before parliament which includes proposals to introduce a new use class for community pubs, and a genuine community right to buy for assets of community value. The owner of the pub at Thorpe Morieux is claiming to have made a Change of Use under these PD rights, and Punch Taverns are undertaking a change of use to the Highbury Barn at Gt Cornard, from pub to local supermarket.
- 8.15 A related issue is the protection community facilities have in our planning framework system. Currently both authorities have policies to protect and retain community facilities where a continuing need can be demonstrated. The concern however has been where these can be circumvented by the Permitted Development rights as in 8.14 above, and also a misconception amongst communities that something listed as an ACV is protected under planning from changes of use. The ACV regulations do not change the planning status of a property, but an authority can give the listing as an ACV weight when determining any planning applications. We have therefore ensured that properties listed as ACV's are identified on the planning GIS system, so that any searches done for planning enquiries and applications will show that this property has been listed as an ACV – and ensure that the appropriate weight can be given to this by the planning dept when considering the proposal put before them.

- 8.16 Other Issues with the system that we have encountered are difficulties in determining whether the property that has been nominated is of ‘community value’, (ie it furthers the social wellbeing and social interests of the community), and whether ‘it is realistic’ to think this use can continue or resume where it has ceased. Some nominations have provided limited evidence – and there is no definitive guide on the level of evidence required. However following the Review of the decision to list the The Bull Inn at Thorpe Morieux, which overturned our original decision, we have amended the nomination form to assist communities in providing greater evidence on this area, and hopefully avoid a ‘weak’ nomination being challenged again. We also now carry out a land registry check early on in our assessment process to flag up issues over ownership which are not identified on the nomination form. It is also essential to ask the group making the nomination to outline the area on a plan to ensure the boundary is clear.
- 8.17 We have found ‘Locality’ the organisation selected by the Government to provide advice and support to local communities on all the Community Rights, and process grant applications for government funding where applicable, a great source of information and help. We have frequently referred to their advisors to clarify matters. We have encouraged local groups to contact them to get support with making the nominations, and to secure pre-feasibility grant funding when applicable.
- 8.18 We have also found communities frustrated by the limitations that the Right to Bid provides – ie it does not oblige the owner to sell to the community group. We have however found it to be a useful tool, in some instances the fact that the local group could nominate the property as an ACV has assisted negotiations with the landowner to secure the property – or the use of it, which has achieved the communities goal. (see Redgrave, East Bergholt in Appendix 1)

9. Appendices

Title	Location
Overview of ACV Nominations and Enquiries	Appendix 1

10. Background Documents

None

Tracey Brinkley

Tel: 01449 724637

Communities Officer (Enabling)

E-mail: tracey.brinkley@midsuffolk.gov.uk

Jonathan Free

Tel: 01473 826672 or 01449 724859

Head of Communities

E-mail: jonathan.free@midsuffolk.gov.uk

COMMUNITY RIGHT TO BID (ACV)				
Name and address of building/area nominated	Lead Officer/s	Update	Key Next Step In Process	Date
Bacton - Middle School	Tracey Brinkley	Interest from community to nominate School Hall and Playing Fields, at Bacton Middle School as ACV. Sent links and suggested engage with SCC.	Awaiting nomination, and community contact to progress an initiative.	11.4.14
Battisford, The Punch Bowl	Tracey Brinkley/Paul Banjo	Latest Developments - ON HOLD - Group have decided to progress purchase of pub through their own means as disposal would have been held up by CRTB moratorium, as private sale.	ON HOLD - Group have decided to progress with negotiating purchase	14.8.13
Bentley, *The Case Is Altered	Tracey Brinkley/Paul Banjo	Successful purchase during moratorium (just!) Pub opened at Easter.	Continuing share offer to raise funds for refurbishment. Funding bids to establish wider community uses.	16.1.14
Chelmondiston, Waste Recycling Site	Tracey Brinkley	Listed as ACV	Information provided on Community Asset Transfer (CAT) as site owned by SCC.	25.3.14
Chilton - Woodland area	Tracey Brinkley	Listed as ACV		2.4.14
Chilton - The Drive to St Mary's Church	Tracey Brinkley	ACV nom rec'd.	Decision due by 20.5.14	1.4.14
Copdock and Washbrook	Tracey Brinkley	TB attended PC meeting 12.11.13 to discuss mapping all community assets. PC considering other 'assets' to nominate, including playing fields owned by SCC.		18.11.13
Debenham	Tracey Brinkley	Ward Member made enquiry on behalf of community re Angel Inn pub in village. Discussion underway, uncertain if nom will be made.		28.11.13
East Bergholt - Red Lion Car Park and Toilets	Tracey Brinkley	WM and PC made enquiry wish to nominate this area (not pub) - owned by GK, leased by BDC (but expired) and PC now maintaining toilets. GK put pub and Car Park area up for sale.	Decision due 15.5.14	18.3.14
Felsham - PO Stores and Six Bells Pub	Tracey Brinkley	Listed as ACV		2.4.14
Felsham Land adj Meadow Close and Land adj The Orchard	Tracey Brinkley	not listed as an ACV		2.4.14
Gt Cornard, The Highbury Barn	Tracey Brinkley	Listed as ACV		29.1.14
Gt Cornard, The Prospect Theatre	Tracey Brinkley	PC wish to nom. SCC and School propose to demolish Theatre as part of school redevelopment proposals.	discussing nom, advice and info sent	25.4.14
Gt Finborough - Chestnut Horse Pub	Tracey Brinkley	Listed as ACV		2.4.14
Hadleigh - East House	JF/DC	Local Community Group expressed concern and interest in taking over this asset. Advice given about process of CRTB, likely any nom would be turned down as building not in use for many years. Group also expressed a wish to pursue option of Community Asset Transfer		19.11.13
Harkstead	Tracey Brinkley	Clerk to PC rang want to nominate pub as ACV. Discussed and sent link to website etc.		27.1.14
Hartest, The Crown	Tracey Brinkley	Enquiry from PC about nominating The Crown as ACV - link to BDC website and advice given	awaiting nomination	12.5.14
Hessett, Five Bells PH	Tracey Brinkley/Paul Banjo	Listed as ACV 5.9.13, Int moratorium triggered 6 weeks expiring 16.10.13 - PC held community meeting, well supported but overall agreement to allow a private sale, therefore agreed not to make E o l.	No EoI so owner notified moratorium period ended	16.10.13

