

COMMUNITY RIGHT TO BID LAND AND PREMISES AT LYDNEY

1. BACKGROUND AND REASONS FOR RECOMMENDATION

- 1.1.** The Community Right to Bid provides communities with an opportunity to ensure that buildings and amenities of community value remain in public use. The power was conceived for use in relation to assets such as the local pub, village shop, community centre, library building, etc. The aim of the Act is to help the community keep assets in community use and it should not be seen as a tool to block and/or delay developments.
- 1.2.** The list of assets of community value is maintained by the Council and land may be entered onto the list in response to community nominations. The Council is obliged to place nominations on the list if it is within the Council's area and if it is, in the opinion of the Council, of community value. The Council must determine nominations within 8 weeks.
- 1.3.** The legislation provides two possible constructions of community value:
either:

(a) the land and buildings have an actual current use that is more than ancillary and furthers the social wellbeing or interests of the local community and it is realistic to think that there can continue to be a more than ancillary use that furthers the social wellbeing or interests of the local community, be this in the same or another way.

or:

(b) the land or buildings were in the recent past used (and that use was more than ancillary) to further the social wellbeing or interests of the local community and it is realistic to think that there is a time in the next 5 years when the land and buildings could be put to a more than ancillary use that would further the social wellbeing or interests of the local community, be this in the same or another way.

In this context 'social interests' includes cultural, recreational and sporting interests.

- 1.4.** To meet the test applicants should be able to demonstrate the community use by way of examples, e.g. shopping, sports, community clubs etc. They should also be able to identify how the community use would continue in the future e.g. will the asset continue to be a pub or will be it developed into a pub with a shop and library element.

- 1.5. If the Head of Paid Service determines that the nominated land or buildings should be entered onto the community assets register, the owner of the land or buildings will be notified and a statutory procedure will apply before the owner is able to make a 'relevant disposal' of the land. A relevant disposal includes a sale of the freehold or in certain circumstances, the grant of a lease. The owner is required to notify the Council of their intention to make a relevant disposal; there will then be a 6 week interim moratorium in which community interest groups can request to be treated as a potential bidder for the asset. If such a request is received, there will be a 6 month moratorium to allow the group to raise funds.
- 1.6. If the Head of Paid Service decides that the community value test has not been met, the nomination must be rejected and the land will be entered onto the list of unsuccessful community nominations. Land will remain so listed for 5 years.

2. LYDNEY TOWN COUNCIL NOMINATION

- 2.1. Lydney Town Council's nomination is attached at Annex A. This was subsequently modified whereby areas highlighted in yellow and owned by The Watts Group of Companies were withdrawn (see Annex B).
- 2.2. The application envisages the site being developed to encourage commercial growth within the town centre and provide a re-branding for the town to encourage future investment.
- 2.3. Part of the site will continue to be retained to improve social and/or improvement to the environment, including the walk way along the River Lyd.
- 2.4. A nomination was previously submitted by Lydney Town Council and presented to Cabinet (Report LD.452 Appendix C). Cabinet agreed for Lydney Bus Station to be listed as an Asset of Community Value as this provided a unique local service in the local area. The other sites listed in their nomination provided local services but were not unique service providers and as such did not further the social wellbeing of the local community.

3. OWNERS' RESPONSE

- 3.1. No response has been received from the owners.

4. ANALYSIS OF THE STATUTORY TEST

- 4.1. The site is currently used for a mixture of Commercial (retail) use and car parking. Therefore the relevant test to be considered is as set out in paragraph 1.3 (a) above. This means that there are two key elements which need to be met:
 - The land and buildings have an actual current use that is more than ancillary and furthers the social wellbeing or interests of the local community; and
 - It is realistic that a use (whether the same as the existing use or otherwise) that furthers the social wellbeing or interests of the local community can continue.

- 4.2. Addressing the first part of the test, the site provides commercial premises including an Estate Agent, A Supermarket with Car Parking (currently vacant) and Fitness Suite (also currently vacant). As commercial premises, they do not offer social value (such as sport, culture or recreational use) or increase the wellbeing of the community.
- 4.3. Turning to the second part of the test, the Town Council have failed to demonstrate how the land will be developed to provide a social benefit to the community,

5. COMPENSATION

Private owners of land are able to claim compensation for any loss or expense that they would not have incurred, but for the listing of the land. In most cases where the land is in private ownership, they would be entitled to claim compensation from the Council if the land was listed.

6. RECOMMENDATION

- 6.1. It is recommended that the statutory test is not met and therefore the commercial premises located at Lydney should not be listed on the Register of Community Assets.

7. ALTERNATIVE OPTIONS

None- The Council has a duty to determine the nomination by reference to the statutory test of Community Value.

<p>Legal implications</p>	<p>It is a requirement under the Localism Act 2011 for the Council to have in place a Register of Assets of Community Value and determine nominations to include land on this Register.</p> <p>Should the nominated land be included on the Register of Community Assets, before the owner is able to make a disposal of the land a statutory procedure will apply. This procedure allows community interest groups to notify the owner that they wish to be treated as a potential bidder for the community asset. Following which there is a 6 month moratorium period to allow the group time to raise funds.</p>
<p>Financial Implications</p>	<p>Private owners of land are able to claim compensation for any loss or expense that they would not have incurred, but for the listing of the land. As this land is in private ownership the right to compensation would apply.</p>