

## **WIRRAL COUNCIL**

**CABINET – 23<sup>rd</sup> JULY 2009**

### **REPORT OF THE DIRECTOR OF CORPORATE SERVICES / DEPUTY CHIEF EXECUTIVE**

#### **SUSTAINABLE COMMUNITIES ACT PROPOSALS**

##### **1. EXECUTIVE SUMMARY**

- 1.1 Further to a report to Cabinet on the 9<sup>th</sup> April 2009, this report provides an update in relation to the provision made by the Sustainable Communities Act for proposals for proposals to be invited from the public which require action from central government.
- 1.2 The report recommends that the one proposal received which could potentially be suitable for selection under the terms of the Act (see 3.2 and **Appendix 2**) is considered by Cabinet for submission to the Local Government Association, which is acting as the selector for projects on behalf of the Secretary of State for Communities and Local Government. This proposal was endorsed by the Strategic Partnership Executive Board on the 8<sup>th</sup> July subject to consultation with the broader LSP Assembly and other interest groups (see 4.3 below). If Cabinet endorses the proposal, it is further recommended that delegated authority be given to the Deputy Chief Executive / Director of Corporate Policy to submit the proposal to the LGA in consultation with the proposer.

##### **2. BACKGROUND**

- 2.1 The Sustainable Communities Act received Royal Assent on 23 October 2007. The aim of the Act is to promote the sustainability of local communities. Sustainability of local communities refers to encouraging the economic, social or environmental well-being of the area, including participation in civic and political activity. This reflects the well-being powers granted to local authorities by the Local Government Act 2000 and contributes to the broader agenda for partnership working at local level, including the development of the Sustainable Community Strategy and the negotiation of the Local Area Agreement.
- 2.2 One of the provisions of the Act is for proposals to be invited from the public, through community organisations, which require action from central government. Proposals to the Secretary of State can only be made by local councils. However, the Act makes clear that anyone can suggest a proposal via their local council with the expectation that most suggestions for potential proposals will come from community organisations. Guidance relating to the Act is clear that there is no funding attached to implementation, i.e. to fund any such proposals. The deadline for the first round of such proposals is 31<sup>st</sup> July 2009.
- 2.3 A basic criterion for proposals is that they must be ones that need some form of action from central government (such as a change in legislation, a transfer of responsibilities from one public body to another, a new national policy or a change or strengthening of policy). In considering proposals, local councils

need to distinguish between those which could happen anyway, if agreed at local level, and those which need central government action or intervention of some sort. The latter category covers those appropriate to be submitted onwards, firstly to the LGA as Selector and potentially to the Secretary of State.

### **3. WIRRAL APPROACH**

3.1 At its meeting of the 9<sup>th</sup> April 2009, Wirral Council's Cabinet agreed a series of proposals relating to the provision in the Sustainable Communities Act for proposals to be invited from the public, through community organisations, which require action from central government.

3.2 Cabinet agreed that:

- A call for proposals, alongside detailed guidance and links to key documents pertaining to the Sustainable Communities Act, would be publicised with a deadline of 31<sup>st</sup> May 2009;
- Arrangements would be put in place in consultation with Wirral's Strategic Partnership Executive for Wirral's Strategic Partnership to act as the 'local panel' with consideration given to consulting the views of bodies supporting minority and under-represented interests;
- If the panel considered that a proposal or proposals should be progressed, a report would be presented to Cabinet in July for a final decision on whether the proposal or proposals could be submitted to the Selector (i.e. the LGA).

3.3 Further to Cabinet agreement, a call for proposals was published via the internet and through distribution via all partnership networks, with a guidance document and a proforma for submissions.

### **4. SUBMISSIONS RECEIVED AND FURTHER CONSULTATION**

4.1 A number of submissions were received in response to the call for proposals. All but one of these (see 4.2 below) were not eligible for consideration within the scope of the Act, given that they can potentially be dealt with at the local level, i.e. without changes required at central government level. **Appendix 1** therefore details the action that has been taken in relation to the proposals that were not eligible for consideration within the scope of the Act.

