

Report to Cabinet
10 July 2013
Report of Head of planning service
Subject Assets of Community Value

Item

13

Purpose

To seek approval to:

- (1) change the method of notifying councillors of decisions from applications to list assets of community value; and
- (2) formalise the procedure for internal review of decisions to list assets.

Recommendation

To approve the proposals for dealing with requests to register assets of community value, and to enhance reporting and administrative procedures.

Corporate and service priorities

The report helps to meet the corporate priority “City of character and culture” and enable the council to carry out its duties under the Localism Act 2011 relating to the right to bid for assets of community value.

Financial implications

The cost implications would be dependent on the number and nature of nominations. The additional administrative resource is estimated to be in the region of £6,000 p.a. although this is likely to vary from year to year. Similarly compensation costs are also hard to predict and likely to be variable. An initial estimate is £40,000 p.a. It is likely that the latter may change over time in light of case law. There are no additional financial costs arising from the proposals in this report.

Wards: All wards

Cabinet member: Cllr Paul Kendrick – Neighbourhoods and Community Safety

Contact officers

Jo Hobbs	01603 212526
Graham Nelson	01603 212530

Background documents

None

Report

Background information

1. The Localism Act 2011 introduced provision for community groups to apply to list assets of community value with local authorities. The regulations to guide this process came into being in September 2012.
2. A report was taken to cabinet on 17 October 2012 seeking approval of decision making and governance arrangements in relation to the listing of assets. This was also discussed at Scrutiny committee on 11 October 2012.
3. Given the short timeframe for applications to list assets it was agreed by cabinet that the decision making process should be delegated to head of service level with input from councillors through consultation.
4. The land owner has the right to request an internal review by the council, which should be carried out by a senior officer who was not involved in the original decision making process. Cabinet agreed the deputy chief executive or other member of CLT nominated by him to carry out any requested reviews.
5. The reporting of decisions was also covered by the 2012 cabinet report. It was agreed that any decisions to list assets of community value would be reported to the scrutiny committee and cabinet as standing items on the forward agendas. This has not yet been undertaken for the first listed asset in January 2013.

Purpose of report

6. Following 8 months of experience of responding to nominations for Assets of Community Value, two changes are proposed to aid operation of the system.

Decision making and governance

7. Following a review of procedures, it is considered unnecessary to report decision to the scrutiny committee and cabinet.
8. Councillors are notified of when an application to list an asset is received, and comments are requested within 14 days. Once comments have been received or the consultation period has ended a decision is made whether to list the asset.
9. Once this decision is made it is suggested that the existing arrangements be enhanced by notifying all councillors of decisions made and whether an asset has been listed or not through e-councillor. This would keep councillors informed of decisions but avoid unnecessary reports to the scrutiny committee and cabinet where no further decisions are possible.
10. The reviewed decision making and governance procedures are listed in an appended Appendix 1. This table was originally presented to the scrutiny committee and cabinet in 2012 and subsequently amended at these meetings. The revised version to be agreed is as appended to this report.

Internal review procedures

11. As referred to above a land owner has the right to request an internal review of the decision to list an asset. The procedure for an internal review has not been detailed to a great degree in the Asset of Community Value Regulations 2012. Within these regulations Schedule 2 provides limited detail on the review process.
12. A review must be requested within 8 weeks of a decision being made, the review must be made by a senior officer not involved in the original decision making process, and the owner may appoint a representative to act on their behalf at the review to whom the council must forward any relevant documents (such as the decision to list the asset). A review may be through written representations or an oral hearing, at which the owner has a right to present representations. The review must be determined within 8 weeks of receipt of the request, unless agreed with the land owner in writing.
13. The regulations state that the council must also notify the owner of the procedure to be followed in connection with the review. This is the procedure that this paper seeks councillors to approve.
14. A suggested procedure is outlined in Appendix 2 of this report. This identifies the key actions to be undertaken by the council through the internal review.
15. The procedure seeks to ensure that all parties are kept informed of the review, whilst meeting the obligations set out within schedule 2 of the 2012 regulations. A key point to note is at a review, the reviewer would only consider the information available at the time the asset was listed and will allow both parties to participate in the hearing. This is due to the fact the process seeks to review the decision to list, not make a new decision to list.

