



## **Assets of Community Value – Guidance Notes**

### **Introduction**

The Localism Act 2011 has introduced a new Community Right (referred to as the Community Right to Bid) which allows Town and Parish Councils and defined community groups to ask the Council to list certain assets as being of community value.

The purpose of the Community Right to Bid is to assist local community groups to preserve buildings or land which are of importance to their community's social well-being. The Right to Bid provision does this through regulating that when a listed asset comes up for sale there is a delay in the sale process. This delay should give an increased chance for the local community to bid to buy the asset.

### **The types of local assets can be nominated**

An area of land or a building can be nominated as an asset of community value if its main use furthers the social well-being or social interests of the local community. Additionally, it is also possible to nominate land / buildings where use in the recent past has furthered these interests and it is realistic to consider that the land/ buildings will further social interests (whether or not in the same way) again in the next five years.

It is possible to nominate assets that are in either public or private ownership. The range of assets that can be considered to enhance a community's social well-being is wide and could include, for example – a village shop; community centre; library; local pub; area of open space etc.

### **How to nominate an Asset of Community Value**

There is further information on the Community Right to Bid process at the following link: <http://mycommunity.org.uk/resources/the-community-right-to-bid-step-by-step/> The Guide outlines the stages involved in the process including: how to identify assets of community value; the nomination process; triggering a delay in the sale process (the moratorium); bidding for the property; and managing the asset.

The Government's Regulations dictate that only specific eligible voluntary and community organisations can nominate assets of community value. Town and Parish Councils and certain voluntary and community groups as set out in the Nomination Form can make nominations.

The nomination must include specific information so that the Council can decide whether the land or building nominated meets the definition of an Asset of Community Value. The required information is set out in the Council's Nomination Form. A Word version of this form is available on request to enable email submission – please email: [leisureandcommunities@cotswold.gov.uk](mailto:leisureandcommunities@cotswold.gov.uk)

## **The property owner**

The Localism Act sets out a definition of the owner so that only one level of legal proprietary rights qualifies as ownership for the purposes of the Asset of Community Value legislation. In summary, this is the freeholder or, if the asset is leased, the leaseholder with the lease most distant from the freehold which when granted had at least 25 years to run.

## **What happens following nomination?**

On receipt of a completed nomination form the Council inform the following of the nomination: the relevant parish council; the owner (as defined in the Localism Act); all others with a legal estate; and any lawful occupant (which could include a Licensee). The Council will decide on whether to list the asset within 8 weeks. The property will then be added to either the List of Assets of Community Value or the List of Land Nominated by Unsuccessful Community Nominations. The Council's decision as to whether or not the nominated asset is to be listed as an Asset of Community Value will be notified to the property owner and other interested parties.

Assets that are considered to be of community value and included on the List of Assets of Community Value will have a local land charge registered against them and the Council will apply for a restriction on title with HM Land Registry. The asset will remain on the list for five years or until one of the following circumstances applies: after a relevant disposal; when an appeal against a listing has been successful; or if the Council forms the opinion that the land or building is no longer of community value.

## **The Property Owner's Right to Review and Appeal**

The owner of land included in the Council's List of Assets of Community Value may ask the Council to review its decision to list the asset. A request for a listing review must be made in writing before the end of a period of eight weeks from the date of the listing decision letter. As soon as is practicable following the request for the review, the Council will notify the owner of the review procedure. The owner and Council will bear their own costs of the review.

The Council's review will be undertaken by a Strategic Director in their role as an officer of appropriate seniority who did not take any part in making the decision to be reviewed. The property owner may appoint a representative to act on his or her behalf in connection with the review. The Council will provide to any such representative any document which is required to be sent to the owner. The owner/ their representative can make representations to the Council's Strategic Director orally and/or in writing. The Council will complete the review within eight weeks of the receipt of the written request for the review, or longer where this has been agreed with the owner.

The initial request for the Council review of a listing decision should explain on what grounds the decision should be reviewed. The review request should be sent in writing to the Council's Community Planning Section at the address given at the end of this document.

If the owner is not satisfied with the outcome of the internal review they have the right to appeal to the First-Tier Tribunal against the Council's decision. The written response sent to the property owner following the internal review will set out the details of this further opportunity to appeal. The deadline for this further review stage of appeal is 28 days from the date on which the notice of the decision appealed against was sent to the owner. Appeals may be both on points of law and on findings of fact.

Owners should send the appeal in writing to the First-Tier Tribunal at:

Tribunal Clerk  
Community Right to Bid Appeals  
HM Courts and Tribunals  
First-tier Tribunal (General Regulatory Chamber)  
PO Box 9300  
Leicester  
LE1 8DJ

Or at: [GRC.CommunityRights@hmcts.gsi.gov.uk](mailto:GRC.CommunityRights@hmcts.gsi.gov.uk)

### **What happens once an asset is listed and the owner wishes to sell/ dispose of it?**

**Once an area of land or a building is listed as a community asset, the owner cannot then dispose of it without notifying the Council in writing as required in Section 95(2) of the Localism Act 2011.**

The written notification to the Council must set out the owner's intention to enter into a relevant disposal of the land. Where the Council receives such a notification, it will then publicise the intended sale in the local community. There then follows a 6 week period (referred to as an **"interim moratorium"**) where the sale is delayed and the community is given a chance to request that it is treated as a potential bidder for the asset.

