

Public Document Pack

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Chesterfield, Derbyshire S40 1LP

DX 12356, Chesterfield
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To: Councillor	Gilby	Please ask for	Brian Offiler
		Direct Line	01246 345229
		Fax	01246 345252

25 February 2015

Dear Councillor,

Please attend a meeting of the **DEPUTY LEADER AND EXECUTIVE MEMBER FOR PLANNING - EXECUTIVE MEMBER DECISION** to be held on **WEDNESDAY, 4 MARCH 2015** at 2.00 pm in Committee Room 1, Town Hall, Chesterfield, the agenda for which is set out below.

AGENDA

1. Declarations of Members' and Officers' Interests relating to items on the agenda
2. Consideration of the Community Right to Bid (Assets of Community Value) Nomination of The Wellington Hotel (J490L) (Pages 3 - 20)
3. The Wellington Hotel - Request For Article 4 Direction (J260L) (Pages 21 - 32)
4. Local Government Association - Taking Stock - Where Next With Sector-Led Improvement Consultation (J030L) (Pages 33 - 62)
5. Local Government Act 1972 - Exclusion of Public

To move "That under Section 100(A)(4) of the Local Government Act 1972 the public be excluded from the meeting for the following item of business on the grounds that it involves the likely disclosure of exempt information as defined in Paragraph 3 of Part 1 of Schedule 12A of the Act".

Chief Executive
Huw Bowen



6. Sale of Housing Shop and Flat at 156 Keswick Drive, Newbold, Chesterfield (J420L) (Pages 63 - 68)

Yours sincerely,

A handwritten signature in black ink, appearing to be 'Randy', written in a cursive style.

Local Government and Regulatory Law Manager

FOR PUBLICATION

CONSIDERATION OF THE COMMUNITY RIGHT TO BID (ASSETS OF COMMUNITY VALUE) NOMINATION OF THE WELLINGTON HOTEL (J490L)

MEETING:	DEPUTY LEADER & EXECUTIVE MEMBER FOR PLANNING
DATE:	4 th March 2015
REPORT BY:	POLICY MANAGER
WARD:	BARROW HILL AND NEW WHITTINGTON
COMMUNITY ASSEMBLY:	NORTH

FOR PUBLICATION

BACKGROUND PAPERS FOR PUBLIC REPORTS:

Non-statutory Advice Note –

<http://www.communities.gov.uk/publications/communities/righttobidadvicenote>

Impact Assessment -

<http://communities.gov.uk/publications/communities/righttobidia>

1.0 **PURPOSE OF REPORT**

1.1 To consider the nomination of the Wellington Hotel by the Friends of the Wellington campaign group as an Asset of Community Value.

2.0 **RECOMMENDATION**

2.1 That the Chesterfield Borough Council lists the Wellington Hotel as an asset of community value.

3.0 **BACKGROUND**

- 3.1 The Localism Act 2011 created the Community Right to Bid (Assets of Community Value). The Assets of Community Value regulations introduce a new right for community or voluntary bodies to request that a local asset (buildings or land) should be listed as an “Asset of Community Value).
- 3.2 This new right covers both public and private assets and is designed to facilitate a “Community Right to Bid” for assets deemed to be of community value.
- 3.3 The regulations also set out new duties and responsibilities for local authorities including keeping a list of assets of community value, scheme operation and regulation and payment of compensation.
- 3.4 The regulations came into force on the 20th September 2012, with a non-statutory advice note being issued to local authorities in October 2012. This legislation applies to district and unitary authorities.
- 3.5 Chesterfield Borough Council received its third nomination for listing under the right on the 12th January 2015. This nomination relates to the Wellington Hotel, 162 High Street, New Whittington.

4.0 **NOMINATOR AND ASSET QUALIFICATION FOR THE RIGHT**

- 4.1 The right to make a nomination and subsequently to bid can be used by:
- A local voluntary or community group that is not incorporated but has at least 21 members who are locally registered to vote in Chesterfield Borough or a neighbouring authority.
 - A Parish or Town council
 - A Charity
 - A neighbourhood forum designated as such for planning purposes under the Town and Country Planning Act 1990
 - A company limited by guarantee or an industrial or provident society which does not distribute any surplus it makes to its members
 - A community interest company.
- 4.2 The nomination of the Wellington Hotel was made by an unincorporated community group – The Friends of the Wellington. The group has twenty eight members all of whom are registered to vote within Chesterfield Borough. The group therefore qualifies for the right.
- 4.3 Under the Community Right to Bid some categories of land and buildings are exempt. These include:

- Residential premises, including sites for mobile homes and boats. For a building which is or includes residential premises this will include land held with the residence owned by a single owner. This could go beyond immediate gardens, outbuildings, yards etc. and extend to all land held by that owner. Every part of the land must be able to be reached from the residence without having to cross land which is not held by the single owner unless the intervening land is a railway, road, canal or river.
- Caravan sites - Land for which a site licence is required under Part 1 of the Caravan Sites and Control of Development Act 1960.
- Operational land - as defined in Part 11 of the Town and Country Planning Act 1990. This is land used for transport infrastructure and some other related purposes by specified bodies with statutory powers. For example land held by railways or highway authorities.

4.4 The Wellington Hotel does not meet the criteria for exemption from the right.

5.0 **ASSET OF COMMUNITY VALUE CRITERIA**

5.1 Chapter Three of the Localism Act 2011 states that land or buildings within the local authority's area are of community value if in the opinion of the authority it is:

- (a) An actual current use of the building or other land that is not an ancillary use furthers the social wellbeing or social interests (which include cultural, sporting or recreational interests) of the local community, and
- (b) It is realistic to think that there can continue to be non-ancillary use of the building or other land which will further (whether or not in the same way) the social wellbeing or social interests of the local community.

6.0 **LOCATION OF THE ASSET AND AVAILABILITY OF FACILITIES AND AMENITIES**

6.1 The Wellington Hotel is located in the Barrow Hill and New Whittington ward in the north-east of the borough on High Street. This road acts as a link out towards the M1 motorway and inwards towards the Whittington Moor roundabout.

6.2 In 2009 the council produced a Community Infrastructure Study to support the preparation of the Local Development Framework. Although this did not look at provision of pubs it did consider other community infrastructure and concluded that there were no significant shortfalls in provision within this area.

6.3 The following data has been drawn from the Community Infrastructure Study (updated with recent survey data where appropriate), surveys of the

district and local centres and trading standards data. A map of the location and facilities is attached at Appendix A.

Public House Provision

Within 400m (around a five minute walk) of the Wellington Hotel there are four alternative drinking establishments – the Miners Arms, the Rising Sun, the Forge and the New Whittington Social Club.

A fifth establishment – the Angel (200m away from the Wellington), closed as a public house recently and the one public house within 1000m (equivalent to approximately a 15 minute walk) of the Wellington Hotel – the White Horse has been converted into a Tesco Express.

Community Space/ Function Room Provision

Within 400m of the Wellington Hotel there are two alternative community spaces – St. Barnabas Church and New Whittington Primary School. Both venues have bookable function rooms and facilities.

7.0 THE WELLINGTON HOTEL NOMINATION

7.1 The completed Community Right to Bid nomination form for the Wellington Hotel is attached at Appendix B.

7.2 Below is a summary of how the Friends of the Wellington believe that the Wellington Hotel meets the asset of community value criteria:

- The Wellington Hotel is accessible to the whole community with a wide frontage with no steps, level access throughout the public areas of the pub and ramped access to an enclosed beer garden and children’s play area
- The Wellington Hotel contributes directly to the local economy via direct employment and the sourcing of products and services from New Whittington and the wider Borough
- The Wellington Hotel has a wider community impact in terms of reducing social isolation and anti-social behaviour, delivering meals to local residents with mobility difficulties, hosting a variety of community events and providing a free meeting space of a variety of local clubs and societies
- In 2012 the Wellington Hotel was awarded runner up in Marston’s PLC’s regional community pub of the year awards

7.3 In addition to the Community Right to Bid nomination form, the Council received a petition signed by over 1,800 people requesting that:

- a) The council adds the Wellington as an asset of community value
- b) An immediate Article 4 Direction is issued

The three elected members for Barrow Hill and New Whittington ward have also expressed their support for the aims of the petitioners.

- 7.4 As the petition had over 1,000 qualifying signatures a full Council debate was triggered in line with the Council's petitions policy and procedures. The full Council debate took place on the 11th February 2015 with over seventy local residents attending to show their support. The points raised at 7.2 were re-iterated along with the following additional points:
- The Wellington is a thriving and viable community pub
 - No other pub in the village gives the same value to the community – it is a community hub
 - It is the only pub in the village to offer hot food on-site and via delivery to residents who are less mobile
 - The Wellington plays a vital role in reducing isolation for older people

Several elected members, particularly those representing New Whittington and neighbouring areas spoke in support of petitioners and the important role that the Wellington plays in the community.

It was resolved that:

1. The Council receives and notes the petition from the Friends of the Wellington Campaign group as part of the evidence supporting the requests made for :
 - a) The wellington to be added to the list of Assets of Community Value;
 - b) An Immediate Article 4 Direction to be issued.
2. That the Executive Member for Planning takes into account the petition and also the representations made at both the Council and the Planning Committee (scheduled for 23rd February 2015) before arriving at a final decision on both matters.

- 7.5 As part of the Community Right to Bid procedures, Chesterfield Borough Council contacted the owner of the Wellington Hotel (New River Retail), the operating brewery (Marston's PLC), the current pub landlord and the charge of the property (Hatfield Philips Agency Services Limited) for comment on the nomination. The Co-operative Food Group Limited were also informed of the nomination as they had started pre-planning conversations with the Council regarding the site.

- 7.6 The deadline for comment on the nomination was Monday 9th February 2015. No comments were received by this date.

8.0 **ASSET CONSIDERATION**

- 8.1 In order to assist with the consideration of the Community Right to Bid nomination an officer site visit took place on the 3rd February 2015. The visit

included the Wellington Hotel and the four alternative public houses and the two buildings identified as community spaces within 400m of the site.

