

Assets of Community Value

Guidance for Nominees

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About This Guidance

The purpose of this document is to provide guidance and information with regards to the Community Right to Bid process for Assets of Community Value. In particular:

- To provide transparency for community nominators to enable them to navigate the council's process; and
- To provide clarity so that Elected Members and officers of the council can effectively support the management of the process.

What is the Localism Act 2011?

The Localism Act 2011 ("the Act") introduced 'Assets of Community Value' ("ACV") also known as the 'Community Right to Bid'. The right gives eligible groups the opportunity to identify and nominate assets that are of value to the local community and gives them a chance to delay the sale in order to prepare a bid to buy them should the owner decide to sell.

The right does not restrict in any way who the owner of the asset can sell their property to, or at what price, and it does not confer a right of first refusal to community or voluntary groups.

The ACV provisions are governed by [the Act](#) and the [Assets of Community Value \(England\) Regulations \(2012\)](#) ("the Regulations").

What is the definition of an asset of community value?

Under Section 88 of the Act a building or land is deemed to be of community value if, in the opinion of the council:

- ❖ The actual current use of the building that is not an ancillary use or land furthers the social interests or social wellbeing of the local community, **and** 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 interests or social wellbeing of the local community, or;
- ❖ There is a time in the recent past when an actual use of the building or other land that was not an ancillary use furthered the social interests or social wellbeing of the local community **and** it is realistic to think that there is a time in the next five years when there could be non-ancillary use of the building or other land that would further (whether or not in the same way as before) the social interest or wellbeing of the local community.

What does social interest and social wellbeing mean?

Social interests are defined in the Act as including cultural interests, recreational interests and sporting interests.

Wellbeing is not defined in the Act or Regulations, however wellbeing is generally accepted to be the things that people value in their life that contributes to them reaching their potential, for example, being comfortable, healthy, or happy.

What is meant by 'recent past'?

'Recent past' is not defined in the Act or Regulations, however generally this will be

treated by the council as being in the last five years, although this will depend on the circumstances of each particular application.

For example, a library or public house which has been closed for three years and is derelict, could still be nominated if it is reasonable to think that it could, within the next five years, become a viable community asset.

Examples of the types of land or buildings that might be nominated:

- local shop
- public house/restaurant/café etc
- community centre/church hall etc
- library
- playground
- park
- swimming pool/leisure centre/gym
- market
- children's activity centre

Land which may not be listed

The Community Right to Bid does not apply to certain types of land or buildings, which are excluded from becoming an ACV.

[Schedule 1](#) of the Regulations sets which land is not land of community value and therefore may not be included on a local authority's list of ACVs. Examples of these are:

- A residence together with land connected with that residence. However, a residence may be listed if the residence is a building that is only partly used as a residence and the land would be eligible for listing but for that residential use of the building.
- Land in respect of which a site licence is required under Part 1 of the Caravan Sites and Control of Development Act 1960 or would be if paragraphs 1, 4, 5 and 10 to 11A of Schedule 1A to that Act were omitted.
- Operational land as defined in section 263 of the Town and Country Planning Act 1990, such as railways, airports and gas, electricity and water services.

Other assets that would not normally be considered as having 'community value' are:

- administrative offices
- land or property where community use is secondary to its main purpose
- buildings used as a place of religion

The Asset of Community Value Process

The ACV provisions are governed by the Act and the Regulations. The Government has also published an [Assets of Community Value Policy Statement](#) and a [Non-statutory advice note for local authorities](#).

The ACV process covers four main areas:

- nomination and listing an asset
- review and appeals
- sale/disposal of the listed asset

- compensation

The council is required to maintain and publish two lists:

- List of Assets of Community Value – for assets which have been listed; and
- List of Land Nominated by Unsuccessful Community Nominations – for assets which have been nominated but not listed.

To ensure that the most up to date version of our lists are available for public inspection, the council will publish these lists on its website.

The listing process will be triggered by the receipt of a nomination. The legislation specifies what an ACV is, who can make a nomination and the information required in a nomination. The nomination form is available for completion on the council's website [Assets of Community Value](#).

Making a nomination

It is important that your community group is eligible to nominate the asset, you can only do this if you can answer yes to the two questions below:

Are you either:

- a body designated as a neighbourhood forum under Section 61F of the Town and Country Planning Act 1990;
- a parish or town council;
- an unincorporated group whose members include at least 21 individuals from the local or neighbouring authority which does not distribute any surplus it makes to members;
- a charity;
- a company limited by guarantee which does not distribute any surplus it makes to its members;
- a co-operative or community benefit society which does not distribute any surplus it makes to members; or
- a community interest company

and

- are your groups activities are wholly or partly concerned with the local authority's area or with a neighbouring authority's area?

When making the nomination you must provide:

- Evidence of the groups eligibility to nominate. The nomination form contains a checklist for each type of nominator and the supporting evidence required.
- The name and address of the asset.
- Contact details of the owner, leaseholder or freeholder if they are not the owner (if applicable) and the current occupier (if applicable).
- A plan of the asset showing the area you would like covered (a google map is acceptable as long as the area to be covered is marked on the map with a red line boundary).

