

MEETING

URGENCY COMMITTEE

DATE AND TIME

THURSDAY 29TH JANUARY, 2015

AT 6.00 PM

VENUE

HENDON TOWN HALL, THE BURROUGHS, LONDON NW4 4BQ

TO: MEMBERS OF URGENCY COMMITTEE (Quorum 3)

Chairman: Councillor Richard Cornelius
Vice Chairman: Daniel Thomas

Councillors

Alison Moore

Substitute Members

Anthony Finn Barry Rawlings Joan Scannell

You are requested to attend the above meeting for which an agenda is attached.

Andrew Charlwood – Head of Governance

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Media Relations contact: Sue Cocker 020 8359 7039

ASSURANCE GROUP

ORDER OF BUSINESS

Item No	Title of Report	Pages
1.	Absence of Members	
2.	Declaration of Members' Disclosable Pecuniary interests and Non Pecuniary interests (If any)	
3.	Report of the Monitoring Officer (if any)	
4.	Public Questions and Comments (if any)	
5.	Members' Items (if any)	
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7.	London Boroughs Grants Scheme - Borough Contributions 2015/16	7 - 14
8.	Any other item(s) the Chairman decides are urgent	

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Urgency Committee

29 January 2015

Title	Nomination of East Finchley Library as an Asset of Community Value
Report of	Director of Strategy
Wards	East Finchley
Status	Public
Enclosures	None
Officer Contact Details	Elissa Rospigliosi, Commissioning & Policy Advisor (elissa.rospigliosi@barnet.gov.uk , 020 8359 7158)

Summary

The Localism Act 2011 introduced the Community Right to Bid, a new right for local people to nominate buildings or pieces of land that they believe contribute to the social interests or wellbeing of their local communities to be listed on a register of Assets of Community Value (ACVs), managed by the local authority.

The Right applies to public and private property, although there are a number of exceptions under the legislation, including private residences.

Where land is listed as an ACV, if an owner of a listed asset subsequently wishes to dispose of it, there will be period of time during which the asset cannot be sold or a qualifying lease granted or assigned (a qualifying lease is a lease originally granted for a 25 year term). This period is known as a moratorium and would ultimately be for a period of six months. The moratorium is intended to allow community groups the time to develop a proposal and raise the required capital to bid for the asset when it comes onto the open market at the end of that period. The owner is under no obligation to accept a bid from the community group and can sell the property to whomever they wish once the six month moratorium is over.

A nomination has been received to list East Finchley Library as an Asset of Community Value and this report asks the Committee to make a decision on this nomination.

Recommendation

That the Committee agree that East Finchley Library should be listed as an Asset of Community Value and added to the Council's Register.

1. WHY THIS REPORT IS NEEDED

The Community Right to Bid

- 1.1 The Localism Act 2011 introduced a new right for groups of local people to nominate buildings or pieces of land which contribute to the 'social interests or wellbeing' of their local communities to be listed on a register of Assets of Community Value, which is maintained by the local authority.
- 1.2 Nominations can apply to public or private assets, although certain kinds of asset (such as private homes) are exempt.
- 1.3 The Act asks the Council to consider whether the main use of the nominated asset does contribute to social interests or wellbeing, and whether it is realistic to think it will continue to do this (whether or not the use remains exactly the same).
- 1.4 The Act defines social interests as 'includ[ing] cultural, recreational, and sporting interests'. There is no further definition.
- 1.5 The statutory tests which the Council must apply when assessing a nomination are:
 - (i) Its main use furthers the social wellbeing or cultural, recreational or sporting interests of the local community; and it is realistic to think that the main use will continue to further the social wellbeing or cultural, recreational or sporting interests of the local community; or,
 - (ii) Where the main use does not currently have such a community benefit, but in the 'recent past' it did have and the Council considers it likely that it would be able to have such a use in the next 5 years.

