

	<b>Mayor and Cabinet</b>	<b>Item</b>	
<b>Title</b>	Assets of Community Value		
<b>Wards</b>	All		
<b>Contributors</b>	Executive Director for Resources & Regeneration		
<b>Class</b>	<b>Part 1</b>	<b>Date</b>	16 January 2013

## Introduction

1. This report provides information on the background to, and implications of provisions relating to assets of community value in the Localism Act 2011 (sometimes referred to as the Community Right to Bid). This came into force, by Regulations, on 21 September 2012.

## Recommendations

2. The Mayor is recommended to:
  - i) note the contents of this report; and
  - ii) agree the amendments to the Mayoral scheme of delegation as reflected in Appendix 1.

## Policy context

3. One of the primary functions of the Council is to promote the social, economic and environmental well being of the borough and its people. As Council funding is provided through public resources (grants from central government; Business Rates and Council Tax) the local authority must also demonstrate both responsibility and accountability in the stewardship of public assets and resources.
4. The overarching policy and decision making framework for the discharge of the Council's many functions and duties is Lewisham's Sustainable Community Strategy. The Strategy contains two overarching principles which are:
  - reducing inequality – narrowing the gap in outcomes
  - delivering together efficiently, effectively and equitably – ensuring that all citizens have appropriate access to and choice of high quality local services

5. Also contained within this overarching policy framework are the Council's ten priorities. These priorities describe the specific contribution that the local authority will make to the delivery of the Sustainable Community Strategy. The Council priorities are as follows:
- Community leadership and empowerment
  - Young people achievement and involvement
  - Clean, green and liveable
  - Safety, security and visible presence
  - Strengthening the local economy
  - Decent homes for all
  - Protection of children
  - Caring for adults and older people
  - Active healthy citizens
  - Inspiring efficiency, effectiveness and equity

### **The Community Right to Bid**

6. This is a right given to eligible local community and voluntary groups to ask the Council to list certain assets as being of value to the community by making a nomination. If an asset is listed and then comes up for sale, the new right will give an eligible community interest group that wishes to be treated as a potential bidder to purchase the asset, 6 months to put together a bid to buy it.
7. This right is intended to give communities an increased chance to save shops, pubs or other local facilities which are of community value. Eligible voluntary or community groups can nominate both privately and publicly owned assets which meet the definition of "community value". This therefore means that the Council's own assets can be nominated. Local authorities cannot list land on their own initiative - it must be nominated.

### **Definition of "community value"**

8. A building or land in the borough will fall within the definition of an asset of community value if in the opinion of the Council:
- a current primary use of the building/land furthers the social well-being or social interests (cultural, recreational, or sporting interests) of the local community; and it is realistic to think that a use may continue that promotes such interests, or
  - in the recent past there has been a primary use of the building/land that furthered such interests and it is realistic to think that within five years the buildings/land could be used to promote social wellbeing or interests.
9. Residential property and land connected with it, caravan sites and statutory undertakers' land are excluded from the definition.

## **Groups eligible to make a nomination**

10. The organisations which may make a nomination are a parish council or a community/voluntary organisation with a local connection.
11. Broadly, a local connection is established if the organisation operates in the area or for its benefit. Community/voluntary organisations include:
  - a neighbourhood forum
  - a parish council;
  - an unincorporated body with at least 21 individual members which does not distribute any profits
  - a charity;
  - a company limited by guarantee which does not distribute profits;
  - an industrial and provident society which does not distribute profits; and
  - a community interest company.
12. The definition does not include a public or local authority (except a parish council).

## **The consequences of listing**

13. Owners of listed assets cannot dispose of them without:
  - letting the Council know that they intend to sell the asset or grant a lease of more than 25 years
  - waiting until the end of a six week 'interim moratorium' period if the Council does not receive a request from an eligible community interest group to be treated as a potential bidder
  - waiting until the end of a six month 'full moratorium' period if the Council does receive a request from an eligible community interest group to be treated as a potential bidder
14. The owner does not have to sell the asset to the community interest group and, as long as it has complied with the above requirements, can sell the asset to whoever it wants within a 'protected period' (18 months from the time that the owner notified the Council of their intention to dispose of the asset) if it has not accepted a bid from the community interest group.
15. Once an asset is listed, it will remain on the register for 5 years after which it can then be re-nominated. The Council can remove an asset from the register at any time if it considers that it is no longer of community value.