- 8.2 During the site visit to the Wellington Hotel officers were able to discuss the current usage with staff members and customers. It was confirmed that the Wellington Hotel is the only public house within the village that serves food, a service which many older people in the area access. There is also a food delivery service for local residents unable to visit the pub in person due to ill health and/or mobility issues. This service is also used by local residents when there is adverse weather.
- 8.3 The Wellington Hotel is used by a variety of local groups including the local allotment society, sports clubs/teams, friendship groups etc. for meetings at no cost. There is alternative meeting space provision at both New Whittington Primary School and St. Barnabas Church Hall, however hire charges would be applicable. The other four public houses in the village could potentially provide similar free informal meeting space.
- 8.4 The Wellington Hotel offers a range of entertainment including quiz nights, live music and special events. Darts, dominoes and pool are available and there is a ladies league darts team. Three of the alternative public houses offer similar provision but they do not currently host any league teams.
- 8.5 Accessibility at the Wellington Hotel for disabled people, people with mobility issues and who use buggies etc. is considered to be good. There are wide doors at the main entrance to the public house and level access. There is also ample off-street car parking and a bus stop outside the venue. Three of the four alternative public houses in the village had significantly inferior accessibility to the Wellington Hotel, only the New Whittington Miners Welfare offered a similar level of access however there is a membership fee and criteria. The Wellington Hotel is the only public house that currently has an enclosed, accessible family friendly beer garden with a play area.
- 8.6 The information provided by the Friends of the Wellington Group and via the officer site visit indicate that the Wellington Hotel does meet section A *“An actual current use of the building or other land that is not an ancillary use furthers the social wellbeing or social interests (which include cultural, sporting or recreational interests) of the local community”* of the Asset of Community Value criteria.
- 8.7 The level of support shown for the Wellington Hotel by the local community (the Friends of the Wellington and the 1800 plus petition signatories) and current usage levels indicate that there could be a viable future for the Wellington Hotel as a public house. Therefore section B *“It is realistic to think that there can continue to be non-ancillary use of the building or other*

land which will further (whether or not in the same way) the social wellbeing or social interests of the local community” of the Asset of Community Value criteria could also be applied.

9.0 **RISK MANAGEMENT**

9.1

Risks	Impact	Likelihood	Mitigating Actions	Residual Impact	Residual Likelihood
If the asset is listed – there is likely to be an Appeal requested by the owner.	Medium	Very likely	<ul style="list-style-type: none"> • Robust consideration of the asset nominated. • Procedures in place for a review of the original decision. • Ongoing communication with the owners. • Procure specialist legal advice. 	Low	Likely
If the asset is listed - First-tier tribunal proceedings requested by the owner.	High	Very likely	<ul style="list-style-type: none"> • Robust consideration of the asset nominated. • Procedures in place for a review of the original decision. • Ongoing communication with the owners. • Procure specialist legal advice. 	Medium	Likely
If the asset is listed - Request for compensation by the owners for costs incurred during litigation and loss of income from lease/sale due to delays.	High	Very likely	<ul style="list-style-type: none"> • Ongoing communication with the owners. • The £20k compensation in any one year has to be funded by the Council; the remainder can 	High	Likely

			be claimed back from DCLG.		
If the asset is not listed – reputational damage to the Council and negative impact on community relations in the local area.	Medium	Very likely	<ul style="list-style-type: none"> • Robust consideration of the asset nominated. • Ongoing communication with the local community 	Low	Possible

10.0 **EQUALITIES CONSIDERATIONS**

10.1 The Department for Communities and Local Government impact assessed the Community Right to Bid proposals. This included equalities impact screening. No significant impact has so far been identified for any of the protected groups identified in the Equality Act 2010, however the equalities impacts of this right will be kept under review.

10.2 Equality analysis was undertaken for the nomination with issues including accessibility, use by protected groups and social inclusion issues forming part of the asset consideration. The loss of the Wellington Hotel as a public house could disproportionality affect older people and people with disabilities due to accessibility issues and the range of services offered at the Wellington in comparison to other pubs in the area.

11.0 **LEGAL CONSIDERATIONS**

11.1 We have no further information about the arrangements between the owners of the Wellington Hotel – New River Retail Ltd and the Co-operative Food Group. However, the existence of a possible contract between or arrangements between these two parties is not relevant to consideration of whether or not the land meets the definition of a community asset nor whether or not the nomination should be accepted.

11.2 If the land was listed a contract and lease would be significant because a disposal will be exempt from the right under the legislation if it results from a legally enforceable option to buy or right of pre-emption. In addition a lease for less than 25 years is a non-qualifying lease under the law and does not trigger the statutory 6 month moratorium period (designed to allow time for the community group to seek to purchase the asset).

12.0 **RECOMMENDATION**

12.1 That the Chesterfield Borough Council lists the Wellington Hotel as an asset of community value.

13.0 **REASON FOR RECOMMENDATION**

13.1 The Wellington Hotel is considered to meet both sections A and B of the Asset of Community Value criteria.

D. M. REDDISH
POLICY MANAGER

Further information on this matter can be obtained from Donna Reddish (Extension 5307).

Officer recommendation supported/not supported/modified as below or Lead Members' recommendation/comments if no Officer recommendation.

Signed

Lead Member

Date

Consultee Lead Member/Support Member comments (if applicable)

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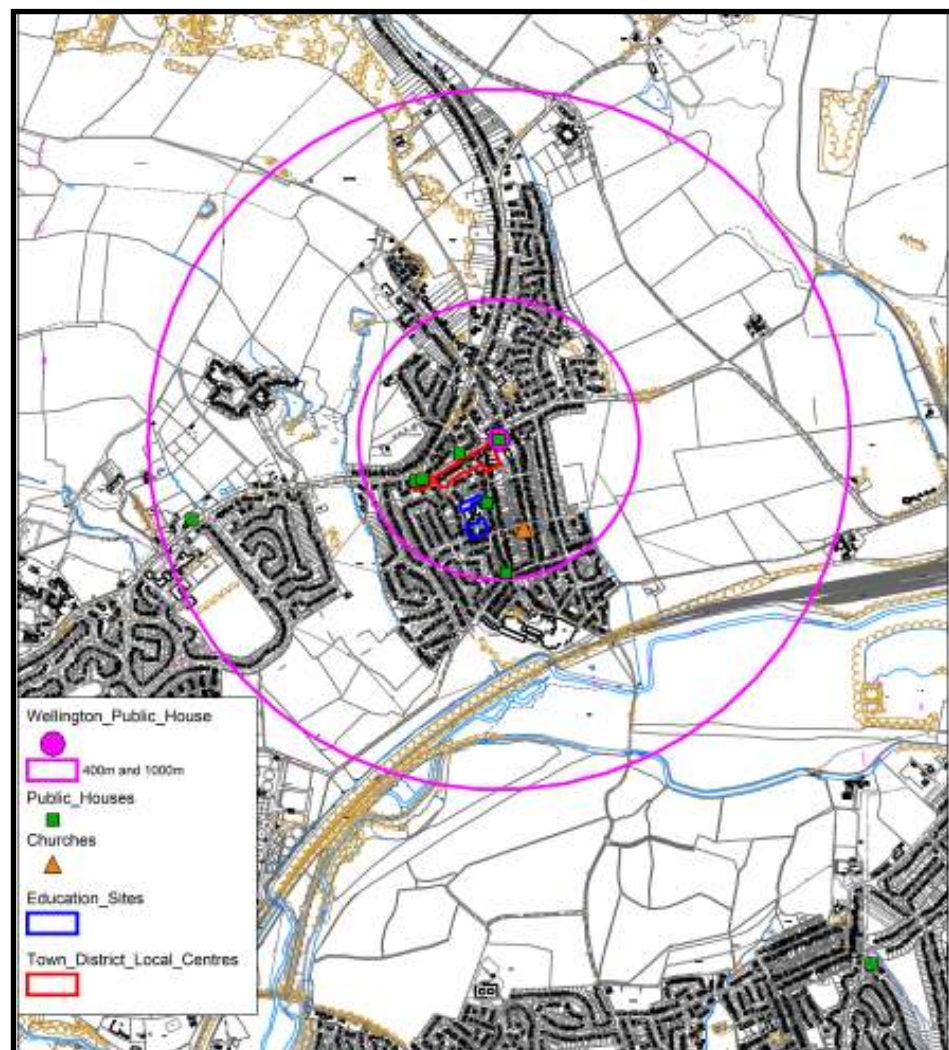
The Wellington Hotel:

Location and Availability of Community Infrastructure

The Wellington Hotel is located in the Barrow Hill and New Whittington ward in the north-east of the borough on High Street. This road acts as a link out towards the M1 motorway and inwards towards the Whittington Moor roundabout.

The map below highlights key community infrastructure surrounding the Wellington Hotel with 400m (around a five minute walk) and 1000m (around a fifteen minute walk). Within 400m of the hotel five other public houses (one – The Angel – has recently closed), St Barnabas Church and New Whittington Primary School are available. The hotel is also adjacent to a Local Centre, as designated in the *Local Plan: Core Strategy*, which is considered to meet the day to day retail needs of surrounding residential areas.

Further out within 1000m there are no alternative community facilities but this is mediated by those within 400m. The White Horse public house is displayed to the west of the Wellington Hotel within the 1000m buffer however this is now under lease as a Tesco Express.



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12 JAN 2015

REFERRED TO
FILE NO

**Chesterfield Borough Council
Community Right to Bid**

**Registration of Assets of Community Value
Nomination Form**

Please note that all sections of this form must be completed.
If you need assistance completing this form, please refer to the FAQs document which can be downloaded from the website www.chesterfield.gov.uk

SECTION 1: ABOUT YOUR COMMUNITY ORGANISATION

Name of Community Group:

Friends of The Wellington

Name of key contact person:

Address of the key contact:

Telephone Number:

E-mail address:

Is the Group: (Please mark with ✓ as appropriate)

a) An un-incorporated body	<input checked="" type="checkbox"/>
b) A charity	<input type="checkbox"/>
c) A company limited by guarantee	<input type="checkbox"/>
d) An industrial or provident society	<input type="checkbox"/>
e) A neighbourhood forum	<input type="checkbox"/>
f) A community interest company	<input type="checkbox"/>
g) A parish or town council	<input type="checkbox"/>

If your group is an un-incorporated body please attach a list of the names and addresses of 21 members registered as local electors in Chesterfield Borough or a neighbouring authority.

Or if not an un-incorporated body please provide written evidence of your status e.g. Group Constitution or charity number.

