

ASSETS OF COMMUNITY VALUE GUIDANCE FOR OWNERS

The Community Right to Bid is part of the Localism Act 2011 and came into force on 21 September 2012.

The provisions give local groups a right to nominate a building or other land for listing by the local authority as an asset of community value. It can be listed if a principal (non-ancillary) use of the asset furthers or has recently furthered their community's social well being or social interests (which include cultural, sporting or recreational interests) and is likely to do so in the future.

If an asset is nominated the local authority must notify the owner and any occupiers and has 8 weeks to make a judgement about whether the asset meets the definition set out in Section 88 of the Act or whether it falls into one of the excluded categories, set out in Schedule 1 of the Assets of Community Value (England) Regulations 2012. If the asset meets the definition it will be placed on the list and the owner will be notified.

Once an asset is listed the owner cannot dispose of it without letting the local authority know. Community groups will then be given 6 weeks to decide if they want to make a bid. If they do, then there will be a 6 month moratorium period during which the owner cannot sell the asset. It is important to note that the owner does not have to sell the asset to the community group.

If the owner objects to their property being placed on the List, they will have the right to an internal review by the local authority of the decision to list. If the owner remains in disagreement about the listing after the internal review they have the right to appeal to an independent tribunal.

Listing

The local authority will maintain two lists:

- List of Assets of Community Value
- List of Unsuccessful Nominations

The local authority will remove an asset from the list:

- After a relevant disposal
- When an appeal against listing has been successful
- When they form the opinion that the land or building is no longer of community value
- No later than 5 years from the date of entry on the list

The local authority must also place any listed asset on the local land charges register and if title to the land is registered, apply for a restriction on the Land Registry title.

Appeal

Listing review

The owner has a right to request the local authority to review its decision (a listing review). The owner must request this review in 8 weeks from the date written notice of listing was given. Rules for the review are set out in Schedule 2 of the Regulations

Appeal against a listing review

If the owner is not satisfied with the outcome of the internal review, they have the right to appeal to the General Regulatory Chamber of the First-tier Tribunal. The deadline for appealing is specified in the procedural rules of that Chamber as 28 days from the date on which notice of the decision appealed against was sent to the agent of the owner.

Moratorium

If the owner decides to dispose of the asset, he must notify the local authority. Unless an exemption applies, the owner will only be able to dispose of the asset after a specified timescale has expired.

Interim Period

The 6 week interim period applies from the point the owner notifies the local authority. During this period a community interest group may request in writing to be treated as a potential bidder. If none do so in this period the owner is free to sell their asset at the end of the 6 weeks.

Full 6 months moratorium

If a local community interest group makes a written request to the local authority during the interim moratorium period to be treated as a potential bidder, the owner may not dispose of their asset during the 6 month moratorium unless it is to a local community interest group.

There are a number of disposals which are exempt from the moratorium requirements as set out in 95 (5) of the Act and Schedule 3 of the Regulations.

Compensation

Owners may claim compensation for loss and expense incurred through the asset being listed. The regulations provide for 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 from legal expenses incurred in a successful appeal to the Tribunal.

Claims must be made in writing, state the amount of compensation sought and provide supporting evidence. The time limit for claims is whichever is earlier of 13 weeks from the end of the interim or full moratorium period or from the date when the land ceased to be listed.

An owner who is not satisfied with the local authority's response to a compensation claim may request a review by the local authority of its compensation decision. If he is not satisfied with the local authority's review decision, an appeal can be made to the General Regulatory Chamber of the First-Tier Tribunal.

Enforcement

The Regulations provide various mechanisms to encourage compliance by requiring local authorities to:

- Inform owners and other interested parties that an asset has been listed
- Enter on the local land charges register the fact that an asset has been listed
- In the case of registered land, apply for a restriction on the Land Registry title

In addition non compliant sales will be void.