

APPENDIX A

COMMUNITY RIGHT TO BID (ASSETS OF COMMUNITY VALUE)

Introduction

In neighbourhoods across the country there are buildings and amenities that are integral to the communities that use them. This could be a village shop, a pub, a community centre or a library. Many provide a base from which to deliver public services to the local community. The closure or sale of such buildings and amenities can create lasting damage in communities and threaten the provision of services. The Right to Bid offers greater opportunity for communities to keep such buildings in public use and ensure they remain a social hub for the community.

Previously, when local amenities have been threatened with sale or closure, community groups have taken them over. However, they have faced significant challenges and have often needed more time to organise a bid and raise money than the private enterprises bidding against them.

The Localism Act introduces a Community Right to Bid (Assets of Community Value) which aims to ensure that buildings and amenities can be kept in public use and remain an integral part of community life.

How will it work?

A voluntary or community organisations or parish council can nominate an asset to be included in a 'list of assets of community value'.

The local authority is then required to include the asset on the list. If the owner of a listed asset then wants to sell the asset a "moratorium period" will be triggered during which the asset cannot be sold. This is intended to allow community groups time to develop a proposal and raise the required capital to bid for the property when it comes onto the open market at the end of that period.

What is the procedure?

The local authority will determine the format of the list, any modifications made to any of the entries on the list and any removal of an entry from the list.

A nomination must come from a voluntary or community body, such as a parish council, a neighbourhood forum, or a charity. The body must have a local connection, for example, their activities are wholly or partly concerned with the local authority's area. Parish Councils may also nominate assets in a

neighbouring parish council or unparished area. Local authorities cannot list land on their own initiative. Nominated assets may be owned by anybody, including the local authority and the Crown.

The local authority will then have eight weeks to determine whether the asset has been properly nominated and meets the definitions in the regulations, If so, the asset is placed on the list and all the relevant parties are informed. This includes placing the asset on the local land charges register and, if the land is registered, applying for a restriction on the Land Register.

If the owner objects to their property being placed on the list, they have a right to request an internal review by the council. If the owner remains in disagreement after the review, they have a right of appeal to an independent Tribunal.

If the nomination is unsuccessful, the local authority must place it on a list of assets nominated but not listed. If an owner is successful in their appeal against listing at internal review or Tribunal then the asset must be moved to the list of unsuccessful nominations.

If land is included in the list of assets of community value it will remain on that list for five years, unless disposed of, or there has been a successful appeal against listing or when the local authority decides that the asset is no longer of community value.

What is land of “community value”?

A building or piece of land has community value if:

- Actual current use of the land or building that is not an ancillary use furthers the social wellbeing or social interests of the local community, and
- It is realistic to think that there can continue to be such use which will further the social wellbeing or social interests of the local community, whether or not in the same way
- It also includes land or building which has, in the recent past, furthered the social wellbeing or social interests of the local community, and which it is realistic to consider will do so again during the next five years.

Exemptions from listing include residential premises, and associated gardens and outbuildings; land licensed for use as a residential caravan site and operational land of statutory undertakers.

What is the “moratorium period”?

Once an asset has been listed nothing further will happen unless and until the owner decides to dispose of it.

Unless an exemption applies, the owner will only be able to dispose of the asset after a moratorium period has expired.

There are two moratorium periods to note, both of which start from the date the owner of the asset notifies the local authority of their intention to sell the asset:

- ‘Interim moratorium period’ – this is a six week period during which a community group wishing to bid for the asset must notify the local authority that they wish to be considered as a potential bidder. If this does not happen the owner can proceed to a sale.
- ‘Full moratorium period’ - this applies if a community group does make a request during the interim period, and lasts for six months during which the community group can develop their proposal and raise the capital required to bid for the asset.

After the moratorium period, either six weeks if there has been no community interest, or the full six months, the owner is free to sell to whoever they choose and at whatever price. No further moratorium period will apply for the remainder of a protected period lasting eighteen months.

Are there exemptions from the moratorium period?

There is a comprehensive list of exemptions from the moratorium period. The main ones are:

- § Disposals which are gifts
- § Disposals in accordance with the will of the deceased owner or under the intestacy rules, or in order to raise money for matters connected with the administration of the estate
- § Disposals between family members
- Sale of land on which a business is carried on, together with the sale of that business as a going concern.

The full list of exemptions is published in the regulations.

Will compensation be payable?

All owners, other than public authorities, will be entitled to claim compensation for loss or expense incurred as a result of listing and complying with any of the procedures required by the scheme.

The claim should be made to the local authority in writing within 13 weeks of the end of the interim or full moratorium period or from the date when the land ceased to be listed. The burden of proof for any claim will rest with the owner.

The local authority must consider the claim and is required to give written reasons for its decision. No time limit is given for responding to the claim. The owner has a right to an internal review of a compensation decision by the local authority. If the owner disagrees with the decision he may appeal to an independent Tribunal.

How will the scheme be enforced?

Compliance will be encouraged by requiring local authorities to inform owners and other interested parties that an asset has been listed, to enter the listing on the local land charges register and, in the case of registered land, apply for a restriction on the Land Register.

Owners will be encouraged to comply as non-compliant sales will be void, meaning that the change of ownership hasn't taken place.