## **Enforcement**

16. The Regulations introduce a clear penalty for non compliance, and measures to minimise the chance of a disposal not being compliant with the scheme. There is no specific enforcement role for local authorities. However, there are a number of requirements placed on local authorities as follows:

- Local authorities are required to add that an asset has been listed to the local land charges register. This will ensure that all prospective new owners will be aware that an asset has been listed, since local land charges apply to both registered and unregistered land.
- Local authorities are required to notify the owner that their asset has been listed and inform them of the implications. Owners are required to inform the local authority if they have become the new owner of listed land (together with giving their name and address details) .
- Local authorities are required to apply to the Land Registry for entry of a restriction on the Land Register when they list a building or other land as an Asset of Community Value, or, if necessary, where the owner of the listed asset has changed. The local authority is also required to apply to the Land Registry for cancellation of the restriction when it removes an asset from its list.

17. When a listed asset is disposed of, and a new owner applies to the Land Registry to register a change of ownership of a listed asset, they will therefore need to provide the Land Registry with a certificate from a conveyancer that the disposal (and any previous disposals if this is the first registration) did not contravene the moratorium requirements. Any disposal which contravenes the moratorium requirements will be void.

## **Review & Compensation**

18. Members attention is drawn to the fact that owners aggrieved by registration have a right of review. This is set out in the guidance note at Appendix 1. They may also be entitled to compensation from the Council for costs incurred as a result of listing/e.g. additional security

## **Key tasks and timescales for the Council**

16 The Guidance Note for Officers showing the key tasks and timescales for the Council is attached at Appendix 1.

17 This also sets out recommendations as to which officers should be responsible for the various key tasks. The key tasks can be summarised as follows:

- i. Prepare the list of assets of community value and list of unsuccessful nominations. A template is provided at Appendix 2.

- ii. Decision on application for listing to be made within 8 weeks of receiving nomination.
- iii. Registration – local land charge and Land Registry restriction
- iv. Oral hearing to review listing on application of owner. Owner has 8 weeks from decision to request review and review must be completed within 8 weeks.
- v. Decision on any application for compensation by owner.
- vi. Oral hearing to review compensation on application of owner. Owner has 8 weeks from initial decision on compensation to request a review.
- vii. Maintenance of list.
- viii. Publicising notices of disposal of assets on the list.
- ix. Dealing with requests by community interest groups to be treated as bidders

19. The resources implications are therefore unknown and will have to be kept under review as applications are received.

### **Decision making and conflict**

20. The Council needs a clear decision making process to enable decisions to be made within the relevant statutory periods.

21. The recommendations as to responsibility for key tasks take into account the potential for conflict of interest. In the case of nominations for Council owned assets, there needs to be sufficient flexibility to enable officers within the relevant holding department and dealing with asset disposals (who may be perceived by the community to have a conflict of interest) to take no part in the decision making process.

### **Implications for disposals of Council owned assets**

22. The key implication is delay. If the Council wishes to dispose of an asset which is listed, there is a potential for delay in disposal of up to 6 months if an eligible community interest group expresses an interest in bidding and triggers the full moratorium period.

23. If the Council does not accept a bid from a community interest group, it only has 12 months from the end of the 6 month period (i.e. the balance of the protected period of 18 months) to complete a disposal. This is a disposal of a freehold or long leasehold interest or the point at which an agreement to make such a disposal becomes binding.

24. The listing process may delay proposed disposals of Council assets. Developers are likely to see this as a risk, particularly as an application for listing could be

made at any time up until a disposal takes place. There is clearly potential for delay and abortive costs in these circumstances.

## **Publicising the Community Right to Bid**

25. There are no specific legal requirements about publicity except in the course of dealing with specific applications. However, a webpage has been created on the Council's website, which summarises the Community Right to Bid, provides links to the Regulations and contains the Assets of Community Value application form (Appendix 3) and Frequently Asked Questions (also at Appendix 3).

## **Member reporting**

26. Consideration needs to be given to formal decision making about how the Council deals with the registration of assets of community value. At the very least, amendments to the Mayoral scheme of delegation will need to be drawn up and made known to all members. Some members have already asked for information about how the process works and there has been at least one enquiry from a member of the public in relation to a specific property, though no formal application has yet been received.

## **Legal Implications**

27. The report reflects the legal position as it stands under the Localism Act 2011 and regulations made under it. The key issues are dealt with in the report.

28. Though there is no sanction set out in the legislation if the Council fails to publish notices of disposal, it is always possible that if an owner were to have a disposal set aside because of the Council's failure, that the Council may be liable in tort for negligence or breach of statutory duty which could attract damages. It is therefore essential that the duties in relation to the register of assets of community value are taken seriously and implemented meticulously.

