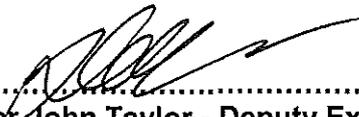


EXECUTIVE DECISION NOTICE

SERVICE AREA:	GOVERNANCE
SUBJECT MATTER:	ASSET OF COMMUNITY VALUE – DENTON WEST END LIBRARY
DECISION:	<p>(1) That the land at the corner of Hulme Road and Windsor Road, Denton comprising of the former Denton West End Library shown edged with a thick black line on the plan attached as appendix 4 (but not including the electrical substation site) be added to the Council's list of assets of community value.</p> <p>(2) That notice be given that the Council wishes to dispose of its interest in Denton West End Library.</p>
DECISION TAKER	Councillor John Taylor
DESIGNATION OF DECISION TAKER(S):	Deputy Executive Leader
DATE OF DECISION:	17 December 2012
REASON FOR DECISION:	<p>(1) The Council has received an application to add the library to the register of assets of community value and it meets the criteria.</p> <p>(2) The application was made in anticipation of the closure of the library. The Council has now closed the library and wishes to dispose of the site. Now the library is on the asset of community value, notice must be given of any intention to dispose.</p>
ALTERNATIVE OPTIONS REJECTED (if any):	<p>(1) Not registering the land, but since it meets the criteria for registration and the Council has no discretion, this is not appropriate.</p> <p>(2) Not giving notice of disposal of the land, but this will further delay the disposal given that the Council has no current operational need for the asset.</p>
CONSULTEES:	Internal only
FINANCIAL IMPLICATIONS: (Authorised by Borough Treasurer)	Adding the site to the list of assets of community value will delay the realisation of any capital receipt for the site. This will have no effect on the delivery of the Council's capital programme as the current programme does not depend on a receipt from this site.
LEGAL IMPLICATIONS: (Authorised by Borough Solicitor)	Under the Localism Act 2011 and the regulations made under it the Council must consider nominations received from qualifying bodies to add properties to its list of assets of community value. Where the property is within the Council's area and is of community value the Council is required to list the property, the effect of which will prevent the property being sold other than to the nominating body for a period of between 6 weeks and 6 months depending on whether the body wishes to be treated as a bidder.

CONFLICT OF INTEREST:	None
DISPENSATION GRANTED BY STANDARDS COMMITTEE ATTACHED:	Not Applicable
ACCESS TO INFORMATION:	<p>The background papers relating to this report can be inspected by contacting the report writer, Daniel Howard – Corporate Lawyer by:</p> <p> Telephone: 0161 342 3194</p> <p> e-mail: daniel.howard@tameside.gov.uk</p>

Signed 
 Councillor John Taylor - Deputy Executive Leader

Date: 17 December 2012

EXECUTIVE DECISION REPORT

SERVICE AREA:	GOVERNANCE
SUBJECT MATTER:	ASSET OF COMMUNITY VALUE – DENTON WEST END LIBRARY
DATE OF DECISION:	5 December 2012
DECISION TAKER	Councillor John Taylor
REPORTING OFFICER:	Sandra Stewart – Executive Director of Governance (Borough Solicitor)
REPORT SUMMARY:	The report acknowledges receipt of a nomination from the Friends of Denton West End Library to list Denton West End Library as an asset of community value under the provisions of sections 87 to 108, chapter 3 of part 5 of the Localism Act 2011 and the Assets of Community Value (England) Regulations 2012
RECOMMENDATIONS:	<p>(1) That the land at the corner of Hulme Road and Windsor Road, Denton comprising of the former Denton West End Library shown edged with a thick black line on the plan attached as appendix 4 (but not including the electrical substation site) be added to the Council's list of assets of community value.</p> <p>(2) That notice be given that the Council wishes to dispose of its interest in Denton West End Library.</p>
JUSTIFICATION FOR DECISION:	<p>(1) The Council has received an application to add the library to the register of assets of community value and it meets the criteria.</p> <p>(2) The application was made in anticipation of the closure of the library. The Council has now closed the library and wishes to dispose of the site. Now the library is on the asset of community value, notice must be given of any intention to dispose.</p>
ALTERNATIVE OPTIONS REJECTED (if any):	<p>(1) Not registering the land, but since it meets the criteria for registration and the Council has no discretion, this is not appropriate.</p> <p>(2) Not giving notice of disposal of the land, but this will further delay the disposal given that the Council has no current operational need for the asset.</p>
CONSULTEES:	Internal only
FINANCIAL IMPLICATIONS: (Authorised by Borough Treasurer)	Adding the site to the list of assets of community value will delay the realisation of any capital receipt for the site. This will have no effect on the delivery of the Council's capital programme as the current programme does not depend on a receipt from this site.
LEGAL IMPLICATIONS: (Authorised by Borough	Under the Localism Act 2011 and the regulations made under it the Council must consider nominations received from qualifying bodies

