



Community Right to Bid

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Neighbourhoods

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Disclaimer

This is a guide intended as an introduction to the local scheme containing the initial procedures adopted by Cornwall Council for the performance of its duty under Chapter 3 of Part V of the Localism Act 2011 and the Regulations. These procedures will be subject to frequent updates. The Guide is not and must not be taken as a statement of the law. Owners and community groups must obtain independent legal advice when considering their options when faced with choices under the scheme.

Background

The Community Right to Bid was introduced under the Localism Act 2011 and provides town and parish councils and local voluntary and community organisations with the right to nominate local land or buildings which they believe to be of importance to their community's social well-being, for inclusion on a list of assets of community value maintained by the local authority.

The aim is that, if the asset subsequently comes up for sale, then they will be given a fair chance to make a bid to buy it on the open market.

This document is intended to provide guidance to council services, community groups interested in nominating an asset for listing, and owners of those assets and to set out how Cornwall Council will meet the associated requirements set out in The Assets of Community Value (England) Regulations 2012. It should be read in conjunction with these Regulations which read together with Chapter 3 of Part 5 of the Localism Act 2011 (sections 87-108) provide full details of the legislative provisions.

Localism Act Chapter 3

<http://www.legislation.gov.uk/ukpga/2011/20/part/5/chapter/3>

Assets of Community Value (England) Regulations 2012

<http://www.legislation.gov.uk/uksi/2012/2421/contents/made>

1. Who can nominate an asset for inclusion on the list of community assets?

1.1 Nominations may be submitted by the following:

- Town and Parish councils
- Unincorporated bodies with at least 21 individual members and which do not distribute any surplus it makes to its members
- Charities
- Company limited by guarantee which does not distribute any surplus it makes to its members
- Industrial and provident society which does not distribute any surplus it makes to its members
- Community interest companies
- A body designated as a neighbourhood forum under the Town and Country Planning Act

1.2 The above groups (except the Town/Parish Council in which the asset is located) will need to demonstrate amongst other matters, a local connection:

- Activities wholly or partly concerned with local authority's area or neighbouring local authority area
- Any surplus made wholly or partly applied for benefit of local authority's area or neighbouring local authority area
- Unincorporated bodies must have at least 21 local members included on register of electors.

2. What types of assets are eligible for listing?

2.1 Land and buildings, either in public or private ownership, which can demonstrate 'community value' in the opinion of the Council. Included in the Regulations' definition of land and buildings is part of a building, part of any other structure and mines and minerals, whether or not held with the surface.

2.2 Community Value is defined as follows:

- The principle use of the asset currently, or in the recent past, has furthered the social wellbeing or cultural, recreational or sporting interests of the local community **and**
- This use will continue to further the social wellbeing or interests of the local community

- 2.3 Where the asset does not currently demonstrate 'community value' (as above), it may still be nominated where it is possible to demonstrate that the asset's main use did further the social wellbeing or cultural, recreational or sporting interests of the local community in the recent past and where it is realistic to think that it will do so again in the next five years.
- 2.4 The following examples give an indication of the types of assets which may be defined as having 'community value'.

Education, health and wellbeing or community safety

This could include:

- o Nurseries
- o Children's centres
- o Day care centres

Sport, recreation and culture

This could include:

- o Parks and open green spaces
- o Sports and leisure centres
- o Libraries
- o Theatres
- o Museums or heritage sites
- o Cinemas
- o Swimming pools/lidos

Community services

This could include

- o Community centres
- o Youth centres
- o Public toilets

Local democracy

This could include:

- o Town, civic and guild halls

Economic use which also provides an important local social benefit which would no longer be easily available if that service should cease

This could include:

- o Village shops
- o Pubs
- o Markets

2.5 The following examples give an indication of the types of assets which would not be defined as having 'community value'.

- Administrative offices
- Land or property where community use is ancillary to its main purpose
- Land attached to residential property
- Land covered by Caravan Sites and Control of development Act 1960
- Land used by public utilities, defined as operational land in section 263 of the Town and Country planning Act 1990

3. How to make a nomination

3.1 Nominations must be using the nomination form which is available on the Cornwall Council website or by contacting:

Community Right to Bid
David Read
Community Link Officer for Liskeard and Looe
Customers and Communities Service
Communities and Organisational Development Directorate
Cornwall Council

Room 69
Luxstowe House
Liskeard
Cornwall
PL14 3DZ

01872 323875
Email: dread@cornwall.gov.uk

3.2 To enable nominations to be considered as quickly as possible they will need to be supported with the following information:

- A description of the nominated asset including a map showing its proposed boundaries edged in red
- A statement of all information which the nominator has with regard to the names of current occupiers and the names and current, or last known addresses of all those holding a freehold or leasehold estate in the land
- Reasons and evidence for thinking that the Council should conclude that the land is of community value and

