

TRAFFORD COUNCIL

**DELEGATED EXECUTIVE MEMBER DECISION REPORT**

**Report to:** Executive Member for EGP  
**Date:** 18 October 2013  
**Report for:** Decision  
**Report of:** Corporate Director EGP and Director of Legal and Democratic Services

**Report Title**

**Revision to the process for determining nominations to list assets of community value under the terms of the Localism Act 2011**

**Summary**

Following the determination of the first nomination received by the Council for the listing of an asset as an Asset of Community Value (ACV) the council's process for determining such nominations has been reviewed and it is recommended that the decision making process and the review procedure is adjusted as set out below

**Recommendation(s)**

**That the establishment of a Member Panel is agreed as set out in this report in order to consider and determine nominations to list premises as assets of community value in accordance with the Localism Act 2011**

**Contact person for access to background papers and further information:**

Name: Jane Le Fevre  
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Background Papers - None

*Implications:*

Relationship to Corporate Priorities	
Financial	None
Legal Implications:	<i>Under the terms of the Localism Act 2011 authorities are required to agree a process for the consideration and determination of nominations of assets as assets of community value</i>
Equality/Diversity Implications	None
Sustainability Implications	None
Staffing/E-Government/Asset Management Implications	None
Risk Management Implications	None
Health & Wellbeing Implications	None
Health and Safety Implications	None

## 1.0 Background

Following the determination of the first nomination received by the Council for the listing an asset as an Asset of Community Value (ACV) the Council process for determining such nominations has been reviewed and it is recommended that the decision making process and the review procedure is adjusted as set out below.

## 2.0 Current process

- 2.1 The current process was set out in the report on Community Assets which was approved by the Executive in June 2013. However, the published decision in relation to process is as follows:-

*“That it be noted that the agreement of a process of decision making and review of applications for Community Right to Bid had been delegated to the Executive Member for Economic Growth and Prosperity in conjunction with the Corporate Director for Economic Growth and Prosperity and Acting Director of Legal and Democratic Services”.*

- 2.2 The process originally agreed upon required that any application to list premises as an Asset of Community Value would be considered by the Strategic Lands Group (SLG), chaired by the Corporate Director for Economic Growth and Prosperity.
- 2.3 This group is made up of officers from across the Council, including the Corporate Director ET&O, Deputy Corporate Director Communities Families and Wellbeing, Director of Environment, Head of Growth, Head of Planning, Director of Legal and Democratic Services, Head of Service Education Strategic Support, Strategic Manager, Culture and Sport, Sustainability and Greenspace Strategy Manager, Asset Manager, Strategic Manager Neighbourhoods and Communities, the Acting Head of Procurement and the Libraries Manager. As such it was felt that the Group covered all areas which would relevant to the consideration of such nominations.
- 2.4 SLG were required to decide whether in their opinion the asset satisfied the criteria for listing, which turn upon whether the current use of the asset furthers the social wellbeing and interests of the local community. There is currently no provision for member involvement other than that the relevant Ward members are notified of a nomination within their area and are given the opportunity to comment on it.
- 2.5 If approved the asset is listed and the owner is notified of the decision and may then seek a review of that decision. The review body suggested in the report to Executive

is the Executive Member ( EGP ),the Corporate Director ( EGP ) and the Director of Legal and Democratic Services.

**2.6** If rejected, the building is placed on the list of rejected assets.

### **3.0 Concerns identified in relation to the current process**

- 3.1** There is nothing in the legislation or the supporting regulations and guidance which sets out how authorities should manage the decision making process to be followed when considering a nomination from a community body. The regulations do however specify that any review requested by an owner of an asset which has been listed must be carried out by a senior officer of the council who has not been previously involved in the decision making process in relation to the asset.
- 3.2** Based upon the experience of dealing with the nomination relating to MUFC's Old Trafford Ground, it was felt that the process which had been agreed was not suited to dealing with large or sensitive nominations where there were strong competing interests involved. It is therefore recommended that the decision making process should be modified.
- 3.3** The key concern with regard to the current process is that, other than the referral of the nominations to local members, there is no provision for member involvement in deciding whether or not the asset should be listed. It is however considered that there is still a role for SLG in the consideration of nominations.

## **4 Proposed Process**

- 4.1** It is proposed therefore that nominations will in the first instance be referred to the SLG. There will still be a referral of the nomination to ward members for their comments and these will be reported to the SLG.
- 4.2** The SLG will consider the nomination and all supporting information and any relevant representations and objections. The SLG will then determine whether to recommend that the nomination should be agreed or rejected. They will then prepare a report to a Members panel, chaired by the Executive Member (EGP) who will consider the matter in the light of the report and who will be responsible for determining whether the asset should be listed.
- 4.3** It is suggested that a panel of six members, chaired as indicated above, is established. The panel should be constituted: - 4 Conservative; two Labour; and 1 Lib. Dem, with the Chairman having a casting vote in the event of there being no majority on any matter. The three group leaders will be asked to nominate members to be included in this standing panel. In the event that the numbers of nominations received makes this too onerous for the members nominated to deal with all nominations within a reasonable time scale, it would be possible to seek further nominations from the group leaders, but the overall aim will be to try to maintain consistency in relation to the decision makers.
- 4.4** The panel will be supported by a Legal Officer who will attend and will provide advice if required.

4.5 In accordance with the regulations reviews of decisions should be carried out by a senior officer of the Council.

**Other Options**

The revised approach has been proposed following a review of the existing procedures with a view to including more Member involvement in the decision making process. Consideration has been given to the procedures established in other authorities. It would appear that there is no consistency of approach, with a wide range of different models being employed. This proposed arrangement offers the detailed consideration of the nomination by officers from across the Council and full consideration by elected members who will also have access to the representations of the local members and to legal advice in relation to the nomination and the process.

**Consultation**

The original delegation from the Executive in relation to this matter required that there be consultation between the Executive Member for EGP, the Corporate Director for EGP and the Director of Legal and Democratic Services. That consultation has occurred.

**Reasons for Recommendation**

To ensure that the council has in place a robust procedure for the determination of nominations to list assets as assets of community value made in accordance with the terms of the Localism Act 2011

**Finance Officer Clearance** (type in initials)... ID.....  
**Legal Officer Clearance** (type in initials)... JL.....

**[CORPORATE] DIRECTOR'S SIGNATURE** (electronic).....HJ.....  
To confirm that the Financial and Legal Implications have been considered and the Corporate Director has cleared the report prior to issuing to the Executive Member for decision.