- The reason why the group believes that the asset is of community value.

If you don't know the owners details you can usually obtain the information from the Land Registry [HM Land Registry](#) using the 'Search property ownership information' tab. You can download an Official Copy (Register) and Official Copy (Title Plan). These documents will tell you who the current owner of the asset is and shows the area of land covered in the Register. There is a small charge to obtain a copy of these documents.

Once you have all the required documents and information you can complete the nomination form. This has been designed so you can save your progress and return to the form as many times as you like before submitting it to the council.

What happens once a nomination is received?

- Completed nominations must be processed within eight weeks of the date of receipt.
- The freehold owner, leaseholder, current occupier, Parish or Town Council, whichever is applicable, are informed of the receipt of the nomination.
- Ward Councillors are informed of the receipt of the nomination.
- We will check the eligibility of the nomination, the organisation making the nomination, the completeness of the information supplied and whether or not the property is in an excluded category.
- If the nomination is eligible to be accessed, a copy of the nomination and supporting evidence will be sent to the owner(s) to allow them to make written representation relating to the nomination. The representation will be considered along with the nomination, supporting evidence and any other evidence obtained by the council.
- If, in the opinion of the council, the asset is eligible to be listed and is of community value it will be added to the 'List of Assets of Community Value'.
- A restriction will be registered against the asset at Land Registry and a Local Land Charge will also be registered.
- The asset will remain on the List of Assets of Community Value for 5 years, unless there has been a relevant disposal, a successful appeal against listing or evidence is received to indicate that the asset is no longer of community value.
- Unsuccessful nominations will be added to the 'List of Land Nominated by Unsuccessful Community Nominations' and remain on the list for 5 years.
- You will be advised of the decision. If the asset is not listed, we will provide you with the reason why the asset was not listed.
- The nominee does not have a right to appeal the council's decision.

Both lists are published on the council's website [Assets of Community Value](#).

What happens when the listing period has expired?

- the asset is removed from the List of Assets of Community Value
- the Land Registry restriction and Local Land Charge are removed
- the nominating group, freehold owner, leaseholder, current occupier, Ward Councillors and or Parish or Town Council, as appropriate, are informed the listing period has expired.
- The owner can sell the asset to whomever they wish and no longer need to inform the council of their intention to dispose of the asset.

Can the asset be re-listed?

Once the listing has expired or is coming to an end a new nomination can be made to list the asset. The same nomination process must be followed, using the form on the council's website [Assets of Community Value](#).

Listing Review

What happens if the owner does not agree with the council's decision?

If the asset is listed, the owner can request a listing review if they do not feel the asset should be listed as an ACV because it does not have community value or the nominator is not eligible to make a nomination.

The asset will remain listed whilst the review is being considered.

What happens if a review is requested?

- The review will be undertaken by the reviewing officer (senior officer) who was not involved in the original decision.
- As nominee you will be provided with a copy of the owners written representation which provides information as to why they believe the asset should not be listed. You will be invited to submit a written response to the claims. You may also be asked to attend an oral hearing if one is requested.
- Following the review, the nominee will be notified if the nomination is deemed to be ineligible or the asset is deemed to be not of community value. We will provide an explanation as to why the original decision has been successfully appealed.
- The asset will be removed from the List of Assets of Community Value, the Land Registry restriction and the Local Land Charge will be removed. If the asset is not of community value it will be added to the List of Land Nominated by Unsuccessful Community Nominations.

Nominees are unable to appeal the decision made in respect of the asset however, a complaint can be made, if you feel we have not followed the correct procedure, through the councils complaints procedure [Complaints and Compliments](#).

Disposal of the listed asset

What happens if the owner wants to sell the asset?

- The owner must advise the council in writing they intend to enter into a 'relevant disposal' of the asset (**see Section 96 of the Act for the definition of a of a 'relevant disposal' and Section 95(5) of the Act for exemptions**). This will trigger the interim moratorium period.
- The council will inform the nominee group in writing and will place notices around the site of the asset, in the local press and on the council website.
- The moratorium dates will be included in the letter informing the nominating group of the owner's intention to sell the asset and on all notices.
- The List of Assets of Community Value will be updated to show the owner wishes to sell the asset and will contain the dates of the interim moratorium period, full moratorium period and protected period.

What is the Moratorium?

This is the period during which the asset owner is prevented from selling the asset to anyone other than a community interest group.

“the interim moratorium period”, in relation to a relevant disposal, means a period of six weeks beginning with the date on which the council receives notification of the intended disposal.

“the full moratorium period”, in relation to a relevant disposal, means a period of six months beginning with the date on which the council receives notification of the intended disposal.

“the protected period”, in relation to a relevant disposal, means a period of eighteen months beginning with the date on which the council receives notification of the intended disposal. Once the relevant moratorium period has expired the owner can sell the asset to whomever they wish within the protected period.