Where either of the above criteria is met, the Council must list the land or building on its list of community assets.
- 1.6 If the Council lists the nominated land, a restriction is placed on the land if the land is registered. If the owner wishes to sell the asset or to lease it for more than 25 years, and if a local community group expresses an interest in taking it on and continuing its community use, then the sale is delayed for a six month period. This is designed to give the community group the opportunity to raise funds to try to purchase the asset – at market value

- 1.7 The owner is under no obligation to accept the community's bid over any other bid. There is no 'right of first refusal' for the community group, only the right to request the moratorium. The owner is free to work with other potential buyers and stimulate the wider market during the moratorium.
- 1.8 While the Localism Act and Regulations do not state whether or not ACVs are material considerations in a planning context, the Government's non-statutory advice note on ACVs advises that this is at the discretion of the local authority. The advice note states as follows:

'the provisions do not place any restriction on what an owner can do with their property, once listed, so long as it remains in their ownership. This is because it is planning policy that determines permitted uses for particular sites. However the fact that the site is listed may affect planning decisions – it is open to the Local Planning Authority to decide whether listing as an asset of community value is a material consideration if an application for change of use is submitted, considering all the circumstances of the case' (*Community Right to Bid: Non-statutory advice note for local authorities*, October 2012).

Barnet's planning procedures already take account of the social and community use of land or buildings when a planning application comes forward. Where an application in relation to an Asset of Community Value is being considered, the listing will be one of the considerations which can be taken into account by the relevant planning committee who can determine the appropriate weighting to be given to the listing.

- 1.9 The Act therefore has little or no impact unless an asset is being put up for sale or long term lease *and* local feeling about it is strong enough that local people have a constituted group in place to put in a proposal to buy it. Even if all these conditions are in place, the limitation is only the six-month delay, after which the owner can sell the asset to whomever they wish.

Nomination of East Finchley Library

- 1.10 East Finchley Library Users Group has nominated East Finchley Library and its curtilage, including the forecourt (which contains the disabled and cycle parking bays, accessibility ramp and book deposit box) as an Asset of Community Value.
- 1.11 The nominating group believes the property to be of community value on the grounds that:
- It is the direct provider of a number of services which have social and community value, such as access to information and literacy support;
 - It indirectly contributes social and community value in a number of ways, including promoting social cohesion and providing a refuge for people in need.

- 1.12 The nominating group have also stated that their purpose in listing the asset is to help protect the building, for the reason that those of its uses which promote social and community value could not be provided on any smaller alternative site.
- 1.13 The nomination has passed the statutory tests set out under the Localism Act and has also passed the Council's due diligence tests.
- 1.14 This report therefore recommends that the Committee list East Finchley Library as an Asset of Community Value.
- 1.15 It should be noted that the listing would restrict plans for the library site where a relevant disposal is intended, but only to the extent that any relevant disposal would be delayed during the moratorium designed to allow a community group to bid to buy the site, described in 1.6 above. The Council would be under no obligation to sell the site to any community group.

2. REASONS FOR RECOMMENDATIONS

- 2.1 The nomination has passed the Council's due diligence tests including submission of evidence that the group is eligible to nominate. The nomination passes the first statutory test as it clearly furthers the social interests and wellbeing of the local community. The Council has previously listed Friern Barnet Community Library as an Asset of Community Value, setting a local precedent.
- 2.2 East Finchley Library is within the scope of the Libraries Strategy, which is currently out for public consultation. No decision has therefore been taken about the future of East Finchley Library and the (non-exhaustive) options for the site include an option in which the building is offered to the local community to be run as a community library. Both this option and others are currently possible and so there is a realistic chance that the asset will continue to provide the activities for which it has been nominated. The nomination therefore passes the second statutory test.

3. ALTERNATIVE OPTIONS CONSIDERED AND NOT RECOMMENDED

- 3.1 The Council could decide not to list East Finchley Library as an Asset of Community Value, but this would mean that it was not fulfilling its statutory duty under the Localism Act 2011.

