

## **Appendix I**

### **Procedure and Process for Assets of Community Value (Community Right to Bid)**

#### **1. Background**

- 1.1 The Localism Act 2011 introduces the concept of the Community Right to Bid, which enables eligible community groups to nominate an asset of community value with the local authority
- 1.2 Local community groups will then have an opportunity to bid to buy community assets on the open market, when they come up for sale.
- 1.3 The Act does not give the eligible community group an automatic right to purchase the nominated asset.

#### **2.0 General Guidance**

- 2.1 An eligible community group nominates an asset for community value status by completing a nomination form for the council to assess.
- 2.2 A nomination form must be completed for each asset to be nominated.
- 2.3 The information provided in the form will be the basis upon which the council decides whether to register the asset as being of community value.
- 2.4 The council will contact the nominator within eight weeks of receipt of the completed form to confirm whether the asset is to be listed as an asset of community value.
- 2.5 Before submitting a community asset nomination form, applicants are strongly advised to read the information provided on information websites such as [Locality](#).

#### **3.0 Application Procedure**

- 3.1 Nominations must be made in writing using the form supplied (on our website) and submitted to the address/email stated on the form.
- 3.2 A form must be completed for each asset being nominated.
- 3.3 Nominations will be assessed by Director of Regeneration, Economic Development and Environment in conjunction with the Strategic Land and Buildings (SLAB) group.
- 3.4 The assessment decision will be taken within eight weeks of receiving the nomination, and the owner will be contacted.
- 3.5 If the asset nomination was successful, the owner will be given the opportunity to appeal, which will be considered by the Director of Corporate Resources.

- 3.6 If the decision is upheld the owner will be able to appeal to an Independent Tribunal once.
- 3.7 Nominated assets which were not recognised as 'assets of community value' will be recorded on the "Unsuccessful Asset" list, published on the council's website, for five years.
- 3.8 Nominated assets approved as 'assets of community value' will be recorded on the "Successful Asset" list, held on the council's website for five years, or until the asset is sold or deemed as no longer of 'community value'.
- 3.9 A restriction will be recorded against the designated asset on the local land charges register.
- 3.10 When an owner intends to sell a designated 'asset of community value', they must inform the council. The council will inform the nominator and publicise the intention to sell on the council's website.
- 3.11 Community groups will be given six weeks, from the published 'intention to sell' date, to express an interest in bidding for the asset to the council. If no interest is received within six weeks, then the local land charges restriction is removed and the owner can sell the asset.
- 3.12 If a community group expresses an interest in bidding for the asset, then they are given up to six months to put forward their bid.
- 3.13 During the six month moratorium period the owner will only be able to sell the asset to a community group.
- 3.14 After the six month moratorium period the local land charges restriction will be removed and the owner can sell the asset.

#### **4.0 Acceptance Criteria**

- 4.1 The council's acceptance criteria for 'assets of community value' nominations are based upon those set out in Part Five Chapter Three Section 88 of the Localism Act 2011.
- 4.2 A building or other land in the local authority's area is land of community value if in the opinion of the council –
  - a) An actual current use of the building or other land that is not an ancillary use furthers the social wellbeing or social 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.

This includes a building or other land that has furthered the social wellbeing or social interests of the local community in the recent past, and which it is realistic to consider will do so again during the next five years.

- 4.3 The following categories are excluded from being listed as 'assets of community value':
- a) A residential property, including gardens, outbuildings and other associated land that is reasonable to consider as part of the land with the residence. (This does not apply to assets that contain integral residential quarters such as a pub or caretaker's flat).
  - b) Land licensed for use as a residential caravan site (and residential caravan sites that don't need a licence)
  - c) Operational land of statutory undertakers as defined in section 263 of the Town and Country Planning Act 1990.

## 5. Compensation

- 5.1 The owner or former owner of listed assets is entitled to compensation from the council where they have incurred loss or expense which would not have been incurred if the asset were not listed. The regulations state that this may include (without prejudice to other types of claim) claims arising from any period of delay in entering into a binding agreement to sell the asset which is wholly caused by the six week or six month moratorium periods. It may also include claims for reasonable legal expenses incurred in an appeal to First-Tier Tribunal. The Government's Impact Assessment (DCLG, Community Right to Bid – Impact Assessment, 21 June 2012) lists claims for expenses and claims for loss of asset value as the possible types of compensation that are most likely to be awarded. With regard to claims for expenses it is the owner's responsibility to prove that extra costs have been incurred as a direct result of the provisions of the legislation. Compensation claims for loss of asset value may apply where an asset being sold at a later date than it would otherwise have been, as a result of triggering the moratorium could lead to a fall or a rise in the capital value of listed assets.
- 5.2 Compensation claims must be made in writing to the council; be made before the end of 13 weeks after the loss or expense was incurred; state the amount of compensation sought; and be accompanied by supporting evidence.
- 5.3 Compensation claims cannot be made by public authorities and bodies.
- 5.4 The DCLG Community Right to Bid Guidance (October 2012) states that as with other costs incurred by local authorities the estimated costs of compensation have been reflected in the new burdens funding. The compensation elements of new burdens funding are estimated on the basis of 40 successful claims for compensation across all administering local authorities over a year. In addition to the amount included within the new burdens assessment, it is also stated that the government will meet the cost of compensation payments of over £20,000 in a financial year. This could occur through a local authority paying out over £20,000 in one financial year either on one large claim or as a combined total on a number of smaller claims. Local authorities should write to the Community Assets Team at DCLG with a request for financial support providing evidence of the compensation costs incurred.

## **5.5 Requests for a compensation review**

5.6 The owner making a claim for compensation may request a review of the decision on whether to pay compensation and/or a review of the amount of compensation that is to be paid. The review would follow the same procedures as the listing review:

- Such a request must be made within eight weeks of the day written notice was given of the council's decision on the compensation award
- The review must be conducted by an officer of appropriate seniority who did not take any part in making the decision to be reviewed
- The owner may appoint any representative to act on their behalf
- The council must notify the owner of the procedure to be followed
- An oral hearing must be held at the owner's request
- Representations may be made orally or in writing or both
- The review must be completed within eight weeks or longer if agreed with the owner

5.7 It is proposed that authority be given to the Assistant Director for Corporate Governance to carry out and make decisions on compensation reviews.

5.8 The person who requested the compensation review may appeal to the First Tier Tribunal against any decision of the council in the review.