SECTION 2: ABOUT YOUR LOCAL CONNECTION

Please describe the nature of your local connection to the asset you are nominating.

"Friends of the Wellington" membership is made up of users of The Wellington Hotel. Most members live within a one mile radius some members travel from further afield (surrounding villages, Chesterfield and beyond) because it is fully accessible for all to enjoy the comfortable atmosphere, good beer and food, live entertainment, quizzes and to meet regularly with friends or family from the community.

The group was formed in November 2014 after news of the impending closure had circulated via the "real" social networks centred around the Pub. The initial public meeting was attended by around 250 people, including outraged New Whittington residents, concerned customers, our supporting MP (Natascha Engle) and Local Councillors.

Membership of the group also contains owners or representatives of the local shops, businesses, primary school, parish church, sports clubs, societies and pensioner groups.

Our membership includes a broad representation of our diverse community: From the youthful to the very elderly, widows and widowers, disabled, young and established families, retired couples, single parents, carers and cared-for, with a variety of cultural, ethnic, social backgrounds, orientations and outlooks.

All members have a strong connection to this threatened asset and a passionate belief that loss of Wellington Hotel will have a negative impact on their lives and on the community that supports them.

SECTION 3: ABOUT THE ASSET YOU ARE NOMINATING

Title of the asset:

The Wellington Hotel

Address of the asset:

162 High Street
New Whittington
Chesterfield
Derbyshire
S43 2AN

Name of owner of the asset:

New River Retail (UK) Ltd

Address of asset owner:

37 Maddox Street
London
W1S 2PP

Telephone number of owner:

020 3328 5800

E-mail address of owner:

not available

Name of current occupier
(if different from owner)

Leased to : Marston's PLC

Address of occupier:

Marston's House
Brewery Road
Wolverhampton
WV1 4JT

(note: the current occupant is the Manager and
Licensee: Michael Storev - 01246 450879)

Telephone number of occupier:

(Marston's) 01902 711811

E-mail address of occupier:

(Marston's) not available

Please give a description of the nominated asset and its proposed boundaries and attach a copy of a map high-lighting the area covered by the asset you are nominating.

The building was built and listed as a "beer house" Circa 1860 to serve the growing community of workers employed at the West Staveley Colliery and associated industries. The village of New Whittington grew around the Wellington Hotel.

The building and land shown on the map attached within the boundary shown in orange, includes;

- Vestibule giving access to toilets & bars
- Public bars, "tap room" with pool table, darts and sports TV & "best side"
- Kitchen and food preparation area
- Restaurant / dining area converts to venue & evening seating area.
- Double sided bar area with with access to landlord accommodation and cellar
- Cellar divided for conditioning/storing beers and food/beverage storage
- Upstairs Landlord's accommodation
- Covered outside smoking area
- Large Enclosed beer garden to the rear with seating, play equipment and paved area with disabled / pushchair access.
- Customer carpark with entrances & exits to High Street and Wellington Street (allowing common historical use as for foot access).
- Wide frontage adjoining pavement with unrestricted public access

SECTION 4: REASON FOR NOMINATION

Please explain why your community group believes that the above named asset is an asset of community value and should be included on the register of assets of community value for Chesterfield Borough.

Please Note: Any information entered into this section may be copied and passed onto the owner of the property you are nominating.

In your reply you should address the following questions:

1. Explain how the main use of the asset currently contributes to community value (see attached definition).
2. Has the main use of the asset in the recent past contributed to community value? Please explain how.
3. Explain how this asset could provide a realistic future contribution (in the next five years) to community value?

Past and present, The Wellington has boosted the social well-being and interests of the community in ways which increases the social cohesion of the diverse demographic in New Whittington. As all sectors of the community mix and meet at the Wellington, ties are built and support networks develop that help minimise the many problems faced by both the young and old in our community.

The Institute of Public Policy Research estimates a wider social value of up to £120,000 pa is generated by community pubs such as the Wellington. With a reduction of social isolation, antisocial behavior, demand on social services & NHS, and an increase in local commerce generated by strong social networks, the Wellington contributes to the upper end of the IPPR estimates.

The Wellington also contributes directly to the local economy via direct employment and sourcing of products and services from the village and Chesterfield area. The majority of produce for the kitchen is sourced from local butchers, bakers and grocers. Staff are employed from the local community and given the opportunity to develop valuable skills to contribute within the business or to progress to other employment.

The boosting of social well-being and interests of the community has been recognised by Marston's Plc when the Wellington was awarded runner up in their "Community pub of the Year Awards" (transcript of Press Release attached). Since this accolade, the Wellington has continued to deliver benefits to the community which are held in high regard, including; Delivering meals to the housebound, Providing quality great value meals to pensioners, Hosting a variety of events that brings the community together, Providing a meeting space for sporting clubs and local societies, pensioner groups and the local school fund raising group.

The "Friends of the Wellington" independent estimate, highlights that the Wellington is a viable and valuable asset to the community. Our calculations indicate an average weekly turnover circa £6000 (£312,000pa), a sum that covers all "localised" operating costs and an attractive return on a "free market" valuation of the property.

The analysis supports the contention that under a "Pub Co." tie or managed scheme the accounts can show a loss due to "group apportioned", indirect or unnecessary costs, hence presenting an inaccurate representation of the individual Pubs viability. A "free market" valuation or "fair rent" assessment, free of tie (not forced to buy beer at inflated prices) would increase the viability well in to the future (5yrs +) and secure further value to the community. Trade is currently limited by the ties which restricts the licencees' ability to cater for known local demand (e.g. Re-submission to "The Good Beer Guide" with extended range of real ales and flexibility of pricing).

We the "Friends of the Wellington" believe the Wellington Hotel fulfils all the criteria to be listed as an Asset of Community Value.

If this asset closed there would be no accessible, free public meeting space in the area.

Evidence substantiating the above is available for the councils' inspection (with confidentiality). 1500+ petition, supporting comments, letters, testimonials, calculations. Some of which are of personal emotional significance or commercially sensitive.

SECTION 5: ACCESSIBILITY

Please give details of how many people or what proportion of the community, and which particular sections of the community currently use the asset for its main use, or, if applicable, did so in the past.

We estimate 4000 - 6000 individual people use the asset for its main use per annum.

The majority are from the diverse population of the local area including adults and children. The non discriminatory Equality and Diversity in practice at the Wellington is such that we have no estimates available of the proportions of particular sections of the community.

If access to the asset is currently restricted in some way e.g. has no disabled access – please provide details.

All public areas of the Wellington have disabled access including including the smoking area and beer garden.

SECTION 6: DECLARATION

I can confirm that to the best of my knowledge the information contained in this nomination form is complete and accurate.

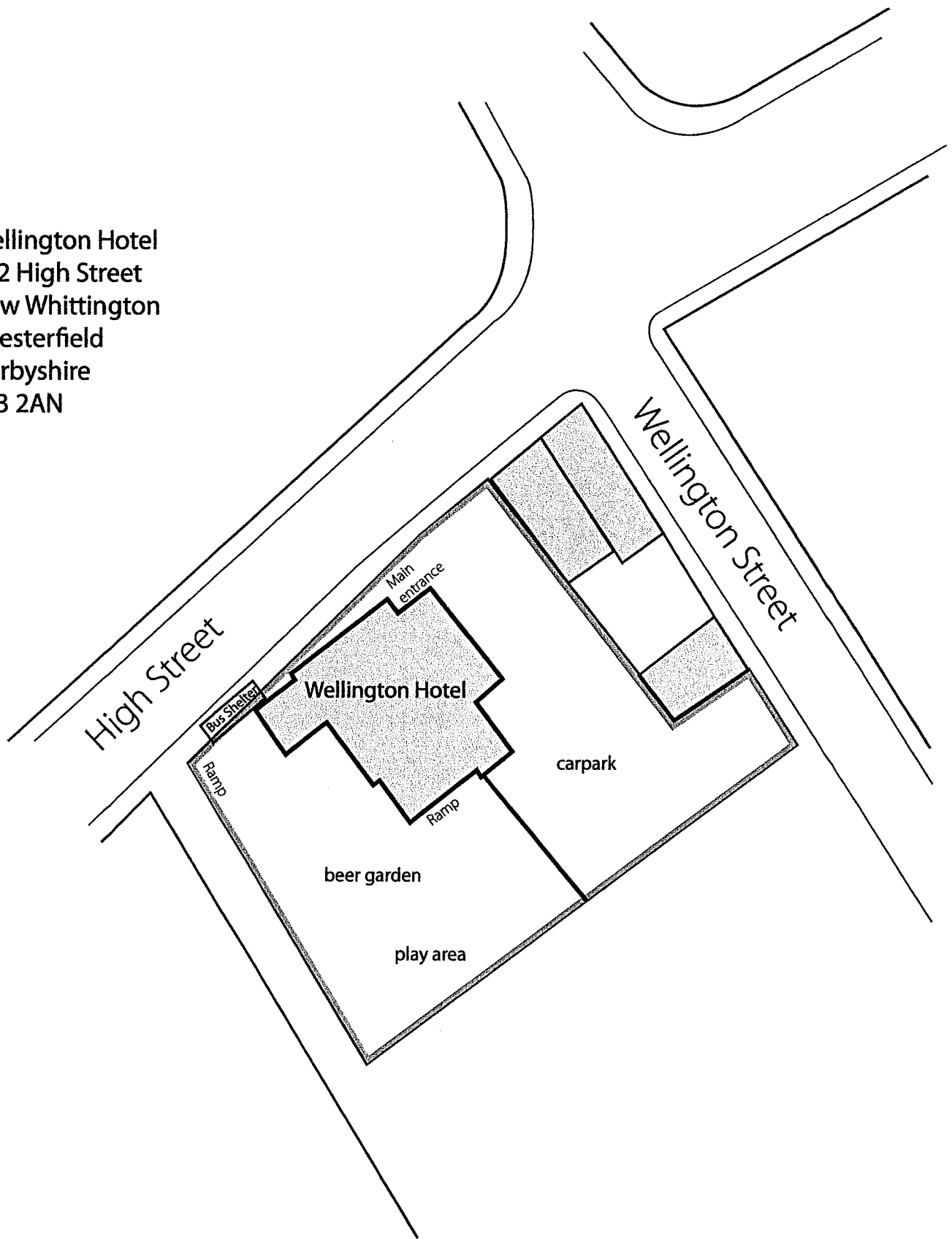
Name:

Signature:

Date:

Please return your form to: Donna Reddish, Policy Manager, Chesterfield Borough Council, Town Hall, Chesterfield, S40 1LP.

