

# Assets of Community Value Information for Asset Owners

# Contents

- Assets of Community Value ..... 1**
- Information for Asset Owners ..... 1**
  - About this Information ..... 3
    - What is the Localism Act 2011? ..... 3
    - What is the definition of an asset of community value? ..... 3
    - What does social interest and social wellbeing mean? ..... 3
    - What is meant by ‘recent past’? ..... 3
    - Examples of the types of land or buildings that might be nominated: ..... 4
    - Land which may not be listed ..... 4
    - Who can nominate an asset to be listed? ..... 4
    - How are nomination made? ..... 5
    - What happens to the nomination once it has been submitted? ..... 5
    - What happens once the nomination is assessed? ..... 5
    - What happens when the listing period has expired? ..... 6
    - Can the asset be removed from the list of Assets of Community Value before the listing expiry date? ..... 6
    - Can the asset be re-listed? ..... 6
  - Requesting a Listing Review ..... 7
    - What happens if the owner does not agree with the council’s decision to list the asset? ..... 7
    - What happens when a request for listing review is received? ..... 7
    - What if the council chooses to uphold the original decision to list the asset? ..... 8
    - What happens if the council does not uphold the original decision? ..... 8
  - Disposing of the listed asset ..... 9
    - What happens if the owner wishes to sell the listed asset? ..... 9
    - What happens if the owner does not notify the council of the intended disposal? ..... 9
    - What is the Moratorium? ..... 9
    - Who can bid for an asset? ..... 9
    - What happens if a request to be treated as a bidder is received? ..... 10
    - What happens if no request to be treated as a bidder is received? ..... 10
  - What happens if the asset is not sold within the Protected Period? ..... 10
  - Claiming Compensation for any Loss or Expenses for the Listed Asset of Community Value ..... 11
    - Claiming Compensation ..... 11
    - Compensation Review ..... 11

Date of document: 4 April 2023

## About this Information

The purpose of this document is to set out the council's policy with regards to the Community Right to Bid process for Assets of Community Value. In particular:

- To provide transparency for asset owners to enable them to navigate the council's process.
- 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:

- (1) The actual current use of the building or land that is not an ancillary use 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;
- (2) 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 five years when there could be non-ancillary use of the building or other 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 the 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**

[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 assets of community value. 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

### **Who can nominate an asset to be listed?**

- A body designated as a neighbourhood forum under Section 61F of the Town and Country Planning Act 1990;
- a Parish Council 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

The group's activities should be wholly or partly concerned with the local authority's area or with a neighbouring authority's area

Public authorities such as the Councils (excluding Parish or Town Councils), Police Services, Fire and Rescue Services and Health Authorities cannot make nominations.

## How are nomination made?

Nominations are made using the council's online nomination form which can be found on the council's website [Assets of community value](#).

## What happens to the nomination once it has been submitted?

- The nominating group will receive a letter acknowledging the receipt of the nomination.
- All other relevant parties will receive notification a nomination has been received.

These are:

- the freehold owner/leaseholder (for the purpose of the Act a leaseholder who has a lease for a term of 25 years or more when it was granted is classed as the owner)
- the current occupier (if applicable)
- the Parish or Town Council (if the asset is in their area)
- Ward Councillors

As the owner/leaseholder of the asset you will be provided with a copy of the nomination and supporting evidence to allow you to make written representation against the claims made for the asset to be listed as an asset of community value. Your written representation, if received, will be considered when the panel make the decision to list the asset or not.

Once a nomination is received the council have **8 weeks** to assess the nomination and supporting evidence to decide if the asset should, in their opinion, be added to the list of Assets of Community Value. This decision is made by a panel of council officers using criteria set out in [Section 88\(1\) or 88\(2\) of the Act](#).

## What happens once the nomination is assessed?

- Following the panel meeting the nominating group, freehold owner/leaseholder, any current occupier, Parish or Town Council (if the asset is in their area) and Ward Councillors, whichever are applicable, will be informed of the panel's decision in writing.
- For successful nominations details of the asset will be added to the List of Assets of Community Value.
- A charge will be placed on the Local Land Charges Register and a restriction will be registered with the Land Registry, in respect of the asset.
- Generally, the asset will remain on the list for 5 years.
- For unsuccessful nominations details of the asset will be added to the list of Land Nominated by Unsuccessful Community Nominations, providing the reason the nomination was unsuccessful. The asset will remain on this list for 5 years.
- The list of Assets of Community Value and List of Land Nominated by Unsuccessful Community Nominations will be updated and published on the council's [Assets of Community Value](#) webpage.

- The asset owner has the right to request a 'Listing Review' if they are unhappy with the decision to list the asset.

### **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, Parish or Town Council and Ward Councillors, which ever are appropriate, are informed the listing period has expired
- the owner can sell the asset to whoever they wish and they no longer need to inform the council of their intention to dispose of the asset.