If the community decides not to submit a bid, then the asset owner is free to dispose of it on the open market. If the community confirms that it does wish to submit a bid, the Council must then oversee a 6 month **"full moratorium"** period where the sale is further delayed. This delayed sale allows time for the community to develop its bid to the asset owner.

During the 6 month "full moratorium" period the asset owner may continue to market and negotiate sales, but may not exchange contracts (or enter into a binding contract to do so later). There is one exception: the owner may sell to a community interest group during the moratorium period. There is no obligation for a community interest group to actually make a bid to purchase an asset and such a group has no rights of purchase over other potential buyers. Similarly, the asset owner is under no obligation to sell the asset to the community interest group or any other person.

The moratorium comes to an end after either: 6 weeks in cases where there has been no community interest; or the full 6 months in cases where a community interest group has expressed interest in being treated as a potential bidder. At the end of the moratorium that is relevant in a particular case, there follows a period that is referred to as the **protected period**. The protected period is a period of 18 months (running from the original date the owner notified the local authority of an intention to sell). Following the end of the relevant moratorium period and during the remainder of the protected period, the owner is free to sell their property to whomever they choose without further delay.

For clarity, it is re-stated here that the start date for all three periods (the interim moratorium; full moratorium; and protected period) is the date the Council receives notification from the owner of the intention to dispose of the property.

Certain buildings and land are excluded from the delayed disposal process. Examples include land attached to residential property and land used by public utilities. In addition, the moratorium rules do not apply to businesses and associated land that are being sold as a going concern and a wide range of

non-commercial disposals of land, for example through the will of a deceased owner. For a full list of exemptions please contact the Community Planning Team.

### **How the sale moratorium is enforced**

The moratorium (delayed sale of a listed asset) is enforced by the restriction placed with HM Land Registry and the entry on the local land charges register. When a listed asset is disposed of, and a new owner applies to HM Land Registry to register the change of ownership, the new owner will need to provide the Land Registry with a certificate from a conveyancer that the disposal did not contravene the moratorium requirements set out in the Localism Act.

### **Owner compensation**

Private owners may claim compensation for loss and expense incurred through the asset being listed or previously listed. The Regulations specifically provide that this will include a claim arising from a period of delay in entering into a binding agreement to sell which is wholly caused by the interim or full moratorium period; or for legal expenses incurred in a successful appeal to the Tribunal.

The compensation scheme does not extend to public authorities and bodies. These are defined as Government departments, authorities and other such bodies; local authorities and other public authorities defined in accordance with identified responsibilities for audit as set out in relevant legislation.

The Regulations specify a time limit for making a compensation claim that is defined as before the end of thirteen weeks after the loss or expense was incurred or (as the case may be) finished being incurred. Claims must state the amount of compensation being claimed for each part of the claim and must be accompanied by supporting evidence.

The burden of proving the claim falls upon the property owner. The Council will consider and determine any claims for compensation and will provide written reasons for the decision.

In the event that the owner is not satisfied with the Council's response to the compensation claim they may request a review by the Council of the compensation decision. Further guidance on the process involved in this procedure for compensation review will be notified in relevant cases.

Any initial compensation claim should be sent to the Council's Community Planning Section at the address given at the end of this document.

### **Further information**

This guide is intended as an introduction to the District Council's procedures for the Community Right to Bid for Assets of Community Value. The procedures will be subject to periodic updates.

These Guidance Notes do not provide a statement of the law. Property owners and community interest groups remain responsible for obtaining independent advice in considering their options when faced with choices under The Assets of Community Value legislation.

For reference, the legislation relating to Assets of Community Value was introduced under the Localism Act 2011 and is further developed in the Assets of Community Value (England) Regulations 2012:

Localism Act Chapter 3 – Assets of Community Value  
<http://www.legislation.gov.uk/ukpga/2011/20/part/5/chapter/3>

Assets of Community Value (England) Regulations 2012

<http://www.legislation.gov.uk/uksi/2012/2421/contents/made>

For a detailed overview of how the Community Right to Bid operates, the Government's "Community Right to Bid: Non-statutory advice note for local authorities" (October 2012) provides a relevant resource - see:

<https://www.gov.uk/government/publications/community-right-to-bid-non-statutory-advice-note-for-local-authorities>

Further general information on how the Community Right to Bid operates and associated considerations can be found here:

<http://mycommunity.org.uk/resources/the-community-right-to-bid-step-by-step/>

Specific advice on the operation of the Community Right to Bid is available through the Government funded body Locality. A web page for queries is available at:

<http://mycommunity.org.uk/enquiry-form/>

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## **The Council's Service Area that oversees Assets of Community Value**

Community Planning

Leisure and Communities

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Gloucestershire

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