4. POST DECISION IMPLEMENTATION

- 4.1 East Finchley Library will be added to the register of Assets of Community Value and the nominating group informed of the outcome.

5. IMPLICATIONS OF DECISION

5.1 Corporate Priorities and Performance

5.1.1 This decision contributes to the Corporate Plan's objective to promote family and community wellbeing and support engaged, cohesive and safe communities by fulfilling one of the rights granted to local communities under the Localism Act 2011.

5.1.2 In supporting more engaged, cohesive and safe communities, this decision will also contribute to the Health and Wellbeing Strategy's priority to increase wellbeing in the community.

5.2 Resources (Finance & Value for Money, Procurement, Staffing, IT, Property, Sustainability)

5.2.1 The potential moratorium which could result from the listing on any substantial change of use of East Finchley Library could have a financial impact if it resulted in a delay in implementing future plans for the Library Service. However, this possible time delay will be factored into the implementation plan for the Libraries Strategy.

5.3 Legal and Constitutional References

5.3.1 The Localism Act 2011 gives the Council the responsibility to list assets nominated by local community groups as Assets of Community Value if these are deemed to pass the statutory tests set out in the Act.

5.3.2 Normally decisions on nominations made under the Community Right to Bid are considered by the Community Leadership Committee. However, the Community Leadership Committee is not scheduled to meet until 11 March 2015, which is outside the timeframe within which the Council is, by law, required to respond to the nominating group.

5.3.3 Section 15 of the Council's constitution, Responsibility for Functions, states that 'If a decision on an issue is required as a matter of urgency and if time allows under the provisions of the Access to Information Rules then a Committee comprising of the Leader, the Deputy Leader, and the Leader of the Opposition will be called. The decision may be within the terms of reference of another committee, but this will not invalidate the decision as the arrangements to discharge the function in cases of urgency is through a committee comprising the three specified members. The Committee must consult with the Chairman of the relevant Committee.'

5.4 Risk Management

5.4.1 As stated above, there is a risk that the potential moratorium which could result from the listing on any substantial change of use of East Finchley Library could have a financial impact if it resulted in a delay in implementing future plans for the Library Service. This will be mitigated by factoring this

possible time delay into the implementation plan for the Libraries Strategy

5.5 Equalities and Diversity

- 5.5.1 No negative differential impact on people with any characteristic protected under the Equality Act 2010 has been identified with regard to this nomination.

5.6 Consultation and Engagement

- 5.6.1 A draft amendment to the Council's Community Right to Bid policy was carried out between 11 February and 24 March 2014. The results of that consultation were set out in a report taken to the Community Leadership Committee on 25 June 2014 and the Council's guidance on the Community Right to Bid amended following agreement of that report.

6. BACKGROUND PAPERS

- 6.1 Community Right to Bid: Consultation and recent developments (Community Leadership Committee, 25 June 2014)
<http://barnet.moderngov.co.uk/documents/s15687/Community%20Right%20to%20Bid%20Report.pdf>).

	AGENDA ITEM 7
	<h2>Urgency Committee</h2> <h3>29 January 2015</h3>
Title	London Boroughs Grants Scheme – Borough Contributions, 2015/16
Report of	Deputy Director of Finance & Deputy Chief Operating Officer
Wards	All
Status	Public
Enclosures	None
Officer Contact Details	Ken Argent, Grants Manager, Finance, Commissioning Group (ken.argent@barnet.gov.uk) (020 8359 2020)

<h2>Summary</h2>
This report considers the proposals of the London Councils Leaders’ Committee regarding the overall level of expenditure of, and borough contributions to, the London Boroughs Grants Scheme (LBS) in 2015/16.