### **Can the asset be removed from the list of Assets of Community Value before the listing expiry date?**

Yes, the listing can be removed if one of the following occurs:

- after a relevant disposal (other than an exempt disposal);
- when an appeal against a listing has been successful; or
- if the council decides the land or building is no longer of community value, following receipt of information to indicate that there has been a material change in circumstances since the asset was listed.

When assets are removed from the list the council will notify all relevant parties, and the Land Registry restriction will be removed along with the charge on the Local Land Charges register.

### **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 nomination process must be followed, using the form on the council's website [Assets of Community Value](#).

## Requesting a Listing Review

### What happens if the owner does not agree with the council's decision to list the asset?

- The owner of the asset can request a listing review within **8 weeks** beginning with the date on which the council provided the owner with the written notification of its decision, under section 91(2) of the Act, to list the asset as an ACV.
- The request must be made in writing.
- The review will be carried out by a Reviewing Officer (senior officer) from the authority who was not involved in the original decision.
- The review should be completed within 8 weeks of the date the review request was received or longer if an extension is agreed by both parties.

### What happens when a request for listing review is received?

Once the written request for a listing review is received in writing:

- The owner will be notified in writing by way of acknowledgment of their request for a review and will include additional information to support the review process.
- The owner may appoint a representative (whether legally qualified or not) to act on their behalf in connection with the review.
- If the owner chooses to be represented, all documentation the council is required to provide will be sent to the representative and not the owner.
- The decision to list the asset can be challenged based on:
  - ❖ the eligibility of the nominator to make the nomination
  - ❖ the eligibility of the asset to be nominated
  - ❖ new factors that have come to light since the asset was listed
  - ❖ any irrelevant or improper matter the council has considered when making the original decision
- The owner can request an oral hearing, the request must be made in writing.
- The owner and or representative can make representations orally or in writing or both.
- If the owner does not request an oral hearing the council may choose to include a hearing in the internal review process.
- The nominee will be provided with a copy of the owners written representation to allow them to make their own written representation against the claim the asset should not be listed. They will also be invited to attend an oral hearing, should one be requested. The written representation will be considered by the Reviewing Officer along with your own written representation.
- Any oral hearing will be heard at least 3 weeks before the end of the 8 week review process to allow the Reviewing Officer sufficient time to consider representations and provide a decision in writing.

- The council and the owner shall each bear their own costs of the review.
- The council will notify the owner of the review decision in writing, giving the reasons for it, before the end of the 8-week period unless an extension is agreed.

### **What if the council chooses to uphold the original decision to list the asset?**

- The asset will remain on the list of Assets of Community Value.
- The owner can appeal to the First-Tier Tribunal (General Regulatory Chamber), within 28 days of being notified of the council's review decision. This is administered by HM Courts & Tribunal Services.

### **What happens if the council does not uphold the original decision?**

- All relevant parties will be notified of the decision in writing giving the reason why.
- The asset will be removed for the List of Assets of Community Value.
- The Land Registry restriction and Local Land Charge will be removed.
- The asset will be included in the List of Land Nominated by Unsuccessful Community Nominations if it is deemed not to be of community value.

If you need help or advice regarding requesting a listing review, please contact:

Email: [asset.strategy@kirklees.gov.uk](mailto:asset.strategy@kirklees.gov.uk)



## Disposing of the listed asset

### What happens if the owner wishes to sell the listed asset?

- Under Section 95(2) of the Act the owner **must** notify the council in writing if they intend to enter into a 'relevant disposal' of the asset. This will trigger the interim [moratorium period](#).

(See Section 96 of the Act for the definition of a 'relevant disposal' and Section 95(5) of the Act for exemptions).

Written notification must be sent to the council's Assets of Community Value Team by email to [asset.strategy@kirklees.gov.uk](mailto:asset.strategy@kirklees.gov.uk) or by post – to Kirklees Council, Asset Strategy, PO Box 1720, Huddersfield, HD1 9EL.

- The [interim moratorium](#) period will be triggered on receipt of the notification. Community interest groups will then have up to 6 weeks from the date the notification was received to inform the council in writing they are interested in being treated as a potential bidder for the asset, thereby triggering the full moratorium period.
- The council will place notices around the site of the asset, in the local press, on council website and write to the nominating group.
- The list of assets of community value will be updated to show the owner intends to sell the asset and will contain the expiry dates of the interim moratorium period, full moratorium period and protected period.

### What happens if the owner does not notify the council of the intended disposal?

If the owner disposes of the property without informing the council and it is a 'relevant disposal' any sale will be void.

### What is the Moratorium?

This is the period during which the asset owner can negotiate the sale of the asset to a community interest group.

***“the interim moratorium period”***, in relation to a relevant disposal, means a period of 6 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 6 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 18 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.

### Who can bid for an asset?

Any community interest group can request to be treated as a bidder, this is not exclusive to the nominating group.