4.2 One proposal was received which could potentially be suitable for selection under the terms of the Act (attached as **Appendix 2**). This proposes changes in central government legislation and funding relating to Community Asset Transfer.

4.3 Further to a report to Wirral's Strategic Partnership Executive Board on the 8<sup>th</sup> July 2009 at which the proposal was endorsed for further consideration, **Appendix 2** was circulated for comments to the Strategic Partnership Assembly and other key groups, such as the Older People's Parliament and Equality Watch members, with a deadline for comments of the 22<sup>nd</sup> July.

Undertaking the consultation in this way was considered an appropriate approach to consulting with a local panel given the timescale. Any issues during the course of the consultation will be raised at the Cabinet meeting on the 23<sup>rd</sup> July.

## **5. FINANCIAL IMPLICATIONS**

- 5.1 As indicated in guidance from the Department of Communities and Local Government, there is no additional public money available for services provided by the local authority through this route. Where a successful case is made for the transfer of responsibilities from one public body to another then, subject to the agreement of both bodies, the relevant budgets would also transfer.

## **6. STAFFING IMPLICATIONS**

- 6.1 There are none arising directly from this report.

## **7. EQUAL OPPORTUNITIES IMPLICATIONS**

- 7.1 The scope of the Act requires that any consultation on proposals should include persons from groups which are under represented in civic and political activity in the borough. This has been taken into account in seeking comments from Wirral's Strategic Partnership and special interest groups.

## **8. COMMUNITY SAFETY IMPLICATIONS**

- 8.1 There are none arising directly from this report.

## **9. LOCAL AGENDA 21 IMPLICATIONS**

- 9.1 The purpose of the Sustainable Communities Act is to enhance the economic, social and environmental well-being of the area.

## **10. PLANNING IMPLICATIONS**

- 10.1 There are none arising directly from this report.

## **12. ANTI-POVERTY IMPLICATIONS**

- 12.1 There are none arising directly from this report.

## **13. LOCAL MEMBER SUPPORT IMPLICATIONS**

- 13.1 There are none arising directly from this report.

## **14. BACKGROUND PAPERS**

- Sustainable Communities Act 2007
- Sustainable Communities Act 2007: A Guide, *DCLG 2008*
- Letter from Secretary of State – invitation to submit proposals, 14<sup>th</sup> October 2008

- Council Notice of Motion 3<sup>rd</sup> November 2008
- Cabinet Report April 9<sup>th</sup> 2009

## **15. RECOMMENDATIONS**

- 15.1 It is recommended that the one proposal received which could potentially be suitable for selection under the terms of the Sustainable Communities Act (i.e. Appendix 2) is considered by Cabinet for submission to the LGA.
- 15.2 Should Cabinet endorse the proposal, it is further recommended that delegated authority be given to the Deputy Chief Executive / Director of Corporate Policy to submit the proposal to the LGA in consultation with the proposer by the deadline of **31<sup>st</sup> July 2009**.

**Jim Wilkie**

**Deputy Chief Executive/Director of Corporate Services**

This report was prepared by Jane Morgan who can be contacted on 0151 691 8140

## APPENDIX 1

### SUMMARY OF PROPOSALS

#### Harvest project

North Birkenhead Neighbourhood Forum submitted a proposal which was in effect an application for funding for a straw bale building to be constructed at the allotment site for the purpose of community education and furtherance of the 'Good Food Project'.

The proposer has been referred to the Council's lottery and voluntary sector liaison officers for assistance.

#### Wirral Environmental Network

The Wirral Environmental Network submitted a non specific proposal which was inadmissible as it was requesting funding.

#### Forum Housing Association Young People's Project Panel

This submission, whilst inadmissible as it does not require any central government action, contained some suggestions that have been forwarded to the Head of Youth Service for comment and progression if appropriate.