Conclusions

16. The recommendations from this report are therefore to endorse notifying councillors of decisions on applications to list by email only, removing the requirement to report through Cabinet and Scrutiny, as outlined in Appendix 1.
17. The report also seeks endorsement of the suggested review procedure to ensure that all parties involved (the land owner, the applicant and the council) are clear as to how an internal review will be carried out. The clarity that this procedure will bring will avoid uncertainties for any party involved as to when they can input into the process. This process is outlined in Appendix 2.

Decision making and governance	Recommendation
Ward member input	All ward members to be notified of all nominations within their area. Material comments received from ward members to be taken into consideration when determining nominations.
Determine nominations (To sit as required) (This must make provision for a higher council officer to review any decision to list)	Decision making Head of planning in consultation with the head of local neighbourhood services Or Other officers designated by the deputy chief executive Advising Officers Professional officers as required including: Head of law and governance NPS Norwich property officer NPLaw solicitor
Internal review (To sit as required)	Decision making Deputy chief executive or executive member of CLT nominated by deputy chief executive (on basis of material comments received by members). Advising officers Specialist officers as required
Internal review and approve relevant compensation payments	Head of law and governance in consultation with section 151 officer. Using existing delegated authority Or Cabinet where amount exceeds £20,000
External review of appeal decisions	First tier tribunal, HM courts and justice service
External review of compensation decisions	First tier tribunal, HM courts and justice service
Reporting of decisions	ACV decisions to form standing items on Scrutiny and Cabinet forward agendas. All councillors to be notified by email of decisions made on applications to list assets.

Review preparation checklist

Request for review received

Confirmation of whether this will be an oral hearing or written representations

Date for hearing agreed

Extension to 8 week deadline agreed if necessary

Representative of landowner invited

Representative of community group invited

Officer involved in decision to list invited

Application documents forwarded to Representative and Community Group

Appeal statement (if received) forwarded to Community Group

Review Hearing

The hearing should have the suggested following format:

- Introductions by Reviewer (Deputy Chief Executive or member of Corporate Leadership Team). To note purpose is to review information available at time of decision to list.
- Representative to present basis of review
- Reviewer to query any points raised by Representative
- Community Group to speak
- Summary of issues by Reviewer
- Close hearing with details of next steps and when decision will be made

Post-Review checklist

Decision notice to be issued by Reviewer with:

- the decision of review
- reasons for decision
- details of how to appeal if applicable

Integrated impact assessment



NORWICH
City Council

The IIA should assess **the impact of the recommendation** being made by the report

Detailed guidance to help with completing the assessment can be found [here](#). Delete this row after completion

Report author to complete

Committee:	Cabinet
Committee date:	
Head of service:	Head of Planning
Report subject:	Assets of Community Value
Date assessed:	04 June 2013
Description:	

	Impact			
Economic (please add an 'x' as appropriate)	Neutral	Positive	Negative	Comments
Finance (value for money)	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Statutory duty with risk of compensation to land owners
Other departments and services e.g. office facilities, customer contact	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Some additional processing duties
ICT services	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Process set up in Comino and UNiform
Economic development	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Financial inclusion	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Social (please add an 'x' as appropriate)	Neutral	Positive	Negative	Comments
Safeguarding children and adults	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<u>S17 crime and disorder act 1998</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Human Rights Act 1998	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Health and well being	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Potential positive impact if a community asset assists health and well being of people.

	Impact			
Equality and diversity (please add an 'x' as appropriate)	Neutral	Positive	Negative	Comments
Relations between groups (cohesion)	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Potential positive impact if a community asset secures the use of a community facility.
Eliminating discrimination & harassment	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Advancing equality of opportunity	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Environmental (please add an 'x' as appropriate)	Neutral	Positive	Negative	Comments
Transportation	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Natural and built environment	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Waste minimisation & resource use	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Pollution	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Sustainable procurement	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Energy and climate change	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
(Please add an 'x' as appropriate)	Neutral	Positive	Negative	Comments

	Impact			
Risk management	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Unknown quantity of claims from compensation from owners of listed properties.

Recommendations from impact assessment	
Positive	
Negative	
There is some risk of the council incurring additional costs which will be outside of current budgets. This should be noted by councillors and the level of risk considered at each application made prior to making a decision on the application.	
Neutral	
Issues	