<h2>Recommendations</h2>
<p>(1) That the recommendation of the London Councils Leaders’ Committee for an overall level of expenditure of £10,500,000 in 2015/16, involving total borough contributions of £9,000,000 and a levy on Barnet of £394,666, be approved.</p> <p>(2) That the Deputy Director of Finance & Deputy Chief Operating Officer be instructed to inform the Chief Executive of London Councils accordingly.</p>

1. WHY THIS REPORT IS NEEDED

- 1.1 Formal approval to the 2015/16 LBGS budget by at least 22 of the constituent boroughs is required before 1 February 2015. In the event that the budget is not agreed by this statutory deadline, the Secretary of State for Communities and Local Government has powers to intervene and set the budget at the same level as in 2014/15 (£10,000,000).

2. REASONS FOR RECOMMENDATIONS

- 2.1 The budget reflects how the LBGS has been reconfigured since 2011/12, with the approval of constituent authorities, pursuant to the significant cuts in public sector spending. The recommendation acknowledges the satisfactory performance of currently commissioned services.

3. ALTERNATIVE OPTIONS CONSIDERED AND NOT RECOMMENDED

- 3.1 The next meeting of the Policy and Resources Committee to which this report would ordinarily have been submitted is not until 17 February, after the statutory deadline for notifying the council's decision.

4. POST DECISION IMPLEMENTATION

- 4.1 The Chief Executive of London Councils will be notified of the council's decision on 30 January in compliance with the deadline set.

5. IMPLICATIONS OF DECISION

5.1 Corporate Priorities and Performance

- 5.1.1 The council is committed to working in partnership with the voluntary and community sector (and with other public agencies and local businesses) to ensure that high quality public services are delivered in the most effective and efficient way in line with the Corporate Plan.
- 5.1.2 The LBGS was established in 1985 under section 48 of the Local Government Act 1985 to make grants to pan-London and sub-regional voluntary organisations. The scheme remains in force so long as a majority of London boroughs continue to support it.
- 5.1.3 Section 48(3) of the 1985 Act requires constituent councils to contribute towards any expenditure of the designated authority in the making of grants which has been incurred with the approval of at least a two-thirds majority of the councils.
- 5.1.4 With the consent of constituent authorities, the City Corporation succeeded the London Borough of Richmond upon Thames as the appointed designated

authority for the LBGS in 2004, involving the discharge of certain formal requirements such as issuing the annual levy on boroughs. In all practical respects, however, the scheme is administered by London Councils.

Review of Future Role and Scope of LBGS

- 5.1.5 In 2010, following a review of the future role and scope of the LBGS set against significant cuts in public sector spending, the London Councils Leaders' Committee agreed the principles for a future grants scheme based on funding a genuinely London-wide programme embracing services that are frontline, particularly specialist or where mobility of clients is key to delivery; infrastructure support to service providers; voice/representation services; and capacity building.
- 5.1.6 It was decided that all pan-London commissioned services would continue to be funded to the end of their funding agreement in 2012/13. Funding for all services categorised as essentially local in nature, but either more suited to sub-regional decision-making and delivery or capable of local determination and priority, ceased in 2011/12.
- 5.1.7 Some of the decisions, mainly concerning the categorisation of grant-supported activities, were subsequently revised in 2011 following a High Court ruling on a judicial review claim that the consultation process on the changes was flawed, as a consequence of which the decommissioning of services was delayed. The need for a supplementary levy on boroughs towards re-balancing the LBGS budget in 2011/12 ultimately resulted in a saving to Barnet on the levy payable of £526,527.
- 5.1.8 A 39.8% reduction in the LBGS budget for 2012/13 resulted in a further saving to Barnet on the levy payable of £107,250.
- 5.1.9 In May 2012, following consultation with boroughs and other stakeholders, the Leaders' Committee agreed the new principles and priorities to be applied in selecting commissions through the LBGS to start from April 2013, based on commissioning fewer, but better resourced, services and only those that are genuinely pan-London. The priorities are:
- to tackle homelessness, including developing new ways of working with partners, focused on early intervention and prevention of homelessness, emergency accommodation and advice services;
 - to prevent sexual and domestic violence and assist victims to access emergency services and/or services that support women and communities affected by forced marriage and harmful practice;
 - to tackle poverty by promoting access to employment and training, drawing on opportunities for match funding provided by boroughs working with London Councils and the European Social Fund (ESF);

- to help London's voluntary and community sector to build capacity and operate more efficiently.