#### Central Liscard Area Residents Association (CLARA)

CLARA submitted a proposal relating to recognition of Tenants and Residents Associations as special interest groups and representation on the LSP.

A reply was sent pointing out that structures already exist to allow associations like CLARA to connect with strategic groups such as the Strategic Housing Partnership, and with the Local Strategic Partnership through representation via the Voluntary and Community Sector Network.

#### Individual Submission

This submission was in two parts. The first suggested a mandatory council register of landlords with the aim of assisting community members report incidences of anti-social behaviour. Advice was taken from the Housing Strategy team and a reply sent with the details of a current government consultation which includes the points raised in the submission.

The second suggestion was to have mandatory dog licensing with a DNA sample taken to enable identification in cases of dog fouling. Advice was taken from the principal Environmental Health Officer.

## APPENDIX 2

### Sustainable Communities Act – Proposal Form

**Name of individual / organisation submitting proposal:** Margaret Campbell

**Contact address:** Removed

**Telephone:** Removed

**E-mail:** Removed

#### **Summary of proposal:**

**COMMUNITY ASSET TRANSFER (CAT)** would make it easier for communities to set up projects such as affordable housing schemes for local people, or to buy and run local shops or pubs that were going out of business. CAT proposals would give communities legal rights to buy privately owned land or buildings put up for sale; and to buy publicly owned assets (e.g. playing fields, schools) where Councils declared these surplus to their needs. Improved national funding is also proposed, which would help communities finance the initial work to set up schemes, and would also be available to support asset purchases.

#### **How do you think your proposal contributes to the environmental, economic and/or social sustainability of the area?**

The Government is encouraging local people to take responsibility for shaping their future, and the wellbeing of their community. This is becoming more important as the economic downturn continues. Even more young people can't afford to buy houses. Local shops and pubs are closing, causing serious damage to communities. Community facilities are a vital part of community cohesion.

Communities could take up these challenges more often if there was better national funding to support community-led projects, as there is in Scotland, which has the Scottish Land Fund. At present there are a number of different funding schemes in England and Wales, which need bringing together and substantially increasing in value. Many projects fall by the wayside because suitable land or buildings are put up for sale but are sold by the time people in the community can get their act together. Unlike Scotland, there is no Act which provides the community with the right to purchase and to do so at a fair independent valuation.

Even where Councils decide that publicly owned land or buildings are surplus to requirements, it is difficult for them to pass them to community enterprises. Councils are entitled to transfer them, if necessary at less than market value....but they also have a conflicting duty to make as much money as they can through any sale. The community has no rights in the matter, and the end result is usually a movement of public assets out of any form of public ownership.

If active communities are to successfully tackle their own needs and problems, proper cash support is essential; there must be a right to purchase from private and public vendors; and Councils need to acquire rights, obligations and incentives to part with public assets to sound community projects.

By way of example, the following projects would be much more likely to succeed in the future:

- Establishing a Community Land Trust for an affordable (possibly selfbuild) housing project for local people/first-time buyers/other disadvantaged groups
- Purchasing land to establish gardens for the community to grow its own fruit and vegetables
- Buying a redundant school building for community meeting rooms/crèche facilities/etc.
- Acquiring poorly utilised land for play space, nature conservation, education, or other recreational use.
- Taking over a local sports facility from a private operator making insufficient profit, to be run as a not-for-profit organisation
- Taking on a failed shop to be run as a community cooperative.

### **What evidence of support is there for this proposal?**

Community facilities are a vital part of community cohesion, and the loss of them is damaging to communities. Locally there is evidence of closing shops and pubs, and the closure of small libraries.

Part of a Wirral allotment site has recently been put up for auction. The Development Trusts Association has this month published 'Transforming Communities for Good: A manifesto from the Development Trusts Association'.

This calls on Government to "Provide access to assets: A mechanism, drawing on lessons from the community right to buy legislation which exists in Scotland for rural areas, should be introduced to create a window for community groups to acquire key community assets (land and buildings) from both the public and private sectors."