Solicitor)	to add properties to its list of assets of community value. Where the property is within the Council's area and is of community value the Council is required to list the property, the effect of which will prevent the property being sold other than to the nominating body for a period of between 6 weeks and 6 months depending on whether the body wishes to be treated as a bidder.
RISK MANAGEMENT:	The listing of Council owned property as an asset of community value raises a number of risks. The Council is restricted to negotiating with community interest groups for a period of between 6 weeks and 6 months and as a result is prevented from openly marketing its property. Such a restriction may mean the Council holds on to property for longer than it might otherwise meaning it retains the usual property risks which attach to a vacant property such as vandalism and security.
LINKS TO COMMUNITY PLAN:	The significant reductions in funding that the Council receives means that as it reviews its on-going service provision it is increasingly looking towards the voluntary and community sector to help deliver services that it can no longer afford to do. Growing and encouraging local community groups to take responsibility for delivering some services in their local area helps to reduce dependency on public services and build community spirit and self-worth for those involved.
ACCESS TO INFORMATION:	<p>The background papers relating to this report can be inspected by contacting the report writer, Daniel Howard – Corporate Lawyer by:</p> <p> Telephone: 0161 342 3194</p> <p> e-mail: daniel.howard@tameside.gov.uk</p>

1. BACKGROUND

- 1.1 The Localism Act 2011 ("the Act") received Royal Assent on 15 November 2011. The provisions relating to assets of community value are contained within sections 87 to 108 of the Act and came into force in England on 21 September 2012. Since that time parish councils, community councils, and local voluntary and community organisations have been able to nominate local land or buildings to be included in the Councils list of community assets.
- 1.2 The Council has 8 weeks from receiving an application to decide whether a property must be listed, according to a number of criteria. A property will qualify where its current primary use furthers the social wellbeing or social interests of the local community, and where it is realistic to think that this use will continue. A property will also qualify when it has been in such use in the recent past, and this may realistically recur within the next five years (whether or not in the same use as before). Social interests include culture, recreation and sport.
- 1.3 The effect of a property's inclusion on the list will be to require the owner of the property to notify the Council when intending to dispose of a listed asset, so triggering a moratorium period during which community interest groups can apply to be treated as potential bidders.
- 1.4 The owner will be able to begin the sale process after an interim period of six weeks if no bidder has come forward; if a written intention to bid is received in that time then the full six month moratorium period will apply. The sale itself takes place under normal market conditions. An eighteen month protection period has also been created: if this expires before the property is sold the original notification process must start again.
- 1.5 The owner is not compelled at any point to sell the asset to the voluntary or community body – the law simply says that they cannot sell it to anyone else within the moratorium period.

2. SUMMARY

- 2.1 A nomination has been received on 9 October 2012 from the Friends of Denton West End Library to list the former library in the list of assets of community value. The nomination is being treated as a qualifying nomination and therefore the Council is required to determine whether the asset should be listed.
- 2.2 The former library is located in the Council's area and the previous and proposed use of the meets the test within the Act and regulations of land of community value so the Council is required to include it within its list of assets of community value.
- 2.3 The consequence of including the property on the list of assets of community value restricts the Councils ability to openly market it.

3. THE NOMINATION

- 3.1 On 9 October 2012 the Council received a nomination from the Friends of Denton West End Library to list the former library in the list of assets of community value. The Council has until 8 weeks to consider the nomination to determine whether it should be listed or not.
- 3.2 Denton West End Library is located on the corner of Hulme Road and Windsor Road, Dane Bank, Denton. Part of the site is used as an electrical sub-station and clearly that is not included in the site. Since the nomination was made the library has closed as a result of the new vision for Tameside's Library Service which was approved by Executive Cabinet on 24 September 2012.

