

<b>Committee(s)</b>	<b>Dated:</b>
Policy & Resources Committee	15 Dec 2016
<b>Subject:</b> Assets of Community Value – guidelines for determining nominations	<b>Public</b>
<b>Report of:</b> Director of the Built Environment	<b>For Decision</b>
<b>Report author:</b> Peter Shadbolt, Department of the Built Environment	

### Summary

The 2011 Localism Act introduced provisions for communities to identify land and buildings of importance to the community and for the local authority to consider designating them as Assets of Community Value. Although the Act is supported by Regulations and non-statutory guidance, there is no guidance provided to local authorities on the criteria which should be used to determine ACV nominations.

The City Corporation has received its first ACV nomination, for the Still & Star public house. This nomination was considered at Planning & Transportation Committee on 25/10/16 and the Committee recommended that Policy & Resources Committee should not designate the public house as an ACV. At the Policy & Resources Committee meeting on 17/11/16, the Committee deferred the decision on nomination and requested that further information be provided to the Committee on policy guidelines which should be used to determine ACV nominations in the City.

No specific provision for dealing with ACV applications has been made in any Grand Committee terms of reference, however, the Town Clerk is of the view that such applications should be considered by the Policy & Resources Committee.

Draft guidelines have been prepared to assist in the determination of ACV nominations in the City, with particular reference to nominations for public houses. These guidelines have been prepared with regard to the legal requirements for the determination of applications for assets of community value and to best practice and experience elsewhere in England, but have not been subject to public consultation. The guidelines cover procedural requirements which must be complied with, and set out criteria which could be used to judge the contribution that a public house makes to the social wellbeing or social interests of the local community.

## **Recommendation(s)**

Members are recommended to:

- Approve the guidelines for the determination of nominations for Assets of Community Value set out in Appendix 1.

## **Main Report**

### **Background**

1. Part 5 Chapter 3 of the Localism Act 2011 introduced provisions for the designation of certain buildings or land as Assets of Community Value (ACV). Detailed regulations, the Assets of Community Value (England) Regulations, were published in 2012.
2. The legislation allows local community groups to nominate buildings or land as ACVs and requires local authorities, including the City Corporation, to make ACV designations if, in the opinion of the authority:
  - a. an actual current use of the building or other land that is not an ancillary use furthers the social wellbeing or social interests of the local community, and
  - b. it is realistic to think that there can continue to be non-ancillary use of the building or other land which will further (whether or not in the same way) the social wellbeing or social interests of the local community.
3. Once designated, statutory limitations are placed on the owner's ability to sell the building or land, with a 6 month moratorium on future sale to enable the local community to put together a bid to purchase. There is no requirement for the landowner to sell to the local community at the end of this period.
4. In the case of public houses, ACV nomination removes existing permitted development rights to change the public house to residential without planning permission and also removes the permitted development right to demolish the public house without express permission.
5. There is no right of appeal for applicants seeking ACV nomination, but there is a right of appeal for landowners where an ACV is designated. There are 2 stages of appeal, firstly an appeal to a senior officer within the determining authority, and secondly, to an independent tribunal.
6. The local authority is required to maintain a list of land and buildings designated as ACVs. This is simply a listing of designations, the words 'list' or 'listing' do not convey any other meaning.
7. ACV legislation is supported by non-statutory guidance issued to local authorities in 2012. This guidance is intended to help local authorities implement the ACV legislation and provides guidance on procedural matters. It does not provide any

guidance on how local authorities should determine whether an area of land or a building furthers the social wellbeing or social interests of the local community.

### **Current Position**

8. No specific provision for dealing with ACV applications has been made in any Grand Committee terms of reference, however, the Town Clerk is of the view that such applications should be considered by the Policy & Resources Committee. Any landowner appeals following a designation decision would be considered by the Town Clerk, or other senior officer nominated by the Town Clerk.
9. The City Corporation has received a nomination to list the Still & Star public house, 1 Little Somerset Street, as an Asset of Community Value. This is the first such application received by the City Corporation under the 2011 Localism Act. As the application was the first to be received, the advice of the Planning & Transportation Committee was first sought. At its meeting on 25 October 2016 the Planning & Transportation Committee debated the information provided by the applicant and the landowner and concluded that, in its opinion, the nomination of the Still & Star public house should be refused.
10. The Planning & Transportation Committee's recommendation was reported to Policy & Resources Committee at its meeting on 17 November 2016. The Policy & Resources Committee concluded that more detailed information was required on the process for determining ACVs in order for a decision to be made. The Committee deferred the decision on the Still & Star ACV nomination and asked that a policy on the process and guidelines for determining ACV applications be developed and submitted to the Committee for consideration.

