

The Community Right to Bid

1 Maintaining the List

- 1.1 The list of assets will be maintained within Development Services.
- 1.2 Nominations for inclusion on the list must be made by a voluntary or community body with a local connection. The Regulations contain comprehensive definitions, but examples include a neighbourhood forum, an association of at least 21 members registered to vote locally and whose surplus funds (if any) are applied for the benefit of the area, or a charity which operates in the local area. Certain information must be included in the nomination, and a nomination form to help applicants complete this process correctly has been prepared.
- 1.3 When a nomination is received by this Council it must decide whether or not to list the Asset within 8 weeks of receipt of the nomination.
- 1.4 The Community Organisation that made the nomination will be informed that the Council has received the nomination and that the matter is under consideration by the Council
- 1.5 The decision on whether or not to list the Asset shall be made by the Council, after considering the following:
 - i Whether the Nomination has been made by an eligible body;
 - ii Whether or not the Asset is excluded by the Act (e.g. buildings wholly used as residences & connected land, caravan sites, operational land such as that owned by Railway operators or Utility Companies);
 - iii Whether or not the information demonstrates the Asset is of community value by meeting one of the following requirements:
 - a) The actual current use of the Asset (that is not an ancillary use) furthers the social wellbeing or social interest (cultural, recreational and/or sporting) of the local community, and it is realistic to think that there can continue to be non-ancillary use of the Asset which will further (whether or not in the same way) the social wellbeing or social interests of the local community.
 - OR
 - b) In the recent past, the Asset had a use (that is not an ancillary use) which furthers that social wellbeing or social interest cultural, recreational and/or sporting) and it is realistic to think that there is a time in the next five years when it could again have a non-ancillary use of the Asset which will further (whether or not in the same way as before) the social wellbeing or social interest of the community).
- 1.6 Examples could be pubs, shops, libraries and community facilities, although not every example of these facilities will qualify. For example, a shop on The Parade in Leamington would not be considered to further the community's social wellbeing or interests in the same way as a single shop in a small village.

- 1.7 The Council is required to ensure that all practicable steps are taken to notify the following individuals or organisations that it is considering adding the Asset to the List:
- i All owners, lessees and other lawful occupants of the nominated Asset; &
 - ii The Parish Council

2 EFFECT OF LISTING

- 2.1 Notice of the decision will be given to the organisation, the owner and lawful occupiers of the property and Parish Council. If the nomination is successful the listing will be registered as a local land charge. If the nomination is unsuccessful it will be included in the list of unsuccessful nominations and the organisation will be advised of the reasons why the nomination was unsuccessful.
- 2.2 Note, there is no right of review for the Community Organisation against a decision not to include the Asset in the List.
- 2.3 Following the listing of an asset, nothing will happen until an owner wants to dispose of the freehold or a long leasehold interest in it (25 years plus). In those circumstances, notice of the intended disposal should be given to the Council. There are exceptions to this, including gifts of land, transmission of assets on death, transfer of the asset between family members, or transfer of a business as a going concern. The owner is explicitly allowed to dispose of the land to a community interest group.
- 2.4 The Council must in turn pass on the owner's notice to the group who made the original nomination, and publicise within its area the fact that it has received notice of the intended disposal of a listed asset.
- 2.5 Notice from an owner of an intended disposal is the starting date for the following periods:-
- The "interim moratorium period" of six weeks, during which a defined "community interest group" can submit a written request to be treated as a potential bidder for the land, which the Council must pass on to the owner.
 - The "full moratorium period" of six months, which is triggered if such a request is received, and during which the community interest group can put a bid together to purchase the property.
 - The "protected period" of eighteen months, during which the owner is free to sell the asset without further delay, if no community interest group has submitted a request and/or pursued it through to completion of a purchase within the relevant moratorium periods.
- 2.6 An owner may be entitled to claim compensation for loss incurred as a result of the listing. A possible scenario is where the asset loses value while a sale is delayed. Based on experience with the Scottish "Community Right to Buy" scheme, the Government estimates that such compensation payable nationally may amount to an average of £255,000 a year across England and Wales, although it is difficult to give a realistic estimate of the cost to any particular local authority as this will depend partly on the number of claims in their area. For example, the Government estimates that there will be up to 22 successful compensation claims a year, on which basis many local authorities would not

see a successful claim during the course of any given year. Here the Government estimates an average of £2000 per claim.

- 2.7 Central Government will meet the Local Authority costs where compensation payments amount to over £20,000 in one financial year. This amount is the same whether it is a single claim or a combination of claims in any financial year.
- 2.8 A decision on compensation claims will be a technical exercise based on the information supplied, calling on the expertise of other relevant professionals.

3 REVIEWS

- 3.1 There are two situations in which an owner can ask for a review of the Council's decision:-
- a "listing review", that is a review of the decision to include an asset on the list;
 - a "compensation review", that is a review of a decision whether or not to award compensation, or the amount.
- 3.2 Reviews have to be carried out by an officer of "appropriate seniority" who did not take any part in making the original decision.
- 3.3 It is recommended that the review function is delegated to the Head of Neighbourhood Services, in view of his oversight of the localism agenda generally coupled with the fact that he will not be involved in the day to day decision-making processes set out in this report.
- 3.4 There is a further right of review in either case to a Tribunal, which can award reasonable legal costs against the Council.