Wellington Hotel
162 High Street
New Whittington
Chesterfield
Derbyshire
S43 2AN



FOR PUBLICATION

THE WELLINGTON HOTEL – REQUEST FOR ARTICLE 4 DIRECTION - (J260L)

MEETING: Deputy Leader and Executive Member for
Planning

DATE: 4th March 2015

REPORT BY: Development Management & Conservation
Manager

WARD: Barrow Hill & New Whittington

COMMUNITY ASSEMBLY North

Key Decision Ref: 503

BACKGROUND PAPERS:

TITLE: CAMRA/LGiU LOCATION: www.camra.org.uk
GUIDANCE –
How Councils and
communities can
save pubs

CHESTERFIELD LOCATION: www.chesterfield.gov.uk
BOROUGH
LOCAL PLAN:
Core Strategy
2011-31

1.0 PURPOSE OF REPORT

- 1.1 To consider a request for an Article 4 Direction to be served on The Wellington, 162 High Street, New Whittington.

2.0 RECOMMENDATION

2.1 That an Article 4(1) Direction is not served on The Wellington Hotel.

3.0 THE REQUEST

3.1 An 1800+ signature petition has been received requesting that The Wellington Hotel be both added to the list of Assets of Community Value (ACV) and that an immediate Article 4 Direction is served on the basis of the contribution The Wellington makes to the local community. The petition is from Friends of The Wellington campaign HQ, 66 Wellington Street. The case as set out by the petition refers to the following:

- The Community asset should be protected in compliance with Council policies;
- The hub of the community since 1865;
- A family pub for the community to gather for various social activities including pub quiz, snooker, darts, dominoes, live music, parties (for young and old), social drinking and dining – and much more;
- The only pub in the village serving food – home cooked and which runs an invaluable delivery service to local elderly, infirm and incapacitated residents who would otherwise not get a hot daily meal;
- The pub supports village life helping other businesses to survive, has a free meeting place for clubs and societies, children friendly.

3.2 A separate request has also been received from Councillor Bingham for an Article 4 Direction stating:

- The Wellington is a valuable and viable community hub which is vital to community cohesion. The pub delivers exceptional social value to the community and delivers all the aspirations that the Council policies seek to encourage;
- The services delivered by The Wellington save public expenditure e.g. Social Services, NHS, Policing & Borough amenities. The business cares for members of the community e.g. delivering meals to the house bound and no other facility with these benefits is available locally;
- The Wellington is the only business in the area to provide quality meals at affordable prices in an inclusive environment;

- The Wellington provides the only accessible free meeting place for clubs, Societies and Groups;
 - The Pub with its Beer Garden is the only available facility where young and old members of the public can meet and socialise on an informal basis;
 - The Wellington is the only wheelchair accessible asset of this type available to the local public;
 - The Wellington supports the viability of other businesses in the village including the other smaller Pubs, the existing three convenience stores, The Butchers and The Bakers;
- 3.3 An e mail from Councillors D. and P. Stone supports the request for ACV listing and because of the character of the Wellington and its cultural, recreational, sporting and community/family users they also support an Article 4 direction on the basis of the reasoning provided by Councillor Bingham.
- 3.4 This report considers the case for consideration of the serving of an Article 4 Direction. A separate report has been prepared concerning the listing of the Wellington as an Asset of Community Value. As the petition had over 1000 qualifying signatures a full Council debate was triggered in line with the Council's policy and procedures.
- 3.5 The full Council debate took place on 11th February 2015 with over seventy local residents attending to show their support. A representative of the Friends of the Wellington made the case that The Wellington Hotel:
- is accessible to the whole community with a wide frontage with no steps, level access throughout the public areas of the pub and ramped access to an enclosed beer garden and children's play area
 - contributes directly to the local economy via direct employment and the sourcing of products and services from New Whittington and the wider Borough
 - has a wider community impact in terms of reducing social isolation and anti-social behaviour, delivering meals to local residents with mobility difficulties, hosting a variety of community events and providing a free meeting space of a variety of local clubs and societies
 - In 2012 the Wellington Hotel was awarded runner up in Marston's PLC's regional community pub of the year awards

- 3.6 At the full Council debate councillors spoke in support of the Friends of the Wellington Campaign (including ward Councillors Bingham and Paul Stone). The points raised above were re-iterated along with the following additional key points:
- The Wellington is a thriving and viable community pub
 - No other pub in the village gives the same value to the community – it is a community hub
 - It is the only pub in the village to offer hot food on-site and via delivery to residents who are less mobile
 - The Wellington plays a vital role in reducing isolation for older people

It was resolved that:

1. The Council receives and notes the petition from the Friends of the Wellington Campaign group as part of the evidence supporting the requests made for :
 - a) The wellington to be added to the list of Assets of Community Value;
 - b) An Immediate Article 4 Direction to be issued.
2. That the Executive Member for Planning takes into account the petition and also the representations made at both the Council and the Planning Committee (scheduled for 23rd February 2015) before arriving at a final decision on both matters.

4.0 BACKGROUND

4.1 The Wellington was owned by Marstons up to 2013 however New River Retail Ltd (NRRL) subsequently acquired 202 of their pubs. NRRL met with members on 21st November 2014 to confirm their plans for those pubs acquired in Chesterfield. Whilst they confirmed that they were looking at ways of keeping the pubs open and had a management agreement with Marstons to continue their trading for 5 years, they confirmed that 63 of the pubs were to be converted to convenience stores and they were in legal with Co-op. 3 pubs acquired were in Chesterfield and all were scheduled for convenience stores by the Co-op:

- The Spital – Conversion
- The Wheatsheaf, Newbold Road – Demolition and new build
- The Wellington – Conversion and Extension

4.2 It was confirmed that planning applications would be made, where required, before Christmas. The Spital and The Wheatsheaf applications have been submitted.

5.0 ARTICLE 4 DIRECTION

5.1 The Town & Country Planning (General Permitted Development) Order 1995 provides the freedom to change the use of a public house (class A4) to a retail shop (class A1) without the need for a planning application. The Council as Local Planning Authority is only entitled to consider any external changes and not the use.

5.2 An Article 4(1) Direction removes the freedom to change the use and requires that a planning application be submitted. It cannot be served in retrospect.

5.3 Non-immediate Directions or Immediate Directions can be used depending on the perceived level of threat and urgency and having regard to the possible prejudice to the proper planning of the area. The Council has the power to serve Immediate Directions however it must then confirm the Direction following local consultation within 6 months. The Council as Local Planning Authority is required to send a copy of the Direction to the Secretary of State on the same day as it is first served and the Secretary of State has the power to Cancel or Modify the Direction. Compensation can be claimed however the procedure requires that a planning application should first have been made and permission refused or conditions imposed.

5.4 Service of an Article 4(1) Direction is limited to situations where it is necessary to protect local amenity or the wellbeing of the area.

6.0 CONSIDERATIONS

6.1 There are common issues and considerations between the two processes however the ACV will consider the specific contribution the pub has to the local community at a point in time (and can be removed if this changes) whereas an Article 4 Direction is more broad brush considering a wider perspective and cannot easily be removed in the future.

6.2 Having regard to the proper planning of the area the Council has adopted a Core Strategy which specifically sets out its policy

regarding the loss of Social Infrastructure and facilities such as pubs. Policy CS17 states:

Development will not be acceptable where it includes the change of use, amalgamation of uses or redevelopment of existing local community or recreational facilities, if it would result in the loss of a facility which is required to meet a local need or contributes to the network of facilities throughout the borough unless:

- a) There is an equivalent facility available in the locality or an equally accessible one is made available prior to the commencement or redevelopment to serve the same need; or*
- b) It can be demonstrated through a viability assessment that the current use is economically unviable and all reasonable efforts have been made to let or sell the unit for the current use over a 12 month period.*

6.3 The Council as Local Planning Authority has no control what so ever regarding an owners intention to close a business, which beer they sell, where they buy their produce from and whether or not they sell food. The planning consideration as to the appropriateness and need for an Article 4 Direction must be informed by the Councils policy on safeguarding community facilities (policy CS17) and in this respect has to have regard to the opportunities available in the area in general. In this case in New Whittington there are numerous public house alternatives as follows:

- The Miners Arms, High Street – 110 metres from The Wellington.
- The Rising Sun, High Street – 260 metres from The Wellington.
- The Forge, Devonshire Road North – 420 metres from The Wellington.
- The Angel, South Street North – 205 metres from The Wellington. This is currently vacant and has received a planning permission for conversion to flats however this has not been implemented. The property remains a public house and can be reoccupied as such without the need for planning permission.
- New Whittington Social Club, Wellington Street – 20 metres from The Wellington. There is a charge of £3 a year (£1.50 for OAPs) to be a member

There are also function room facilities within the close vicinity as follows:

- St Barnabus Hall, Albert Road – 260 metres from The Wellington
- Primary School, London Street – 410 metres from The Wellington

- 6.4 Over recent years Chesterfield Borough has seen more and more proposals which involve the loss of pubs, Miners' Welfares and similar club premises through changes of use or the redevelopment of their sites for other uses.
- 6.5 It is widely recognised that pubs make a significant contribution to community life, and their loss can have negative effects however the adopted Core Strategy policy CS17 is clear in that it acknowledges that pubs are required to serve and support the local population and in areas of the borough where there are a lack of facilities the redevelopment of public houses will not be permitted unless it can be shown that they are no longer viable. No evidence is available in this case to indicate that the pub is or is not viable. Any assessment of viability is likely to require the submission of evidence relating to trading accounts, valuation considerations and the marketing of the business or property for a minimum of 12 months as set out in policy CS17.
- 6.6 The policy sets out specific tests and requires an applicant to provide evidence to meet a number of criteria in order to allow the Planning Authority to consider a proposal for the loss of a pub. The aim of the policy is to provide clarity for officers, applicants, councillors and members of the community about the necessary considerations when determining applications in accordance with policies CS17. It clearly indicates that a public house can be redeveloped if an *equivalent facility is available in the locality*. In this case there are numerous options available within the near vicinity with five other pubs within 5 minutes walk. Apart from food the alternative pubs in the vicinity provide a range of competing facilities. An Article 4 Direction could not however be justified on the basis of food sales since such a Direction would not safeguard this component of the use. The owner may decide to stop selling food and this would be their choice. Likewise other pubs could start to sell food and such situations are not controllable via an Article 4 Direction. Such local arrangements may well justify adding the

premises to the list of Assets of Community Value however it is considered that on the basis of the availability of equivalent facilities in the area (5 other pubs within 5 minutes walk and alternative function rooms) then the case to justify the service of an Article 4 Direction cannot be made.

