

# Community Assets – Guidance on requests for use of Compulsory Purchase Powers

Report of the Corporate Portfolio Holder

## Recommended:

**That the “Guidance on requests for use of the Council’s compulsory purchase powers to acquire a community asset with onward transfer to the community” shown in annex 2 to the report be approved and adopted.**

### SUMMARY:

- Government guidance sets out that where a Council receives a request from a third party for assistance in a scheme relating to a community asset which would require Compulsory Purchase to take it forward, then a formal response must be provided.
- Communities are increasingly looking to local authorities to use their compulsory purchase powers to acquire an asset with onward transfer to the community.
- This report presents a proposed guidance note to assist communities contemplating such requests. The Guidance aims to help communities in preparing effective requests by setting out the information the Council will require in order to give proper consideration to requests.

## 1 Introduction

- 1.1 Guidance issued by Central Government provides that where a Council receives a request from a third party for assistance in a scheme relating to a community asset which would require Compulsory Purchase to take it forward, then a formal response must be provided.
- 1.2 The proposed Guidance set out at Annex 2 to this report, “Guidance on requests for use of the Council’s compulsory purchase powers to acquire a community asset with onward transfer to the community” provides information for those seeking to make such a request, including setting what information the Council will need to see in order to properly consider a request.

## 2 Background

- 2.1 Under the Localism Act 2011, a regime exists whereby community groups may nominate buildings or land to be registered as “Assets of Community Value”.
- 2.2 Land is of community value for these purposes if its actual current use ‘furthers the social wellbeing or social interests of the local community’ and it is realistic that this will continue to be the case for a time in the following five years. If a community nomination meets the criteria the Council must register the asset.

- 2.3 If the owner of a listed asset wishes to dispose of it, notice must be given to the Council who will notify the nominating community group. The community group then has the opportunity to bid for the asset.
- 2.4 But herein lies a problem for groups. The Act provides a right to *bid* not a right to *buy*. The owner of the asset is under no obligation whatsoever to sell to the community group. Groups cannot compel a sale or force an owner to negotiate. This can lead to a stalemate with land or buildings falling into disuse and disrepair.
- 2.5 Community groups are increasingly asking Local Authorities to exercise their powers of compulsory purchase in respect of such assets (public houses being a common example) with a view to onward purchase by the community group.
- 2.6 The revised 2019 Ministry of Housing, Communities and Local Government guidance “Compulsory purchase process and the Crichel Down Rules” highlights this avenue as an option for communities. An extract from the Guidance is attached at Annex 1 to this report.

- 2.7 Point 215 of the MHCLG Guidance reads:

*What requests can be made to a Local Authority?*

*Authorities can receive requests from the community or local bodies to use their compulsory purchase powers to acquire community assets, which may have been designated as Assets of Community Value, that are in danger of being lost where the owner of the asset is unwilling to sell or vacant commercial properties that are detracting from the vitality of an areas.*

- 2.8 It is important to note that the ability to ask the Council to exercise compulsory purchase powers is not limited to assets formally registered as Assets of Community Value, but may relate to any community asset.
- 2.9 There is no specific statutory power to compulsorily purchase assets of community value. Councils have to use one of the existing range of statutory powers, including the powers in section 226 of the Town and Country Planning Act 1990 which includes giving a Local Authority power (subject to authorisation by the Secretary of State) to acquire compulsorily any land in their area “if the authority think that the acquisition will facilitate the carrying out of development, re-development or improvement on or in relation to the land”.
- 2.10 Such power must not be exercised unless the development or improvement is likely to contribute to the promotion or improvement of the economic, social or environmental well-being of the area.
- 2.11 There must be a credible and viable scheme to justify the serious step of compulsory purchase. There should be evidence that the community body is not just able to acquire the land or property but to repair it (if necessary), maintain and run it. Requesters are asked to demonstrate how they will pay for, run and if necessary improve an asset and will generally be required to provide the Council with purchase funds prior to commencement of any compulsory purchase process.

2.12 The Guidance makes it clear that the Council will assess each request on its individual merits and no guarantees are given that the Council will exercise its powers in any case.

2.13 The purpose of the Guidance is to assist communities and local groups in putting together realistic and effective requests.

### **3 Corporate Objectives and Priorities**

3.1 Adoption of the Guidance will contribute to the corporate priorities of growing the potential of our town centres, communities and the local environment for current and future generations.

### **4 Options**

4.1 The options are:

4.2 Option 1

To adopt the Guidance shown in annex 2 to this report

Option 2

Not to adopt the Guidance.

### **5 Option Appraisal**

5.1 In order to assist communities and local bodies in collating the most effective requests, it is recommended that the Guidance is adopted. If the Guidance was not adopted the situation may arise where a request is submitted without sufficient supporting documentation which will cause delay. Such requests may on occasion be time-critical so enabling an efficient process will be of benefit.

### **6 Risk Management**

6.1 A Risk Management questionnaire has been completed and indicates this report does not require a risk assessment because the changes/issues covered by this report are not significant in terms of risk or have previously been considered.

### **7 Resource Implications**

7.1 There are no resource implications of approving and adopting this Guidance itself. As and when a request is received from a community or local body, the request will be considered and a decision made in accordance with the Guidance including consideration of resource implications.

### **8 Legal Implications**

8.1 There are no legal implications of approving and adopting this Guidance save for establishing a legitimate expectation that requests will be considered and responded to. This requirement for consideration of, and response to, requests exists in any event under the MHCLG Guidance.

## 9 Equality Issues

9.1 No equality issues or adverse effects on those with protected characteristics are identified.

## 10 Other Issues

10.1 None identified.

## 11 Conclusion and reasons for recommendation

11.1 It is recommended that the Guidance shown in annex 2 to this report is adopted and approved to assist communities and local bodies who are considering requesting Test Valley Borough Council to exercise its powers of Compulsory Purchase in respect of a community asset. The Guidance will enable communities or local bodies to compile effective and comprehensive requests to the Council.

### Background Papers (Local Government Act 1972 Section 100D)

Guidance on Compulsory Purchase process and The Crichel Down Rules – extract attached. Full guidance can be found at:

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/817392/CPO\\_guidance\\_-\\_with\\_2019\\_update.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/817392/CPO_guidance_-_with_2019_update.pdf)

### Confidentiality

It is considered that this report does not contain exempt information within the meaning of Schedule 12A of the Local Government Act 1972, as amended, and can be made public.

No of Annexes:

2

File Ref:

N/A

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Report to:

Cabinet

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