In addition, there is documented evidence that these changes have been successful in Scotland – in July 2007 the Big Lottery Fund Research Issue 34 looked at the results of CAT projects supported by the Scottish Land Fund. It reported that of the 188 projects supported, only one had failed. It found "evidence from almost all projects of social, economic and environmental benefits", and that "The community ownership approach has directly promoted local interaction and networks".

This proposal is supported by a number of local residents, many of whom have a very active role in their local community. They have all read and endorsed the proposal:

- Peter Ryan Chairman, Friends of Coronation Gardens, West Kirby
- Elizabeth Davey Chairman, Hoylake, West Kirby and District Civic Society
- Peter Owen Wirral resident
- Les Bufton Wirral Environmental Network
- Anne Bufton Wirral Environmental Network
- Hugh Daghish West Kirby Working Group
- Val Daghish Wirral resident
- Robert Lee Chairman of Wirral Friends of Parks Group
- Dr Hilary J Ash Hon Conservation Officer, Wirral Wildlife; Hon Treasurer,
- Eastham Council School Allotments Association
- Louise Prior Energy Group contact for Transition Town West Kirby
- Dave Prior Professor, Liverpool University

- Dr Neil S Sturrock JP (Retired) Senior Lecturer in Building Energy Studies, LJMU
- Rose Curtis Secretary, Hoylake Allotment Association
- Richard Hill Wirral resident
- Ian Campbell Committee member, Wirral & Chester Branch, Living Streets
- Dr.W.H. Atkinson Treasurer, West Kirby Victoria Bowling Club
- David Hammond Wirral resident
- Ally MacDermot Council Liaison for West Kirby Chamber of Business and Community
- Sandria Juniper Transition Town West Kirby Steering Group
- Caroline Fides Wirral resident
- Patrick Cleary Wirral Green Party.

**Does your proposal require a transfer of functions? If so, which organisations does it affect?**

Government needs to consolidate funding schemes such as The Community Asset Fund, Community Builders Fund, and Adventure Capital Fund into a single **Community Asset Transfer (CAT) Fund** which would provide set-up costs and advice for projects, followed by funding for all or part of purchase and running costs (subject to risk assessment, sound business plans, income projections, etc.).

Legislation needs introducing to establish a **Community Right of Purchase (CROP)** giving properly constituted Community Bodies the right to purchase land or buildings being offered for sale, at a market value determined by independent valuation – where this could be shown to be in the public interest and to have strong public support. Such legislation could be modelled on The Land Reform (Scotland) Act 2003 simplified and extended to urban as well as rural areas.

The Local Government Act 1972 as amended by The General Disposal of Consent (England 2003) not only allows Councils to dispose of their assets for less than the highest price, but also allows them to act without Government permission where this would promote the economic, social or environmental wellbeing of their area. But this needs to be supported by legislation which removes from Councils the onerous competing pressure to ‘exercise a fiduciary duty’ (i.e. realise maximum value from a sale).

It is therefore proposed that legislation be enacted to give Councils a **CAT Duty** to transfer any inefficiently utilised asset, upon request from a properly constituted Community Body with a sound business case, wherever it can reasonably be argued this is in the public interest and has community support.

This Duty would confirm the obligation to publish and annually review a **Schedule of Land and Building Assets**, identifying those considered to be inefficiently utilised. It would also require Councils to make transfers at sufficiently beneficial terms of tenure or purchase price as to make the community project feasible after allowing for all the financial assistance the community can access.

Government should establish a **CAT Support Grant for Local Government** in recognition that full market value of assets may have to be foregone. This should be constructed as an investment into community regeneration, as additional Rate

Support Grant ring-fenced for this purpose. Any remaining 'deficit' against full market value should be positively described in accountancy practice as a local authority **CAT Investment**.

Finally, Government should set up a **CAT Arbitration Service** to decide on matters of dispute between a Council and its community about surplus assets and transfer issues.