5.1.10 These commissioning priorities broadly reflected the council's views as expressed in response to the consultation, although it ranked homelessness as a lower priority compared to the other three.

5.1.11 35 commissions were agreed for a four-year period, extending to 31 March 2017, under the four new priorities.

5.1.12 The levy on Barnet fell by a further £119,530 in 2013/14 to £392,182, based on an LBGS budget of £10,000,000.

2014/15 LBGS budget

5.1.13 The LBGS has an overall budget of £10,000,000 in 2014/15 to meet the cost of the commissions, which is met from:

	£
borough subscriptions	9,000,000
income from the ESF	1,000,000
	<u>10,000,000.</u>

Barnet's contribution in 2014/15 fell by a further £32,969 to £359,213 following the decision of the Leaders' Committee to return £800,000 of Grants Committee reserves to boroughs as a one-off payment to reduce their overall contributions.

2015/16 LBGS budget

5.1.14 The Leaders' Committee on 9 December 2014 agreed to recommend to constituent authorities for approval an overall level of expenditure of £10,500,000 for 2015/16, made up of:

	£	(2014/15) (£)
grants	9,885,000	(9,420,000)
operating expenditure (including central recharges and London Funders' membership fees)	615,000	(580,000).

The budget reflects the need to re-fund some of the commissions which attract ESF co-financing in advance of decisions on the ESF co-financing programme, funding that will ultimately be reclaimable, and the impact on administrative costs of revised monitoring arrangements.

5.1.15 It is proposed that the budget would be met as follows:

	£
borough subscriptions	9,000,000
ESF income	1,250,000
transfer from reserves	250,000
	<u>10,500,000.</u>

This would result in Barnet contributing £394,666, presented by London Councils as being an increase of £408 on the 2014/15 *baseline levy*, equating to an increase of 0.01% in Barnet's share of the levy on the basis of population data (see 5.2.1 below). However, as the actual 2014/15 levy on Barnet was reduced by the one-off transfer from reserves, its proposed contribution in 2015/16 will constitute an increase of £35,453 on the actual sum paid this year.

5.1.16 The latest quarterly review of commissioned services supplied by London Councils showed an overall satisfactory (RAG') rating of 91% in terms of performance, quality and compliance across the board compared to 74% six months previously.

5.1.17 London Councils is in the process of agreeing revised targets for 2015/16 with 25 of the 35 current commissions. Different arrangements apply in the case of the ten remaining commissions with ESF co-financing, linked to the timetable for renewing the co-financing programme.

5.2 Resources (Finance & Value for Money, Procurement, Staffing, IT, Property, Sustainability)

5.2.1 The annual payment to the LBGS is a levy under section 74 of the Local Government Finance 1988 and regulations made under it. Individual borough contributions are determined by total resident population of the respective boroughs, based on Office of National Statistics (formerly OPCS) mid-year estimates for the year two years before the start of the financial year for which the levy is issued.

5.2.2 The levy on Barnet has fallen in each of the last four years from £1,145,489 in 2010/11 to £394,258 in 2014/15 if disregarding Barnet's share of the one-off transfer from reserves this year, resulting in an a recurrent annual saving of £751,231 for 2014/15. This sum has been placed in an earmarked reserve.

5.2.3 To date, £80,000 from the reserve was used to top up the Children's Service Positive Activities Programme in 2011/12. £125,000 was allocated for capital schemes to renew play equipment in two parks in 2012/13 and a further £29,228 was used to underwrite a shortfall in the budget for community advice services. In 2013/14, £250,000 was allocated to fund a three-grant to Avenue House Estate Trust as the council's contribution to a major improvement programme supported by the Heritage Lottery Fund.