- 6.7 The listing of a building as an ACVs is however increasingly being taken into consideration as a material planning matter when considering planning applications which affect them and a number of appeal decisions are emerging which show inspectors are giving weight to ACV designation. Furthermore the Government announced last week that it is their intention to remove permitted development rights for all pubs that are listed as ACVs and secondary legislation is to be brought forward at the earliest opportunity (ie automatically introduce control as if an Article 4 Direction were in place).

7.0 CORPORATE ISSUES

- 7.1 In preparing this report the relevance of the following factors has been considered:

Financial Considerations - No implications at this stage if an Article 4 Direction is not served. There are provisions for compensation to be paid in the event that such a Direction is considered appropriate.

Legal and Human Rights Issues - Similarly with equal opportunities considerations the community/ stakeholders and any other interested parties would be consulted on any formal planning application submitted and given the opportunity to make representations.

Equalities Issues - It is considered that an Equalities Impact Assessment is not required. Consideration of any subsequent planning applications for the redevelopment of public house sites will need to be assessed in the normal way according to the council's established procedures for deciding and reporting all planning applications. The community/ stakeholders and any other interested parties would be consulted on any formal planning application submitted and given the opportunity to make representations.

8.0 RISK MANAGEMENT

8.1

Risks	Impact	Likelihood	Mitigating Actions	Residual Impact	Residual Likelihood
If an article 4 Direction is served there is a risk of compensation being sought if a subsequent planning application is refused.	High	Very Likely	<ul style="list-style-type: none"> • Ongoing communication with the owners. • Ensure a robust consideration of the issue 	High	Likely

9.0 RECOMMENDATION

9.1 That an Article 4(1) Direction is not served on The Wellington Hotel.

10.0 REASON FOR RECOMMENDATION

10.1 To ensure consistency with the adopted Core Strategy policy CS17.

Officer recommendation supported/not supported/modified as below or Executive Member's recommendation/comments if no officer recommendation.

Signed

Executive Member

Date

Consultee/Support Member comments (if applicable)/declaration of interests

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FOR PUBLICATION

THE WELLINGTON HOTEL – REQUEST FOR ARTICLE 4 DIRECTION – RESOLUTION OF PLANNING COMMITTEE (J260L)

MEETING: Deputy Leader and Executive Member for
Planning

DATE: 4th March 2015

REPORT BY: Local Government and Regulatory Law Manager

WARD: Barrow Hill & New Whittington

COMMUNITY ASSEMBLY North

Key Decision Ref: 503

1.1 At its meeting on 23 February, 2015, the Council's Planning Committee considered a report of the Development Management and Conservation Manager on the request for an Article 4 Direction in respect of the Wellington Hotel, 162 High Street, New Whittington.

1.2 The Committee resolved:

That it be recommended to the Deputy Leader and Executive Member for Planning by Planning Committee that an Immediate Article 4 Direction be served in relation to The Wellington Hotel because the particular combination of facilities at the public house are of great value to the local community and no equivalent facility is available in the locality. (Minute No. 103 - Planning Committee 2014/15)

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FOR PUBLICATION

LOCAL GOVERNMENT ASSOCIATION – TAKING STOCK – WHERE NEXT WITH SECTOR-LED IMPROVEMENT CONSULTATION (J030)

MEETING:	DEPUTY LEADER & EXECUTIVE MEMBER FOR PLANNING
DATE:	4 th MARCH 2015
REPORT BY:	POLICY MANAGER
WARD:	ALL
COMMUNITY ASSEMBLIES:	ALL

FOR PUBLICATION

BACKGROUND PAPERS FOR PUBLIC REPORTS:

1.0 **PURPOSE OF REPORT**

1.1 To respond to the Local Government Association's (LGA) consultation "Taking Stock – Where next with sector-led improvement?"

2.0 **RECOMMENDATIONS**

2.1 That the suggested response is submitted to the LGA as the Chesterfield Borough Council response to the sector-led improvement consultation.

3.0 **BACKGROUND**

3.1 Sector-led improvement is the approach to improvement put in place by local authorities and the LGA following the abolition of the previous national performance framework in 2011.

3.2 Sector-led improvement is based on the fundamental principle that councils are responsible for their own performance and are accountable locally, and that the role of the LGA is to support the sector.

3.3 It has been over three years since the LGA launched the “Taking the Lead” programme which set out the approach to sector-led improvement and the LGA’s support offer. A lot has happened during this period including a changing policy and financial context within the sector. It is therefore considered to be an opportune time for the LGA to consult member authorities on the current sector-led improvement approach and to inform the approach and support for the future.

4.0 **THE CONSULTATION**

4.1 The consultation period runs until the 13th March 2015. All responses will be treated confidentially by the LGA. Information will be aggregated, and no individual or authority will be identified in any publications without consent. The full consultation document is attached at Appendix A.

5.0 **CONSULTATION SECTION 1 – KEY PRINCIPLES AND FUTURE CHALLENGES**

5.1 The key principles of sector led improvement are:

- Councils are responsible for their own performance and improvement and for leading the delivery of improved outcomes for local people
- Councils are primarily accountable to local communities (not Government and inspectors) and that stronger accountability stems from increased transparency
- Councils have a collective responsibility for the performance of the sector as a whole
- The role of the LGA is to maintain an overview of the performance of the sector in order to identify potential performance challenges and opportunities

5.2 There is momentum towards a stronger placed-based approach to public service delivery in order to integrate local public services and associated spending decisions. In recent months, there has been a focus on the work of combined authorities and an agreement by Government to devolve more Government programme to them. Sector-led improvement needs to respond to this new challenge alongside the existing challenges of falling resources and increasing public expectations and demand.

5.3 Consultation questions and suggested responses

Q1. Given the current and future challenges facing the sector, are the principles on which sector-led improvement is based still the right ones?

Suggested response: *Yes, they are still relevant.*

Q2. If you answered no, or suggested changes, what would you suggest as alternatives/additions?

Suggested response: *No response.*

Q3. How should the increasing role that councils play in working with other parts of the public sector on a place-based approach be reflected in sector-led improvement?

Suggested response: *It is important to recognise that no one agency can deliver the outcomes required for complex place-based issues including health inequalities, financial inclusion, crime and community safety etc. The current sector-led improvement programme often focuses on the performance and improvement of core services within individual authorities – which is important but the larger and often more complicated, multi-agency issues tend to be the issues which impact on community outcomes most. For sector-led improvement to be truly successful in delivering community outcomes, then a more inclusive place based programme is required which includes agencies outside the local government sector e.g. community and voluntary organisations, NHS etc. There is however some emerging best practice particularly within the health agenda. A recent Peer Review of the Derbyshire Health and Wellbeing Board led to re-shaping and re-focusing of the Board and its priorities and added significant value.*

Q4. Is there more that all Councils should do to strengthen local accountability in their areas? If so what?

Suggested response: *Due to ongoing severe financial challenges many authorities have disinvested from community engagement, community development and local democracy activities. This has potentially damaged the sector's reputation for transparency and accountability. Against this national back drop of disinvestment Chesterfield Borough Council has invested in this area and sought to improve partnership working, co-ordination and collaboration in order to strengthen accountability and involvement.*

Q5. Do councils or the LGA need to do any more to ensure that local people and others have the comparative performance data they need to hold councils to account?

Suggested response: *Since the national performance indicator set was disbanded in 2011 it has been increasingly difficult for councils, the LGA and the public to access high quality, reliable and up to date comparable data. This includes key customer satisfaction data. Understanding resident or customer views is a key element of assessing the effectiveness of an authority, alongside cost and performance information. Furthermore, understanding resident satisfaction and being able to make informed comparisons can strengthen local accountability and be a key part of the sector's approach to managing its own performance.*

Although useful attempts have been made to improve this situation via the use of LG Inform and the "Are You Being Served" national satisfaction survey, relatively low engagement from Councils has limited their effectiveness.

Q6. Is there anything more that needs to be done to help councillors exercise effective scrutiny?

Suggested response: *With the place-based multi –agency issues, it can be difficult to establish which agency has the lead on scrutiny and indeed which agencies can and should be involved in scrutiny. This can weaken decision making and outcomes, particularly where pooled budgets and resources may lead to the most effective outcomes for communities. Support for effective scrutiny for these types of issue would be beneficial.*

Our experience of combined authority scrutiny and audit activity with Sheffield City Region has been extremely positive. The bespoke scrutiny and audit functions could be used to develop best practice for other combined authorities.

6.0 **CONSULTATION SECTION 2 – IMPROVEMENT, ASSURANCE AND INTERVENTION**

- 6.1 Some stakeholders have raised concerns that the lack of a national framework allows some authorities to opt out of sector-led improvement. The fact that corporate peer challenge is entirely voluntary is held up by many as an example of why sector-led improvement may lack sufficient rigour and coverage.
- 6.2 The Public Accounts Committee has raised concerns about a lack of Government knowledge regarding the performance of councils but so far

the Government has resisted re-introducing a formal national performance management system.

- 6.3 In the past few months, there have however been two high profile cases (Tower Hamlets and Rotherham) where Government has used its inspection powers to go into a council to gather evidence which then allows the Secretary of State to decide whether to formally intervene or not. These cases have further compounded the need to consider the future of sector-led improvement.
- 6.4 The LGA suggest that stakeholder concerns about sector-led improvement could largely be dealt with if every authority committed to a peer challenge every four years. The reports would all be made public and there would need to be a commitment to action planning and follow up. There would also need to be an alternative to compulsory peer challenge for authorities who are not members of the LGA.
- 6.6 Consultation questions and suggested responses

Q7. Do you have any views on the core components of a corporate peer challenge?

