

	<h2 style="margin: 0;">Urgency Committee</h2> <h3 style="margin: 0;">29 January 2015</h3>
Title	<h2 style="margin: 0;">Nomination of East Finchley Library as an Asset of Community Value</h2>
Report of	Director of Strategy
Wards	East Finchley
Status	Public
Enclosures	None
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<h2 style="margin: 0;">Summary</h2>
<p>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.</p> <p>The Right applies to public and private property, although there are a number of exceptions under the legislation, including private residences.</p> <p>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.</p> <p>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.</p>

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>.