- 3.3 Under the Act and regulations made under it, some types of properties are not able to be considered as assets of community value. The former library does not fall within any of the excluded kinds of asset. Under section 88 of the Act there is a two stage test which must be satisfied before an obligation to list arises.
- 3.4 The first test is that the building or other land is in the local authority's area. This is clearly the case for the former library which is clearly in Tameside.
- 3.5 The second test is that the building or other land is in the opinion of the local authority, of community value. Land is of community value where
- (1) the actual current primary use of the building furthers the social wellbeing or social interests of the local community, and it is realistic to think that it can continue or
 - (2) there was a time in the recent past when an actual primary use of the building furthered the social wellbeing or interests of the local community, and it is realistic to think that there is a time in the next five years when it could again be used to further (whether or not in the same way as before) the social wellbeing or social interests of the local community. Social interests include culture, recreation and sport.
- 3.6 The former use of the library supported the social wellbeing and social interests of the area and if the Executive Member considers that it is realistic to think, given the intentions of the Friends of Denton West End Library that this could again be used then the second test is met.
- 3.7 Section 90 (3) of the Act says that the Council must accept the nomination if the land meets both tests. Denton West End Library meets both tests and therefore should be added to the list of assets of community value. A draft letter to the Friends of the Denton West End Library is attached at **appendix 1** and a draft notice of listing is attached at **appendix 2**,

4. EFFECT OF INCLUSION ON THE LIST

- 4.1 The effect of the inclusion of Denton West End Library in the list of assets of community value means that the Council is unable to dispose of the land unless a number of conditions are all met.
- 4.2 The conditions are:
- (1) We must notify the Friends of Denton West End Library of our intention to dispose. This notification must also be recorded in the list of assets of community value and publicity must be given to the intention to dispose.
 - (2) If within 6 weeks a properly constituted community interest group express a wish to be treated as a bidder the Council will be unable sell it other than to the community group within a period of six months from the date of the notice of proposal to dispose.
- 4.3 Once the notice has been given, the land can be disposed of:
- (a) after six weeks, if no notification is received from a community interest group within that period;
 - (b) to any community interest group who has asked to bid (at any time).
 - (c) after six months, if notification is received from a community interest group that they wish to bid.

- 4.4 If the disposal has not taken place within 18 months of the initial notice being given then the process has to start again.
- 4.5 The Council will clearly remain responsible for upkeep and security of the property until it can be sold. The Government's Impact Assessment for the Act recognises that lack of capacity and expertise and access to finance are considerable hurdles, even where awareness and knowledge of the opportunities are present, so there is a risk that a negotiated sale may not occur.
- 4.6 The Council has no operational need to retain the library site and does intend to dispose of it. It is therefore proposed that notice should be given now in order to facilitate the disposal. A draft notice of proposal to dispose is at **appendix 3** of the report.

5. RECOMMENDATIONS

- (1) That the land at the corner of Hulme Road and Windsor Road, Denton comprising of the former Denton West End Library shown edged with a thick black line on the plan attached as **appendix 4** (but not including the electrical substation site) be added to the Council's list of assets of community value.
- (2) That notice be given that the Council wishes to dispose of its interest in Denton West End Library.

APPENDIX 1

Letter to the Friends of Denton West End Library

Site of the former Denton West End Library Nomination as an asset of community value

Outcome of your request

Further to my letter dated 6 November 2012 I am pleased to inform you that your community nomination was successful and that on 5 December 2012 the property was included on the Council's list of assets of community value. The Council has a right of appeal against this decision but I am pleased to say that the Council does not intend to exercise this right. Please find enclosed the formal notice of listing.

Council's intention to dispose of the asset of community value

As you know, the library has now closed. As a result, the Council has no operational need for the for the site and it does wish to dispose of it. The Council is therefore giving you formal notice of its intention to dispose of the site. I enclose a formal notice to this effect.

The Council would be quite happy to dispose of the site by selling it to the Friends of Denton West End Library at its market value. As you will appreciate, the Council is not required to dispose of the land at a discount or to any particular person, the legislation is aimed to give any community groups a six month 'breathing space' to put a viable bid together which the Council will be happy to consider. The expectation is that any such bid will need to reflect market price.