Suggested response: *We appreciated the ability to tailor our peer challenge to reflect local circumstances and priorities and would like to retain this aspect. However the five core elements of the corporate peer challenge are an essential “health check” for all authorities and we support their retention.*

Q8. Should all authorities be expected to have a corporate peer challenge on a regular basis, say every four years?

Answer options:

Yes

No

Don't know

Suggested response: Yes

Q9. Should all corporate peer challenge reports be published?

Answer options:

Yes – all should be published

Yes – unless there are exceptional circumstances

No – this should be a matter of local choice

Don't know

Suggested response: *Yes – unless there are exceptional circumstances*

Q10. Should all authorities be expected to produce an action plan following a peer challenge?

Answer options:

Yes

No

Don't know

Suggested response: *Yes*

Q11. Are there other things we should do to limit the government's potential appetite for inspection?

Suggested response: *Local Government has been more substantially more successful than other parts of the public sector in maintaining and increasing public satisfaction levels despite huge cuts to core budgets. This is despite there being far less invested by central government in improvements bodies than, say, the health sector. The LGA could actively promote these achievements as they suggest other sectors should be learning from local government and that we do not need to return to a rigid, prescribed and burdensome inspection regime.*

7.0 **CONSULTATION SECTION 3 – IMPROVEMENT SUPPORT**

7.1 The LGA's core support offer for sector led improvement includes leadership programmes, peer challenge, LG Inform (online data sharing and benchmarking service) and the knowledge Hub to help authorities share good practice.

7.2 Consultation questions and suggested responses

Q12. What changes would you like to see from the LGA's improvement offer?

Suggested response: *We have valued LGA support with sector-led improvement; in particular peer challenge and the Knowledge Hub, however there are some areas of support which could be strengthened.*

LG Inform is an excellent idea in principle and has been useful but it has significant limitations. Since the national performance indicator set was disbanded in 2011 it has been increasingly difficult for councils to benchmark effectively. Within LG Inform it may look like councils are collecting the same information but in reality they may have changed the definition of indicators slightly and/or changed the collection method – this

has been the case particularly with resident satisfaction data. It would be useful to have a suggested set of core indicators which councils are encouraged to report. They should use the same definition, collection method and frequency. This could form part of the corporate peer challenge and serve as a basic “health check”. The “Are You Being Served” national satisfaction survey was an excellent idea but poor engagement from Councils has limited its effectiveness – again this could form part of the peer challenge “health check”.

More support around financial stability, innovation and trading would be appreciated alongside assistance with the challenges arising from placed-based multi-agency issues.

8.0 CONSULTATION SECTION 4 – CHILDREN’S SERVICES, ADULT SOCIAL CARE AND HEALTH

8.1 Consultation questions and suggested responses

Questions 13 – 19 focus on County Council services so no response is suggested.

Q20. Do you have any comments about the arrangements and support put into place to help councils and their partners implement changes across adults and health programmes?

Suggested response: *The current sector-led improvement programme tends to focus on the performance and improvement of core services within individual authorities. In the case of health there has been insufficient consideration of the impact district councils can have on this agenda particularly from a preventative perspective. The role of Housing for example, in supporting people to stay in their own homes longer, rather than having to move into expensive care establishments should not be underestimated. Many district council services contribute significantly to the preventative agenda and early intervention.*

For these place-based multi-agency issues including health, a more inclusive support and improvement programme is required to ensure the best outcomes for communities.

9.0 **GENERAL COMMENTS ABOUT SECTOR-LED IMPROVEMENT**

9.1 **Q21. Do you have any other comments about the current approach to sector-led improvement?**

Suggested response: *The approach to sector-led improvement has had some success in driving performance improvement, accountability and transparency during challenging times in local government. However to take this to the next level the support and improvement programme needs to move beyond traditional boundaries and responsibilities to be more inclusive of all the stakeholders for more complex issues such as health inequalities, financial inclusion and crime and community safety.*

10.0 **CONSIDERATIONS**

10.1 Risk Management – full engagement in sector-led improvement can reduce reputational, governance and financial risks to the authority. The Corporate Peer Challenge provides an excellent “healthcheck” on core responsibilities including understanding the needs and aspirations of communities, financial planning and viability, political and managerial leadership, governance and decision making and organisational capacity.

10.2 Equalities – Sector-led improvement includes Equality and Diversity improvement programmes e.g. Local Government Equality Framework.

11.0 **RECOMMENDATIONS**

11.1 That the suggested response is submitted to the LGA as the Chesterfield Borough Council response to the sector-led improvement consultation..

12.0 **REASON FOR RECOMMENDATIONS**

12.1 To respond to the sector-led improvement consultation.

D. M. REDDISH
POLICY MANAGER

Further information on this matter can be obtained from Donna Reddish (Extension 5307).

Officer recommendation supported/not supported/modified as below or
Executive Members' recommendation/comments if no Officer recommendation.

Signed

Executive Member

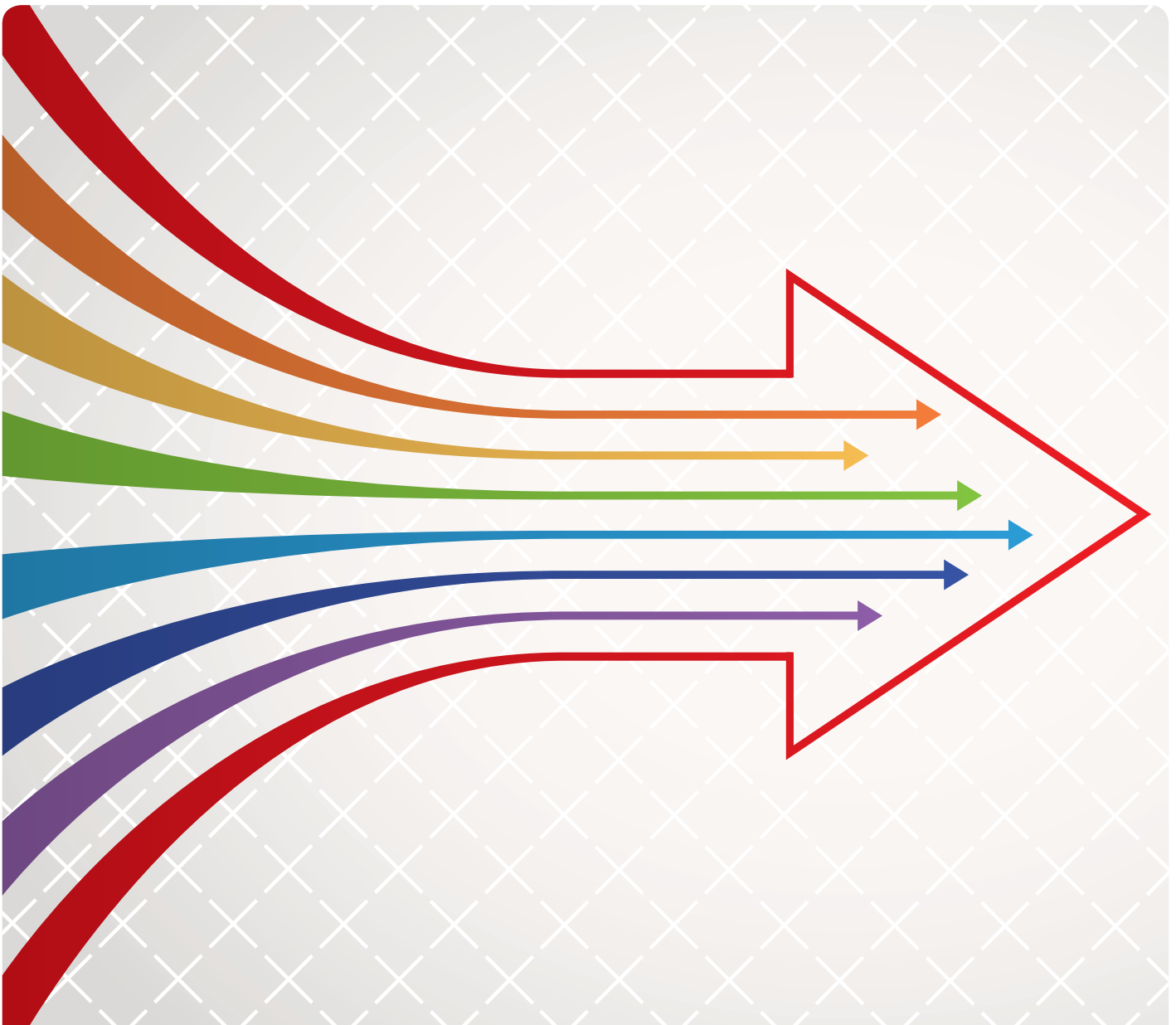
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Consultee Executive Member comments (if applicable)

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Taking stock

Where next with sector-led improvement?



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Foreword



Three years ago the Local Government Association (LGA) published 'Taking the lead' setting out an approach to improvement in local government developed and agreed with councils.

It has been a success. As the wide-ranging evaluation demonstrated:

- residents remain satisfied with and continue to trust their local council, despite the increasing financial constraints being faced by the sector
- councils' performance across a wide range of metrics continues to improve
- the approach and offer of support from the LGA is welcomed and valued by councils.

But as public expectations continue to rise, resourcing pressures increase and political parties begin to think about potential policy changes impacting on local government we need to ask whether it is the right approach for the future or whether any changes are needed.

This consultation paper is your opportunity to tell us – please take it.

A handwritten signature in black ink, consisting of a large, stylized 'P' followed by a horizontal line and a vertical stroke that loops back up to the top of the 'P'.

Cllr Peter Fleming
Chairman, LGA Improvement
and Innovation Board

Taking stock

Introduction

Sector-led improvement is the approach to improvement put in place by local authorities (including Fire and Rescue Authorities) and the Local Government Association (LGA) following the abolition of the previous national performance framework. It is based on the fundamental principles that councils are responsible for their own performance and are accountable for it locally (not nationally), and that the role of the LGA is to support the sector.

The success of the approach is demonstrated by the results of the independent evaluation of sector-led improvement which has been used to track the impact of the approach and the LGA's contribution to it – since 2011. Despite having to deliver savings amounting to almost 40 per cent, councils have continued to deliver high quality services which are accountable to local people and trust in councils from the public remains high. The support provided by the LGA has had an impact and has been very well received by councils. A summary of the key facts and some of the research findings are set out in Appendix A. However, external stakeholders and the public still remain to be convinced about the robustness of the sector-led approach when there is no national system or obligation to be involved.