- A community interest group is defined in [Regulation 12](#) of the Regulations as:
  - A Parish 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.
- Any group must notify the council in writing that they are interested in being treated as a potential bidder for the asset during the interim moratorium.

### **What happens if a request to be treated as a bidder is received?**

Once a written request to be treated as a potential is received by an eligible community interest group:

- The [full moratorium](#) period is triggered.
- The council will pass the group's request to the owner or their representative and will also inform the nominee group in writing that the full moratorium period has been triggered.
- It is then up to the owner or their representative to negotiate with the interested parties within this period, should they choose to do so.
- The owner has the option to either negotiate with the group or wait until after the expiry of the full moratorium period and sell the asset, to whoever they wish within the [protected period](#).
- The council does not get involved in any negotiations between the parties.

### **What happens if no request to be treated as a bidder is received?**

- If no request to be treated as a potential bidder is received during the [interim moratorium](#) period, the owner is free to sell the asset to whoever they wish during the [protected period](#).

### **What happens if the asset is not sold within the Protected Period?**

If the asset is not sold within the protected period and the owner still wishes to sell, then they must write to the council again to make them aware of the intention to sell the asset. A fresh moratorium period will then be triggered.

If you need help or advice regarding the nomination, listing of the asset or disposal of the asset please contact:

Email: [asset.strategy@kirklees.gov.uk](mailto:asset.strategy@kirklees.gov.uk)

# Claiming Compensation for any Loss or Expenses for the Listed Asset of Community Value

## Claiming Compensation

Private owners or former private owners of a listed asset may be entitled to make a claim for compensation from the council in certain circumstances, for any loss or expenses they may have incurred at a time when the land was listed, which they would not have incurred had the land not been listed. See [Regulation 14](#) of the Regulations.

### How to claim

A claim must:

- be made in writing to the council  
by emailing [asset.strategy@kirklees.gov.uk](mailto:asset.strategy@kirklees.gov.uk) or  
sent to Kirklees Council  
Asset Strategy  
PO Box 1720  
Huddersfield  
HD1 9EL
- be made before the end of the 13 weeks after the loss of expense was incurred or finished being incurred
- state the amount of compensation sought for each part of the claim; and
- be accompanied by supporting evidence for each part of the claim.

Once the council has all the facts it should reach a decision as quickly as practicable. The reasons for the decision with respect to the request for compensation must be given to the claimant in writing.

## Compensation Review

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

- The owner or former owner of the asset can request a compensation review, as specified in [Schedule 2](#) of the Regulations.
- The request must be made in writing before the end of the 8 weeks beginning with the date on which the council provided the written notification of its reasons for the decision, in accordance with regulation 14(6), or such longer period as the council may in writing allow.

The request should be sent to:

[assets.strategy@kirklees.gov.uk](mailto:assets.strategy@kirklees.gov.uk) or

Kirklees Council  
Asset Strategy  
PO Box 1720  
Huddersfield  
HD1 9EL

- The review will be carried out by a Reviewing Officer (senior officer) from the authority who was not involved in the original decision.

- The review should be completed within 8 weeks of the date the review request was received or longer if an extension is agreed by both parties.

### **What happens when a request for compensation review is received?**

Once the written request for a listing review is received in writing:

- The owner or former owner will be notified in writing by way of acknowledgment of their request for a review and will include additional information to support the review process.
- The owner or former owner may appoint a representative (whether legally qualified or not) to act on their behalf in connection with the review.
- The council will provide to the owner, former owner or representative any documentation they hold relating to the claim

If the owner or former owner chooses to be represented, all documentation the council is required to provide will be sent to the representative and not the owner.

- The owner or former owner must present a case why they believe they should receive compensation based on whatever evidence they consider appropriate, but it should be relevant to the following issues. The request can relate to either or both its decisions, as to:
  - a) whether compensation should be paid to the person and
  - b) if compensation is to be paid, the amount of that compensation.

The owner, former owner or their representative should present this in writing in the first instance.

- The owner or former owner and or representative can make representations orally or in writing or both.
- The owner, former owner or representative can request an oral hearing, the request must be made in writing.
- If the owner, former owner or representative does not request an oral hearing the council may choose to include a hearing in the internal review process.
- Any oral hearing will be heard at least 3 weeks before the end of the 8 weeks review process to allow the Reviewing Officer sufficient time to consider representations and provide a decision in writing.
- The council and the owner or former owner shall each bear their own costs of the review.
- The council will notify the owner, former owner or representative of the review decision in writing, giving the reasons for it, before the end of the 8 week period unless an extension is agreed.

### **What if the council chooses to uphold the original decision not to pay compensation?**

If the owner or former owner, is dissatisfied with the decision reached through the council's internal review process they have the right to appeal to a First-tier Tribunal (General Regulatory Chamber). The claim must be made, within 28 days of being notified of the council's review decision. This is administered by HM Courts & Tribunal Services.