- Evidence that the nominator is eligible to make a nomination (in line with requirements set out above)
- 3.3 Nominations should be clearly marked Community Right to Bid and sent to office above. Email is preferred.
- 3.4 The nominator's contact details as provided on the nomination form will be used for future correspondence, including, in the event that the asset is listed, notice that the owner has advised of an intention to dispose of the asset. It is therefore essential that the nominator ensures that any changes in contact details during the period of the listing are notified to the Council via the address above. If it is a registered Charity or a Company we may also notify via that registered address if uncertain as to the currency of the given contact address.
- 3.5 Information provided in the nomination form will be processed in accordance with the Data Protection Act for the purposes of administering the Community Right to Bid procedure. The information will be stored securely by Cornwall Council and will be destroyed after 6 years after the asset ceases to be listed. Name and contact details provided will be shared with the owner of the asset in the event that the nominating organisation subsequently submits an intention to bid. The information provided will be subject to the Freedom of Information Act, but personal information (names and contact details) will not be released in responses to Freedom of Information requests.

4. How we will deal with the nomination

- 4.1 Nominations will usually be acknowledged within 3 working days
- 4.2 Nominations will be considered in line with the requirements set out in the regulations including taking all practical steps to notify the following that the asset is being considered for listing:
- The relevant town or parish council
 - The relevant Cornwall Councillor/s for the area
 - The owner of the asset
 - Where the owner is not the freeholder:
 - the holder of the freehold estate
 - the holder of any leasehold estate other than the owner and
 - Any lawful occupant

- 4.3 We will decide whether the nominated asset should be included in the list within eight weeks of receiving the nomination.
- 4.4 We will notify the following of the decision reached and the reasons for this decision:
- The owner of the land
 - The occupier of the land (if not the owner)
 - The nominator
 - Where they are not the owner, the holder of the freehold estate and the holder of any leasehold estate
 - The relevant town or parish council
 - The relevant Cornwall Councillor/s for the area
- 4.5 Where we are unable to notify any of the above, we will try to bring the notice to the person's attention e.g. by publishing details on the Cornwall Council website and in a local newspaper.
- 4.6 We will publish on the Cornwall Council website www.cornwall.gov.uk
- The list of assets of community value
 - A list of assets nominated by unsuccessful community nominations
- 4.7 Assets will be listed for a period of five years and be notified to the Land Registry as a restriction in the land register for the land (and a Local Land Charge).

5. Right to request a listing review

- 5.1 The owner of an asset included in the list of community assets may ask us to review our decision. This request must be made in writing within eight weeks of the date upon which we provided the owner with written notification of our decision, or longer where we have agreed to this in writing.
- 5.2 The request should be clearly marked Community Right to Bid and sent to the address above.
- 5.3 We will usually acknowledge receipt of the request within 3 working days and advise of the procedure to be followed in connection with the review. The review will be undertaken by a senior officer independent of the original decision making process.

- 5.4 The owner may request an oral hearing and may appoint any representative to act on his or her behalf in connection with the review. Where no request for an oral hearing is made by the owner, we will decide whether or not an oral hearing would be beneficial to the review process. The owner, or their representative, may make written and oral representation to the reviewer.
- 5.5 We will complete the review process within eight weeks of receipt of the written request for the review, or a longer period where this has been agreed with the owner.
- 5.6 We will notify the owner in writing of the outcome of the review and where the review concludes that a change to the listing is required; we will also notify those parties set out at 4.4 above.
- 5.7 Where the review concludes that a change to the listing is required, we will adjust the lists of assets of community value and advise the Land Registry accordingly.
- 5.8 Where an owner remains dissatisfied with the outcome of the review, they may appeal to the general regulatory chamber of the First Tier Tribunal against our decision on the listing review.
- 5.9 The owner and Council will bear their own costs associated with the review.
- 5.10 Where the nominator is not satisfied with our decision in connection with their nomination, they may request that we review our decision. This will be taken as a corporate complaint and dealt with in the line with our [Listening and Learning policy](#) and procedure.

6. Implications of an asset being included in the list of community assets

- 6.1 Where an asset is included in the list of assets of community value, the owner is required to notify the Council in writing of their intention to dispose of the asset.
- 6.2 The Regulations detail circumstances where a disposal is exempt – for example where the disposal is as a result of a court order, a separation agreement made between spouses or civil partners, upon inheritance and as a result of insolvency proceedings. The Regulations should be consulted for the full list of exemptions and detailed definitions.