While inspection in many areas has ended, children's services are still subject to an inspection regime. Increasingly, many in the sector are now starting to question the credibility and objectivity of Ofsted given the increasing number of councils being rated in the lowest two categories and the consultation provides an opportunity to comment on the future of inspection in children's services.

The publication of the evaluation findings, coinciding with the run up to the next General Election, provides a good opportunity to 'take stock' and consider, with local authorities (including Fire and Rescue Authorities) and our key stakeholders, whether any changes to the approach are necessary. While it is unlikely that political parties will be highlighting issues around improvement in their forthcoming manifestos, it is the case that they are starting to develop their thinking and Appendix B summaries the position as we understand it at the moment.

All these factors provide an opportunity for the sector to review the suitability of the current approach to sector-led improvement. This consultation invites your views. Please take the time to respond.

Details on how to respond can be found at the end of this document.

Key principles and future challenges

The context within which local authorities (including Fire and Rescue Authorities) operate continues to change. A key starting point must be to ask whether any of these changes challenge the fundamental basis and principles on which sector-led improvement rests.

Government funding to local authorities for local services will have been cut by 40 per cent by May 2015. Councils have responded well, rising to the challenge. But there is more to come. At the same time public expectations remain high and demographic trends signal further pressures on already stretched services.

Sector-led improvement: key principles

At the heart of the approach to sector-led improvement is a set of core principles that have been developed with and re-affirmed by the sector. They are that:

- a)** Councils are responsible for their own performance and improvement and for leading the delivery of improved outcomes for local people in their area.
- b)** Councils are primarily accountable to local communities (not government or the inspectorates) and stronger accountability, through increased transparency, helps local people drive further improvement.
- c)** Councils have a collective responsibility for the performance of the sector as a whole (evidenced by sharing best practice, offering member and officer peers, etc).
- d)** The role of the LGA is to maintain an overview of the performance of the sector in order to identify potential performance challenges and opportunities – and to provide the tools and support to help councils take advantage of this approach.

Place-based approach: The momentum towards a stronger place-based approach to local public service delivery continues unabated – from the early days of community strategies and local strategic partnerships through local area agreements, total place pilots to community budget pilots – getting stronger at each stage.

A place-based approach to the integration of local public services and associated spending decisions is a key ‘ask’ we and councils are making of central government. In recent months, there has also been a focus on the work of combined authorities and agreement by Government to devolve some more Government programmes to them. How should sector-led improvement respond to the move towards a more place-based approach?

Local Accountability: One of the earliest actions of the incoming coalition Government was to dismantle much of the old top-down performance management framework to which local authorities had been subject. It had lost any ability it might have had to drive improvement and the cost of maintaining the complex architecture (estimated at £2 billion) was simply unsustainable.

Councils have always been at the forefront of the accountability and transparency agenda. Almost all decisions are made in public. Decisions are subject to scrutiny by the public, media and scrutiny committees. Councils consult and engage with the communities they serve far more than other parts of the public sector. But is there more that councils should be doing to strengthen local accountability or for councillors to exercise effective scrutiny?

All councils make information about their performance available on their websites and through other means. In the field of adult social care, the LGA and the Association of Directors of Adult Social Services (ADASS) have encouraged all councils to produce a “local account” on an annual basis setting out for the public an account of what has been achieved with the resources available.

More broadly, LG Inform, the LGA's online data comparison service, has now been made available to the public. LG Inform stores around 2,000 different measures, allowing officers, councillors and the public to assess the performance of councils and Fire and Rescue Authorities against a wide range of metrics and also compare performance with other areas. But is there more that councils or the LGA should do to provide opportunities for the public and others to have comparative data about councils? For example should all councils be expected to carry out and make public a self-assessment each year?

Consultation questions

1. Given the current and future challenges facing the sector, are the principles on which sector-led improvement is based still the right ones?

Answer options:

Yes, they are still all relevant exactly as they are

Yes they are generally relevant, but I suggest some changes

No, none of them are relevant now

Don't know

2. If you answered no, or suggested changes, what would you suggest as alternatives/ additions?

3. How should the increasing role that councils play in working with other parts of the public sector on a place-based approach be reflected in sector-led improvement?

4. Is there more that all councils should do to strengthen local accountability in their areas? If so what?

5. Do councils or the LGA need to do any more to ensure that local people and others have the comparative performance data they need to hold councils to account? If so what?

6. Is there anything more that needs to be done to help councillors exercise effective scrutiny?

Improvement, assurance and intervention

One of the key underlying principles of sector-led improvement is that local authorities are accountable to local people and communities, not to central government or the inspectorates and, as part of our offer to the sector, we made available a range of support to help local authorities strengthen local accountability. The LGA has always been clear that while our role is primarily to provide support to authorities we will also maintain an overview of the performance of the sector so that we can ensure that we continue to develop the right forms of support, but also to ensure we can respond quickly to challenges with individual councils or groups of councils and offer appropriate support.

Yet Government continues to collect huge amounts of data from the sector (estimated at around 40,000 data items per council per year) and in some instances this data is being used to make judgements about performance. For example, the Department for Communities and Local Government (DCLG) uses data returns to monitor the speed with which councils process planning applications. Planning authorities who process 40 per cent or less of major applications within 13 weeks may be designated as, 'poorly performing' and as a result applicants may choose for their application to be handled by either the local planning authority or the Planning Inspectorate.

Some stakeholders believe that the lack of a national framework or system allows some authorities to effectively opt out of sector-led improvement and therefore there is a danger that councils that are "coasting" or where performance is declining, are not being sufficiently challenged by the sector to improve. The fact that corporate peer challenge is voluntary is held up by many as an example of why sector-led improvement may lack sufficient rigour and coverage.

The Public Accounts Committee has raised concerns about what is perceived to be a lack of knowledge by Government about the performance of councils, on the basis that it still funds local government to a significant extent and are relying on councils to deliver many of their policy objectives. The current Government has so far resisted re-entering this space but there are concerns that a future government could be minded to introduce at least some form of a national performance management system.

Some commentators within local government and central government have suggested that the LGA should take a tougher line and that sector-led improvement should have more bite. This includes an expectation that all authorities should have a corporate peer challenge and that without everyone participating it undermines sector-led improvement. While it is the case that the overwhelming majority of authorities have published their peer challenge report and many have published a response or action plan, the fact that this is not always the case can also undermine our approach to sector-led improvement.

Moreover, in the past few months, there have been two high profile cases where central Government has used its inspection powers to go into a council to gather evidence which allows the Secretary of State to decide whether to formally intervene or not. This is the first time that Government has used such powers since 2008 and could signal a growing appetite to intervene.

The Government has adopted a different approach to inspection in these two cases. In the case of Tower Hamlets, it commissioned PwC but in the case of Rotherham it appointed Louise Casey, a DCLG official, as the 'inspector'. The way these inspections have been carried out and the formal engagement with the council has therefore varied and there appears to be no clear or standard process in place.

This is in contrast to the way “Corporate Governance Inspections” were carried out previously which included a clear methodology and process for clearing a report with the council and often member or officer peers participating as part of the inspection team.

In addition, Sir Bob Kerslake has recently completed a review of the governance and organisational capabilities of Birmingham City Council. The methodology he adopted for the review was based on the principles of the LGA’s peer challenge model and included an advisory panel of member and officer peers.

In the light of all this activity, do we need to re-position sector-led improvement slightly and, in particular, the peer challenge element?

All corporate peer challenges look at the things we know are critical to local authority performance and improvement, as well as providing lots of flexibility about the rest of the scope of the challenge. The five core areas are:

1. Understanding of local context and priority setting
2. Financial planning and viability
3. Political and managerial leadership
4. Governance and decision-making
5. Organisational capacity.

Do we need to make any changes to the way we deliver corporate peer challenge, including the core components?

The stakeholder (particularly Government’s) concerns about sector-led improvement could largely be dealt with if every authority committed to a peer challenge every four or so years with the reports all made public and a commitment to an action plan and follow up. This would re-position peer challenge as more than just an improvement tool but it is likely to be seen as attractive to whichever party is in control after the general election and would mean that pressure for Government to fill this space would be significantly reduced.

A possible alternative is that government decides that if peer challenge remains voluntary that it will create some form of diagnostic or inspection to provide them with the reassurance it needs to be carried out in authorities which do not participate in peer challenge.

In addition, it is likely that there may continue to be occasional instances in the future where government may want to use its powers of intervention. Even in these cases, there could be value in offering to work with government on the methodology it adopts when carrying out such inspections and potentially play a role.

Consultation questions

7. Do you have any views on the core components of a corporate peer challenge?

8. Should all authorities be expected to have a corporate peer challenge on a regular basis, say every four years?

Answer options:

- Yes
- No
- Don't know

9. Should all corporate peer challenge reports be published?

Answer options:

- Yes – all should be published
- Yes – unless there are exceptional circumstances
- No – this should be a matter of local choice
- Don't know

10. Should all authorities be expected to produce an action plan following a peer challenge?

Answer options:

- Yes
- No
- Don't know

11. Are there other things we should do to limit government's potential appetite for inspection?

Improvement support

In summary the LGA's core support offer has included:

Support to assist local politicians to lead both their places and their authorities through a range of **leadership programmes**.

At no cost, a regular corporate **peer challenge** to every authority.

LG Inform – the sector's own online data sharing and benchmarking service.

Helping the sector to capture and **share good practice** through the web, including the creation of Knowledge Hub.

Helping councils to drive down costs through our **productivity programme**.

Working with the regional and other infrastructure to ensure that the most is made of the resources available.

Authorities have valued the support that has been provided but looking ahead are there some key changes you would like to see? For example, should we do more to support councils to make savings? Is there more that can be done to share good practice or foster innovation?

Consultation question

12. What changes would you like to see from the LGA's improvement offer?

Children's services, adult social services and health

Over the last three years, the LGA, working with Solace, the Association of Directors of Children's Services (ADCS) and ADASS has developed a comprehensive programme of support across children's social care, adults and health improvement building on the elements of the 'core' offer. ('Sector-led improvement in local government'. LGA June 2012).

Children's services: The LGA offers a range of support to councils for children's services including safeguarding children peer reviews, safeguarding practice diagnostics, care practice diagnostics, leadership essentials for lead members for children's services and a new diagnostic for Local Safeguarding Children Boards.