As you know from discussions with Adam Allen and others, the Council is very happy to offer practical support to community groups who wish to set up their own libraries but in order to be fair to all parts of the Borough it is not prepared to make premises available. This was agreed by the Executive Cabinet in September 2012. I am sure that you will have seen this report but it is available from the Head of Democratic Services or on the Council's website at:

<http://www.tameside.gov.uk/executivecabinet/24sep12/agenda>

Next steps

I thought it might be helpful to set out what happens next.

1. There is an initial period of six weeks which starts today. If any community interest group wishes to register their interest as a potential bidder for the site then they need to let us know, in writing, during the next six weeks. This can be a letter or email but it must state the full name and status of the group.
2. Please note that the rules say that are quite specific about the requirements for such a group. The community interest group **must** have links to Denton and **must** be:
 - a. a charity,
 - b. a company limited by guarantee which does not distribute any surplus it makes to its members,
 - c. an industrial and provident society which does not distribute any surplus it makes to its members; or
 - d. a community interest company.
3. It may be that the Friends of Denton West End Library will wish to set itself up as a community interest group so that it can register as a potential bidder – or you might find another local group which meets the legal tests set out above which is prepared to bid on your behalf. Any group will need to meet the legal requirements set out in (2).
4. If a qualifying group does register as a bidder then the Council will not dispose of the land until at least six months from today. The Council's surveyors will be happy to negotiate with the community interest group during that six month period.

5. After the six month period runs out then the Council will be is legally entitled to dispose of the site in any way it chooses.
6. It is likely that the Council will actively market the property for disposal during this period. This is so that the Council can make the final decision with the benefit of complete information.

Further guidance and information is available from the Department for Communities and Local Government at <http://communityrights.communities.gov.uk/what-are-community-rights/community-right-to-bid/>

If the Friends of Denton West End Library wish to progress this then I look forward to receiving a request to bid (from a community interest group which meets the legal requirements set out in this letter) within the next six weeks.

You will appreciate that the Council cannot give you legal advice about this if you have any query then please let me know and I will do my best to help. If you need legal advice then you will need to obtain it from your own solicitors. If you want to set up a charity then the Charity Commission website has much helpful information which would make a useful starting point in the 'start up a charity' section. <http://www.charitycommission.gov.uk/>

APPENDIX 2

TAMESIDE METROPOLITAN BOROUGH COUNCIL

REGISTER OF ASSETS OF COMMUNITY VALUE

NOTICE OF LISTING – LOCALISM ACT 2011

On [] the Council accepted a nomination for inclusion of the Property in its list of assets of community value. In accordance with section 91(2) of the Act the consequence of such listing will prevent to Owner from disposing of the Property otherwise in accordance with the provisions of the Act.

The Owner of the land included in the list may ask the Council to review its decision to include the land in the list by writing to the undersigned at the address below within 8 weeks of this notice.

The Property

The land at the corner of Hulme Road and Windsor Denton Road, Denton formerly comprising Denton West End Library shown edged with a thick black line on the attached plan (but not including the electrical substation site).

Dated []

Sandra Stewart, Borough Solicitor, Council Offices, Wellington Road, Ashton-under-Lyne, OL6 6DL.

APPENDIX 3

TAMESIDE METROPOLITAN BOROUGH COUNCIL

REGISTER OF ASSETS OF COMMUNITY VALUE

NOTICE OF INTENDED DISPOSAL – LOCALISM ACT 2011

NOTICE is hereby given that on [] the Council received notice from the owner of the Property that it proposes to enter into a relevant disposal. Under section 97 of the Localism Act 2011 the following moratorium periods apply:-

Interim moratorium period - [Six weeks from the date of the decision]
Full moratorium period - [Six months from receipt of an expression to be treated as a bidder]
Protected period [18 months from the date of decision/receipt of notice of intention to sell]

Any community interest group wishing to be treated as a potential bidder in relation to the Property must make a written request to the Council before the end of the interim moratorium period.

Please note that only the following are community interest groups:

- (a) a charity
- (b) a company limited by guarantee which does not distribute any surplus it makes to its members
- (c) an industrial and provident society which does not distribute any surplus it makes to its members; or
- (d) a community interest company.

SCHEDULE ("the Property")

[]

Dated []

Sandra Stewart, Borough Solicitor, Council Offices, Wellington Road, Ashton-under-Lyne, OL6 6DL.