### **Proposals**

11. Appendix 1 sets out proposed guidelines for determining ACV applications in accordance with the Policy & Resources Committee's request. The guidelines have not been subject to public consultation, but have been prepared in the context of the ACV legislation and best practice and experience with ACVs elsewhere in England. The guidelines are in 2 sections: nomination procedures and specific guidelines for public houses in the City of London.
12. Section 1 deals with the validation of nominations and sets out the requirements in the 2011 Localism Act and 2012 Regulations for valid nominations for ACV status. Section 1 of the guidelines addresses issues such the eligibility of the applicant to nominate, whether the land or buildings are excluded from nomination by Regulation and whether the use of the land or buildings is the primary use or an ancillary use. A nomination must satisfy all of these nationally defined validation criteria to be considered as a potential ACV. Section 1 also considers what evidence is presented concerning future use and specifically what account should be taken of current planning applications or existing planning permissions.
13. Section 2 provides guidelines for the consideration of public house nominations in the City of London. It is not possible to anticipate all possible land uses that might

be nominated as an ACV, nor provide guidelines on how each land use might be assessed. However national experience shows that the most common land use nomination has been for public houses. Therefore it is considered helpful to provide guidelines on the approach to be taken in the consideration of public house nominations in the City of London. The guidelines deal with how a local community should be defined and conclude that this should reflect the wider range of regular customers to City pubs including local residents and workers. There are over 200 drinking establishments in the City of London, including public houses and wine bars, which vary greatly in their character, customers and their contribution to the local community. Therefore Section 2 of the guidelines advises on what evidence may demonstrate that a public house use furthers the social wellbeing or social interests of the local community.

## **Corporate & Strategic Implications**

14. The approval of guidelines for the determination of nominations for Assets of Community Value will provide a standard set of criteria against which nominations can be assessed. This standard approach will ensure that decisions can be made in accordance with Corporate Plan aims to provide modern, efficient and high quality local services for workers, residents and visitors, and to provide valued services, such as education, employment, culture and leisure, to London and the nation.

## **Implications**

15. Adopting a standard approach to the assessment of nominations will ensure that consistent decisions are taken with regard to future nominations which will limit the potential for legal challenge or claims for compensation.

16. If an application is approved and the ACV is designated, the landowner has a right of appeal. In the first instance the appeal is to a senior officer within the City Corporation who has not been involved in the determination of the initial application. If this appeal fails, there is provision for a second independent appeal to the First Tier Tribunal. A landowner can also make a claim for compensation for loss which has been incurred as a result of the ACV designation. Guidance indicates that the first £20,000 of any claim would be paid by the local authority; any additional amount would be met by the Government.

## **Conclusion**

17. The 2011 Localism Act introduced provisions for communities to identify land and buildings of importance to the community and for the local authority to consider designating them as Assets of Community Value. Although the Act is supported by Regulations and non-statutory guidance, there is no guidance provided to local authorities on the criteria which should be used to determine ACV nominations.

18. Responsibility for determination of applications for ACV status rests with the Policy & Resources Committee. Any landowner appeals following an ACV

designation would be considered by the Town Clerk or other senior officer nominated by the Town Clerk.

19. The City Corporation has received its first ACV nomination, for the Still & Star public house. This nomination was considered at Planning & Transportation Committee on 25/10/16 and the Committee recommended that Policy & Resources Committee should not designate the public house as an ACV. At the Policy & Resources Committee meeting on 17/11/16, the Committee deferred the decision on nomination and requested that further information be provided to the Committee on guidelines which should be used to determine ACV nominations in the City.
20. Appendix 1 to this report sets out draft guidelines for determining ACV nominations in the City, with particular reference to nominations for public houses. The guidelines cover legislative procedural requirements which must be complied with, and set out criteria which could be used to judge the contribution that a public house makes to the social wellbeing or social interests of the local community. If the draft guidelines are approved unaltered, they will be used to consider the nomination of the Still & Star public house. If the draft guidelines are materially altered before approval, then such alterations will need to be taken fully into account in the consideration of the Still and Star report.

## **Appendices**

- Appendix 1 – Guidelines for determining nominations for Assets of Community Value in the City of London

## **Background Papers**

Report to Planning & Transportation Committee 25/10/2016 and Policy & Resources Committee 17/11/2016, Application for designation of the Still & Star Public House as an Asset of Community Value.

Report to Policy & Resources Committee 17/11/2016. Application for designation of the Still & Star Public House as an Asset of Community Value – Report of Planning & Transportation Committee

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