Mendlesham	Tracey Brinkley	Clerk for PC advised likely to nominate several things in village - incl Shop, Pub, PO, Hall and Health Centre.		16.1.14
Metfield, The Duke William	Tracey Brinkley	Nom received in April 2013, but had been mislaid. 30.9.13 TB contacted nominee to confirm current position and whether to proceed.	14.10.13 Nominee confirmed UIG did not wish to proceed circumstances changed pub change to Tea Room	16.10.13
Nayland	Tracey Brinkley	Discussion re PO/Shop and potential closure, info on CRTB sent . Unlikely CRTB will assist as not to be sold.		
Palgrave	Tracey Brinkley	PC contacted intend to nominate Village Green. Is reg'd as VG, and was owned by two sisters now recently deceased, who own and have manorial rights. Info and links sent	Awaiting nomination	18.3.14
Redgrave - Community Shop	Tracey Brinkley	Nom rec'd 6.1.14. withdrawn 24.2.14	CIC group negotiating with owner to secure further lease. Owner wishing to sell house and shop together	8.1.14
Somersham	Tracey Brinkley	Requested info on ACV's sent 11.12.13		24.2.14
Stonham Aspall, *Ten Bells PH	Tracey Brinkley/Paul Banjo	Listed as ACV 5.9.13. Property for sale - moratorium triggered, expired 4.3.14. Community share offer undertaking, but raised insufficient funds.		9.5.14
Sudbury	JF/TB	Various contact and communications providing advice and info about CRTB.	No nominations received to date	19.11.13
Thorpe Morieux, The Bull Inn PH	Tracey Brinkley/Paul Banjo	Request for Review of ACV listing made and carried out by St Eds BC - concluded should not be listed as ACV. Property now being run as antiques/bric-a-brac shop, COU under PD Rights.	UIG contacted and propose to nominate again. TB attended Community meeting 29.4.14.	25.4.14
Upper Layham, The Marquis of Cornwallis	Tracey Brinkley	TB attended community meeting 11.11.13. Pub closed for 5+ years so won't meet CRTB regs. No nom to be made.	Some interest from individuals in buying but as business, and need to know planners would support extension/alterations TB to check.	18.11.13
Washbrook, The Brook Inn	Tracey Brinkley	Nom in deadline for decision 25.11.13. Discussing other Assets community may want to list.	Community proposing Ltd Co so not an eligible CIC for purposes of CRTB so nom withdrawn 18.11.13	18.11.13
Wetherden - V Hall, Old School and The Maypole pub	Tracey Brinkley	Listed as ACV		2.4.14
Worlingworth - The Swan Inn, and The Swan Beer Garden	Tracey Brinkley	ACV nom for Swan Inn and Beer Garden rec'd 25.4.14 - (first nom declined 23.4.14 as ownership info incorrect when got LR info)	Decision due 20.6.14	25.4.14
	Nomination pending			
	Listed as ACV			
	Unsuccessful nomination			