- 5.2.4 Based on mid-year 2013 population estimates, when Barnet's population was £369,100 (compared to 363,960 in mid-2012), Barnet's contribution to the LBGS in 2015/16 will be 4.39% of total borough contributions compared to the 4.38% applied this year.
- 5.2.5 Provision for the level of contribution to the LBGS, as finally approved, will be included in the draft 2015/16 revenue budget, which will be presented to the Policy and Resources Committee on 17 February 2015. If the LBGS budget put forward is approved, Barnet's contribution in 2015/16 will reduce the recurrent annual saving by £408 to £750,823 in 2015/16.
- 5.2.6 Approval of the budget will mean that borough contributions to the LBGS will have reduced since 2010/11 from £24,900,000 to £9,000,000, a reduction of £15,900,000 or 64%.

5.3 Legal and Constitutional References

- 5.3.1 Council Constitution, Responsibility for Functions, Annex A: the terms of reference of the Urgency Committee are "To consider any item of business which needs a decision as a matter of urgency and where a meeting of the relevant committee is not scheduled to take place within the time period within which the decision is required".
- 5.3.2 Further legal and constitutional considerations are detailed in paragraphs 5.1.2, 5.1.3, 5.2.1 and 5.5 (below).

5.4 Risk Management

- 5.4.1 The council is bound by law to contribute towards the costs incurred by the designated authority in the making of grants under the LBGHS according to the formula set out above. In the event of the scheme being discontinued, constituent authorities would be required to contribute to its winding up costs, both in relation to grant commitments made and the closing of the unit that administers the scheme. These have not been quantified.
- 5.4.2 If the LBGS budget for 2015/16 is not agreed by two-thirds of constituent councils before 1 February 2015, the budget will be set at the same level as in 2014/15 (£10,000,000), but with borough subscriptions remaining unchanged at £9,000,000, as proposed for next year.

5.5 Equalities and Diversity

- 5.5.1 Under section 149 of the Equality Act 2010, the council and all other organisations exercising public functions must have due regard to the need to:
- eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by or under the Act;
 - advance equality of opportunity between people from different groups;
 - foster good relations between people from different groups

The broad purpose of this duty is to integrate considerations of equality into daily business and keep them under review in decision making; the design of policies; and the delivery of services.

- 5.5.2 An analysis by London Councils in accordance with the duties under the Act identified that a refocusing of the grants programme to reflect the reduced resources available in the context of the significant spending constraints facing local authorities would have an impact on protected groups of people. The principles and priorities of the new programme, and the service specifications and strands to deliver outcomes, seek to apply scarce resources to mitigate, where possible, any adverse equality impacts arising from a refocused programme operating with a reduced budget.

5.6 Consultation and Engagement

- 5.6.1 London Councils continues to share with boroughs data on the performance of commissioned services.
- 5.6.2 The chairman of the Policy and Resources Committee has been consulted on this report and concurs in the recommendations.

6. BACKGROUND PAPERS

- 6.1 Grants Committee Report 9/12/85-1: agreement to support the LBGS.
- 6.2 DPR1206, Nov 2010: approval of the council's response to London Councils Chief Executives' Circular 15/10, seeking views on the future role and scope of the LBGS.
- 6.3 DPR1316, Apr 2011: approval of the council's response to a supplementary review of the future scope of the LBGS following a High Court ruling which quashed some of the earlier decisions.
- 6.4 DPR1608, Mar 2012: endorsement of the council's response to consultation by London Councils on the principles and priorities to be applied in selecting commissions through the LBGS to start from 1 April 2013 and proposals in relation to transitional funding.
- 6.5 DPR, Jan 2014: approval of an overall level of LBGS expenditure of £10,000,000 in 2014/15, involving total borough contributions of £8,200,000 and a reduction in Barnet's contribution (by £32,969) to £359,213.
- 6.6 Reports to London Councils Grants Committee (26 November 2014) and Leaders' Committee (9 December 2014) on the LBGS proposals for 2015/16.
- 6.7 London Councils Chief Executives' Circular 4/14 seeking approval to the 2015/15 LBGS budget.

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