- 6.3 This notification will trigger a moratorium period (a period of delay) during which the asset owner may not dispose of the asset (other than where the disposal is exempt under the Regulations). This interim moratorium is for a period of six weeks from the date upon which we receive written notification of the owner's intention to dispose of the asset.
- 6.4 During this six week period, suitably constituted community groups and organisations which can demonstrate a local connection may submit an intention to bid. Where this is received, the full six month moratorium period (starting from the date upon which we receive written notification of the owner's intention to dispose of the asset) is triggered during which no disposal may take place except to a qualifying community group by negotiation (see below).
- 6.5 This six month period is intended to enable a community group or organisation to prepare to be able to submit a bid to the owner to purchase the asset. Any subsequent sale takes place under normal market conditions. There is no obligation for a group to make a bid and the group has no rights of purchase over other potential buyers. The owner is under no obligation to sell the asset to a community group or any other person. If the owner decides to sell to a community group, they may do so within the six month moratorium period.
- 6.6 If after the six month moratorium period a community group has not successfully bought the property, the owner is protected for a further 12 month period (the total eighteen month period commencing on the day upon we received written notification of the owner's intention to dispose of the asset) during which the asset may be sold on the open market without the risk of any further moratorium period being triggered.
- 6.7 If any land included in the Assets of Community Value List which is unregistered becomes registered for the first time (because of a disposal, mortgaging or voluntary registration), the owner or new owner must notify the Council as soon as is practicable and complete the Form QQ to enter a restriction on their land register.
- 6.8 The Regulations state that any sale of an asset included in the list of assets of community value which does not comply with the requirements will be void, meaning that the change of ownership has not taken place.

7. Procedure where an owner wishes to dispose of an asset included in the list of assets of community value

- 7.1 Where an owner wishes to dispose of an asset which is included in the list of assets of community value, they must notify us in writing of their intention to do so.
- 7.2 The notification should be clearly marked Community Right to Bid and sent to the contact in Section 3.1.
- 7.3 We will acknowledge receipt of the notification within 3 working days, confirming the dates upon which the interim moratorium took effect and when this period will end.
- 7.4 The list of assets of community value will be updated to show that we have received notice of an intention to dispose of the asset, together with the date of that notification and the resulting interim and full moratorium periods and the protected period.
- 7.5 We will notify the nominator in writing that we have received notice of an intention to dispose of the asset and will publish details in the area where the asset is situated.
- 7.6 An intention to bid may only be submitted by a suitably constituted 'community interest group' which can demonstrate a local connection as set out at 1.2 above. Unincorporated organisations and neighbourhood forums are excluded. The Regulations provide a full definition of 'community interest group' for the purpose of the Community Right to Bid legislation (Regulation 12).
- 7.7 The intention to bid should be submitted in writing together with evidence to support that the bid is being made by a suitably constituted 'community interest group'.
- 7.8 We must receive the intention to bid within six weeks of the notice to dispose of the asset (normally ending at midnight on the last working day of that period). Nominators are advised to obtain proof of delivery either through using appropriate recorded proof of postage or by obtaining a receipt for hand delivered post.
- 7.9 The intention to bid should be clearly marked Community Right to Bid and sent to the Strategy, Localism and Communications Service at the address above.

- 7.10 We will pass the intention to bid to the owner of the land, or inform them of the details, as soon as practically possible after receipt.

8. Compensation

- 8.1 The owner or former owner of an asset included in the list of assets of community value is entitled to make a claim for compensation from Cornwall Council in respect of incurred loss or expense in relation to the asset which would be likely not to have been incurred if the land had not been listed. The Regulations should be consulted for details of bodies which are not entitled to compensation.
- 8.2 Claims should be made in writing and be made within thirteen weeks after the loss or expense was incurred or finished being incurred. Claims must state the amount of compensation being claimed for each part of the claim and be accompanied by supporting evidence.
- 8.3 Claims should be clearly marked Community Right to Bid and sent to the contact as in Section 3.1.

9. Owner's right to request a compensation review

- 9.1 The person making the compensation claim may ask for a review of the decision we reach in relation to their claim. This must be made in writing within eight weeks of the date upon which we have advised you of our reasons for the decision in relation to the claim.
- 9.2 The request should be clearly marked Community Right to Bid and sent to the Strategy, Localism and Communications Service at the address above.
- 9.3 We will acknowledge receipt of the request and advise of the procedure to be followed in connection with the review. The review will be undertaken by a senior officer independent of the original decision making process.
- 9.4 The owner may request an oral hearing and may appoint any representative to act on his or her behalf in connection with the review. Where no request for an oral hearing is made by the owner, we will decide whether or not an oral hearing would be beneficial to the review process. The owner, or their representative, may make written and oral representation to the reviewer.

- 9.5 We will complete the review process within eight weeks of receipt of the written request for the review, or a longer period where this has been agreed with the owner.
- 9.6 We will notify the owner in writing of the outcome of the review.
- 9.7 Where the owner remains dissatisfied with the outcome of the review, they may appeal to the First Tier Tribunal against our decision on the compensation review.

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