Making a bid

- Community interest groups will have 6 weeks to inform the council that they would like to be considered as a potential bidder for the asset, which triggers the full moratorium period.
- It is important to note that only the following groups are eligible to be asked to be treated as a potential bidder if the owner wishes to sell the asset:
 - A Parish or Town Council (if the land is in their area);
 - A charity with a local connection to the land;
 - A company limited by guarantee which does not distribute any surplus it makes to its members, with a local connection to the land;
 - A co-operative or community benefit society which does not distribute any surplus it makes to its members, with a local connection to the land; or
 - A community interest company, with a local connection to the land.
- This is not exclusive to the nominating group and includes any other

community interest group who may be interested in purchasing the asset during the moratorium period.

- If you wish to make a bid for the asset you must Inform the council, in writing, before the end of the initial moratorium period. This notification will trigger the full moratorium period.
- The List of Assets of Community Value will be updated to show the full moratorium period has been triggered.
- Your details and the details of any other community interest group who wish to be treated as a bidder will be passed to the owner as soon as possible.
- It is then up to the owner to negotiate with the interested parties. The council do not get involved in any negotiations between the parties.
- The owner can sell the asset to any community interest group during the moratorium period.
- Once the moratorium period has expired the owner can sell the asset to whomever they wish within the protected period.

Completing the Nomination Form

This guidance is to assist you with completing the nomination form to register an asset of community value.

Once you have started the nomination process you can save your progress and go back to it as often as is necessary before you submit the nomination.

If you require further information/guidance, please do not hesitate to contact us.

Email: assets.strategy@kirklees.gov.uk

Organisation Details

Contact Details

The person signing the declaration must be the representative acting on behalf of the organisation submitting the nomination.

Type of Organisation

It is important you state which type of organisation you are as only those shown on the nomination form are eligible to nominate an asset as an ACV. You must also provide the required evidence listed for your type of organisation.

Please note: Unincorporated Groups are **only able to nominate** an asset to be listed, **they do not have the right to be treated as a potential bidder** should the owner notify the council of their intention to sell.

Nominations received from any other bodies will not be accepted.

Number of members (for unincorporated groups)

Only groups with 21 or more members who are registered to vote in Kirklees or another neighbouring local authority area can make a nomination. You will need to provide evidence of this by sending a list of at least 21 member's names & addresses including postcode and signature confirming they support the nomination on behalf of the group. These will be checked against the appropriate electoral registers. A copy of the form can be downloaded from the council's webpage [Assets of community value](#). You can use your own form as long as it contains all the relevant information.

Asset Details

Name and address of the asset to be nominated

Please provide the name and full address, including postcode, of the asset.

Description of the nominated asset

Please provide as much information about the asset as possible. For example: Community Centre, Public House, Library, Park, Playing Fields, Cinema, etc. Is the asset still in use or has it been closed for several years?

Boundary of the asset

We need to know the proposed boundary area you wish to include in your application for the asset you are nominating. You must submit a plan with the application showing the area you want to nominate shown edged in red. A google map will suffice. If the nomination relates to only part or parts of an asset, please specify which part(s) on a plan or drawing.

If the nomination is successful and the asset is listed as an ACV a Land Registry restriction will be registered against the boundary provided. Please make sure you submit the correct boundary details as this cannot be amended once the nomination has been accepted and assessed. A Local Land Charge will also be placed on the

boundary area listed.

Community use of the asset

Please provide details of how many people, or what proportion of the community, currently use the asset or have done so in the recent past.

For example, between 200 to 300 people or list the types of groups using the asset eg Scouts, Guides, Drama Group, Luncheon Club, local societies etc

Reason for Nomination

Please provide details of why you feel the property currently furthers the social interest and/or social wellbeing of the local community or if it had in the past why it is realistic to think that it could do so in the future.

Details of owner, leaseholder and/or occupier

Owner

Please provide as much detail as possible as the council must inform the owner when a nomination is made and advise them of the decision following the assessment of the nomination.

Leaseholder

For the purpose of the Act a leaseholder is classed as the owner where they have a lease for a term, which when granted, had at least 25 years to run. This information is available from the Land Registry. If there is a qualifying leasehold estate the leaseholder will be classed as the owner and will be notified when a nomination is made and advised of the decision following the assessment of the nomination.

Current occupier

The current occupier may not be the same as the freehold or leasehold owner. The council must inform the occupier when a nomination is made and advise them of the decision following the assessment of the nomination.

Additional Information

Supporting Evidence/Information

If you are unable to upload the supporting evidence with the nomination or need to submit additional information, please email it to email address on the nomination form. Postal evidence is accepted but this may cause a delay in processing the nomination.

Declaration

Don't forget to complete the declaration, we are unable to accept nominations where this is not completed. A digital signature is acceptable for this purpose.

Before submitting the nomination, please ensure you have attached all the required documentation and provided the information requested on why you feel the asset should be listed as an asset of community value.