The recent events in Rotherham have brought renewed focus on child sexual exploitation and there is an element of tackling this within the LGA's existing offer but councils may want more support in this area.

Similarly, events surrounding the Trojan Horse letter in Birmingham have demonstrated

the unclear and overlapping accountability arrangements for schools and a number of councils have suggested that the LGA should now develop a specific improvement offer to help councils adapt.

The current inspection regime for children's social care, through Ofsted's Single Inspection Framework, is onerous and to date no council has received the highest rating of outstanding. Inspections can impact on staff morale and councils' ability to attract and retain staff.

A new integrated inspection programme is being piloted to assess the effectiveness of all agencies in an area in keeping children safe. Rather than a single inspection across all agencies, as the LGA and others have called for, it is proposed that separate inspections will continue through individual inspectorates within a similar timeframe and with the addition of a joint assessment of the Local Safeguarding Children Board.

Questions have been raised about public confidence in Ofsted following a number of cases where judgements have been downgraded after a high profile incident, both in schools and councils. The LGA has called for an independent review of the inspectorate.

Consultation questions

13. Is there a continued need for the inspection of services that protect and care for children and young people?

Answer options:

- Yes
- No
- Don't know

14. If you answered yes, should that inspection be carried out by Ofsted?

Answer options:

- Yes
- No
- Don't know

15. Is there a continued need for the inspection of councils' school improvement services?

Answer options:

- Yes
- No
- Don't know

16. If you answered yes, should that inspection be carried out by Ofsted?

Answer options:

- Yes
- No
- Don't know

17. Should separate inspections of agencies contributing to the protection and care of children, such as councils, health and the police, be replaced by a single inspection of services across all agencies in an area?

Answer options:

- Yes
- No
- Don't know

18. If a new multi-agency inspection for the protection and care of children is developed, should this be delivered through Ofsted, another existing inspectorate or a new inspectorate?

Answer options:

- Ofsted
- Another existing inspectorate (e.g. Care Quality Commission, Her Majesty's Inspectorate of Constabulary, Her Majesty's Inspectorate of Probation)
- A new inspectorate
- Don't know

19. Do councils need further support, such as bespoke models of peer review for child sexual exploitation or schools improvement, to meet the challenges faced in children's services? If so, what?

Adult social care and health: Continuous sector-led improvement in adult social care is led and coordinated by TEASC (Towards Excellence in Adult Social Care). A Board chaired by ADASS with membership from the LGA, Department of Health (DH), Care Quality Commission and Think Local Act Personal oversee a programme of regionally based improvement which is robust, transparent and has the increasing respect and confidence of sponsors and stakeholders.

At a national level LGA and ADASS work with experts in the sector to develop self-assessment and reporting tools – Managing Risk, Use of Resources, Commissioning for Better Outcomes, Safeguarding Adults, Adult Social Care Framework (ASCOF) performance – which Directors of Adult Social Services (DASSs) use in peer challenge at a regional level. In some regions, there is an improvement board chaired by a Chief Executive who oversees the improvement work and in some it is chaired by regional DASSs – often the Chair of the ADASS region.

The ASCOF data shows that nationally, performance in adult social care is increasing, despite having to make significant budget savings (over 20%) over recent years. Whether this would have been achieved without a continual focus on improvement, supporting leaders to lead, ensuring authorities who are struggling are picked up and supported by peers and the LGA, making the tools for improvement available to the sector is a major part of the debate.

The strong links between the national team and the regional programme support teams and with the DASSs through ADASS contributes to the increasing transparency

which makes this approach more robust. Capacity in this system is currently stretched and we have recently introduced the Adult Improvement Advisers (AIA's) to support the LGA Principal Advisers and the regional DASS lead to embed the programme of improvement in each region and to support local authorities on particular areas of challenge.

Continuous sector-led improvement is therefore a major part of how adult social care has managed to maintain their performance and has become the way change is embedded in adult social care.

More recently the LGA, ADASS and the regions have been commissioned by DH to help councils deliver a number of specific changes in adult social care and health. This has led to a number of joint programmes dealing with the Better Care Fund, Care Act and Winterbourne View.

Some of these programmes might more strictly be thought of as providing implementation support as opposed to 'improvement'. The LGA working jointly with DH and other partners, has developed stocktakes to support local planning and inform national support and resource discussions, providing reassurance at all levels.

This has sometimes felt uncomfortable for some in the sector but by being part of the process we have played a key role providing confidence back to Government about the sector's ability to deal with these challenges.

Consultation question

20. Do you have any comments about the arrangements and support put in place to help councils and their partners implement changes across adults and health programmes?

Conclusion

It is now over three years since we launched 'Taking the lead' setting out the approach to sector-led improvement and the LGA's support offer. A lot has happened since then.

We have the experience of providing a wide range of support; we have the lessons from the independent evaluation and the

policy and financial context within which local authorities (including Fire and Rescue Authorities) work is becoming clearer, if no less challenging.

It is therefore opportune to 'take stock'. We are keen to do this with local authorities and for their views to inform how the approach and offer develops.

Consultation question

21. Do you have any other comments about the current approach to sector-led improvement?

How to respond

This consultation invites the sector's views about the future of sector-led improvement and the shape of the LGA's support offer to the sector. We are keen to receive a wide range of views, from leading members and officers in local authorities (including those involved in scrutiny), from national stakeholders in Government departments and the Inspectorates and from partners with which councils work locally.

The closing date for the consultation is Friday 13th March 2015. An online form has been set up to provide a quick and convenient method for responding.

All leaders and chief executives have been sent their own unique link to the online form. If you are a chief executive or leader and you have not received your unique link, please contact kate.cooper@local.gov.uk, who will forward this to you.

Anyone else wishing to submit a response can generate their own unique link by clicking here: <http://survey.euro.confirmat.com/wix9/p1841157349.aspx>

Please note that unique links should not be shared with colleagues unless you would like them to fill them in on your behalf, as their response will overwrite your own.

We have set up the online form to provide a quick and convenient method for responding to the consultation. However if you would rather respond by email or another method, please feel free to do so. Responses can be sent directly to kate.cooper@local.gov.uk.

All responses will be treated confidentially by the LGA. Information will be aggregated, and no individual or authority will be identified in any publications without consent.

If you have any queries about this consultation, please contact nick.easton@local.gov.uk.

Appendix A

Sector-led improvement: Key facts and evaluation findings

- Nationally, nearly three quarters of almost 100 indicators have improved since 2010.
- Residents trust in councils is high: when asked in July 2014 whether they most trusted their local council or the Government to make decisions about how services are provided in their local area, 80 per cent said their local council (significantly higher than the 70 per cent a year previously), while just 14 per cent most trusted the Government.
- The percentage of leaders and other senior councilors agreeing that the LGA understands what councils need to help improve their service and organisational capacity has increased from 70 per cent in 2012 to 79 per cent in 2013.
- Over 350 peer challenges have been delivered, making use of thousands of peer days donated by councils and the research found that the challenges were helping councils drive forward improvements.
- Ninety three per cent of leaders and chief executives said the support from the LGA had had a positive impact on their authority.
- Support from the LGA's productivity programme had helped councils achieve savings in excess of £400 million, equivalent to a saving of £8 for every £1 of investment.
- Over the three years over 2,000 councillors had been trained and developed through the LGA's leadership programmes and a further 300 graduates had been recruited through the National Graduate Development Programme.
- LG Inform has received over 66,000 visits from 36,000 unique visitors since it was launched and is now available to the public.

Appendix B

Policy Context

In the run up to the next General Election the political parties will be reviewing their thinking about local accountability and performance. The impact of the Scottish Referendum and the subsequent debate around devolution continues, but in the meantime:

For the Conservatives the commitment to localism and local accountability is likely to remain a key feature of the approach to local government, maintaining the reduced burden of data reporting and inspection. There has been a noticeable focus on transparency and this may remain, with ministers also continuing to make their views known about specific issues as they arise (of which the joint letter from Eric Pickles MP and Nicky Morgan MP about safeguarding vulnerable children is an example). Separately, the Government has recently announced that it intends to explore how the budget given for improvement services can be opened up to competition.

The Liberal Democrats pre-manifesto document re-affirms the Party's commitment to decentralisation and commits to a reduction in DCLG's powers to interfere in democratically elected local government in England and to the establishment of a commission "..... to explore the scope for greater devolution of financial responsibility to English local authorities....." At the same time there is a commitment to spread democracy in everyday life, including by "..... increasing the opportunities for people to take democratic control over the services on which they rely". (A Stronger Economy and a Fairer Society: Enabling every person to get on in life. August 2014).

The Labour Party in the final report from their Innovation Task Force (People-powered public services. Local Government Innovation Task Group. July 2014) has suggested that the next government should review existing data reporting requirements to ensure they are fit for purpose in a more devolved system. This should focus on fewer strategic outcomes rather than a larger number of narrowly defined targets. Local authorities would need to publish data on outcomes being delivered in their communities in a clear, comparable and accessible way so that they can be held to account by local people for their performance.

In addition to accountability by people, a 'light touch' approach to performance management is suggested and would need to be agreed with central government. This would seek to detect and respond appropriately to underperformance:

- For authorities improving outcomes: no need for any action.
- For authorities not improving outcomes: a toolkit of options would be available which range from self-improvement measures to peer challenges, which have been shown to effectively drive improvement by identifying unique issues with a council's performance and taking bespoke measures to overcome them.
- For authorities persistently failing to make progress: the centre retains reserve powers to intervene as a last resort. Options would be available to initiate appropriate special measures such as the direct appointment of time-limited commissioners, a boundary review or a governance review.

The Taskforce recommends a separate and more intensive approach to challenging safeguarding to ensure standards are monitored and constantly driven up. Safeguarding peer challenges (both child and adult) should be conducted every three years, and the challenges should cover all services with safeguarding responsibilities in the area including the council, health bodies and the police.

The Public Accounts Committee has been pressing Government about how it ensures it is better informed about the situation on the ground among local authorities across England, in a much more active way, in order to head off serious problems before they happen. To date Government has stopped short of re-creating a performance management or inspection regime which provides them with such reassurance but the debate about this has not gone away.

Finally, the DCLG select committee have said in the next Parliament they will launch a review of councils' scrutiny functions.



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Agenda Item 6

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