## **Financial implications**

29. Actual disbursements in relation to the day to day administration of applications for listing (including land registry charges, notices of disposal etc) are not likely to exceed £1000 per case. However we cannot be sure how many applications for listing will be received in any one year. If 10 were received this could represent outlay of approximately £10,000 per annum.

30. Of far more significance is the requirement to commit the time of an employee to administer the lists and that of senior employees to be involved in decision making about inclusion on the list and compensation and in hearing appeals in relation to listing and compensation. Again, we cannot be sure how much this will entail until the list is operative and owners seek to dispose of registered assets.

31. The largest potential liability is in relation to compensation claims from owners. The legislation provides that owners will be entitled to compensation from the local authority for costs incurred as a result of the listing. No doubt the Council will need external professional advice on the appropriate level of compensation. The cost of compensation may be very significant, including such items as security costs, diminution in value, and abortive costs if a potential development falters because of delays occasioned by listing. These costs may be very large indeed. It is noteworthy that the Council and public authorities may not claim compensation.
32. The Government has indicated that its new burdens funding reflects 40 successful claims for compensation per year across all administering authorities. They have also said that a safety net will be provided for authorities facing claims of over £20,000 per annum either from a single claim or a number of claims. However it is anticipated that this relief will only be available until the Spending Review is completed after which point authorities are likely to have to meet these costs themselves.

### **Crime and disorder implications**

33. There are no crime and disorder implications arising from this report.

### **Equality Implications**

34. The principles of the 2010 Equality Act are particularly relevant when considering applications to nominate assets of community value and when deciding on competing bids from organisations seeking to purchase Council owned assets.
35. The Equality Act includes a new public sector equality duty (the equality duty or the duty), replacing the separate duties relating to race, disability and gender equality. The duty came into force on 6 April 2011. The new duty covers the following nine protected characteristics: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
36. In summary, the Council must, in the exercise of its functions, have due regard to the need to:
- eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
  - advance equality of opportunity between people who share a protected characteristic and those who do not.
  - foster good relations between people who share a protected characteristic and those who do not.

## BACKGROUND PAPERS

Short Title of Document	Date File	Location	Contact Officer
Localism Act	December 2011	<a href="#">Localism Act 2011</a>	
Assets of Community Value	September 2012	<a href="#">Assets of Community Value Statutory Regulations</a>	

**Contacts:** Kath Nicholson; Head of Law; Legal Services



## **Appendix 1**

# **Community Right to Bid Guidance for Officers**

## 1. Introduction

The Community Right to Bid is a statutory right given to community and voluntary bodies to nominate assets of community value. The right also enables eligible community organisations to bid for the assets when they come up for sale. This note provides guidance to officers about how the Council will handle this statutory right.

## 2. Scope of responsibilities

The framework within which asset nominations are to be managed is provided for in regulations. The Council's responsibilities extend to:

- Making decisions on asset nominations
- Maintaining and publicising two lists; one for successful nominations and the other for unsuccessful nominations
- Ensuring that reviews are conducted fairly and in timely manner
- Maintaining audit trails of evidence used to inform decision making
- Making decisions on compensation claims

A decision making process has been developed which describes how the above-mentioned functions will be managed within the framework. This appears at Appendix A, whilst a flowchart illustrating the bidding process is at Appendix B.

Key stages	Note
<b>Processing applications</b>	
<p>1. On receipt of an application to nominate an asset of community value, <b>the list administrator (acting on behalf of the Principal Property Lawyer) must notify the designated Head of Service (generally the Head of Community and Neighbourhood Development)</b> that an application has been submitted and requires a decision.</p> <p>2. <b>The list administrator must then forward details</b> of the application to the designated Head of Service for consideration and advise <b>the Principal Property Lawyer who must provide written notification</b> to the owner and lawful occupant of the land, that their property has been nominated.</p>	<p>A dedicated email account: 'community assets' has been set up to receive nominations for assets of community value.</p> <p>A number of officers from across the Council have direct access to the 'community assets' email account. Collectively this group will ensure that there will always be an officer available to identify and process new applications as they arrive.</p> <p>In order to ensure that the land/ asset owner is given notification that their asset is being considered for nomination, Land Registry searches and other enquiries may need to be made in order to establish ownership and occupancy.</p>
<b>Making an initial decision</b>	
<p>3. <b>On receipt of the application the designated Head of Service must consider the application and make an initial decision.</b> Specifically, the designated Head of</p>	<p>Only a voluntary or community body with local connection is eligible to make a community nomination. The regulations identify the following organisations as those able to nominate an asset of community value:</p>

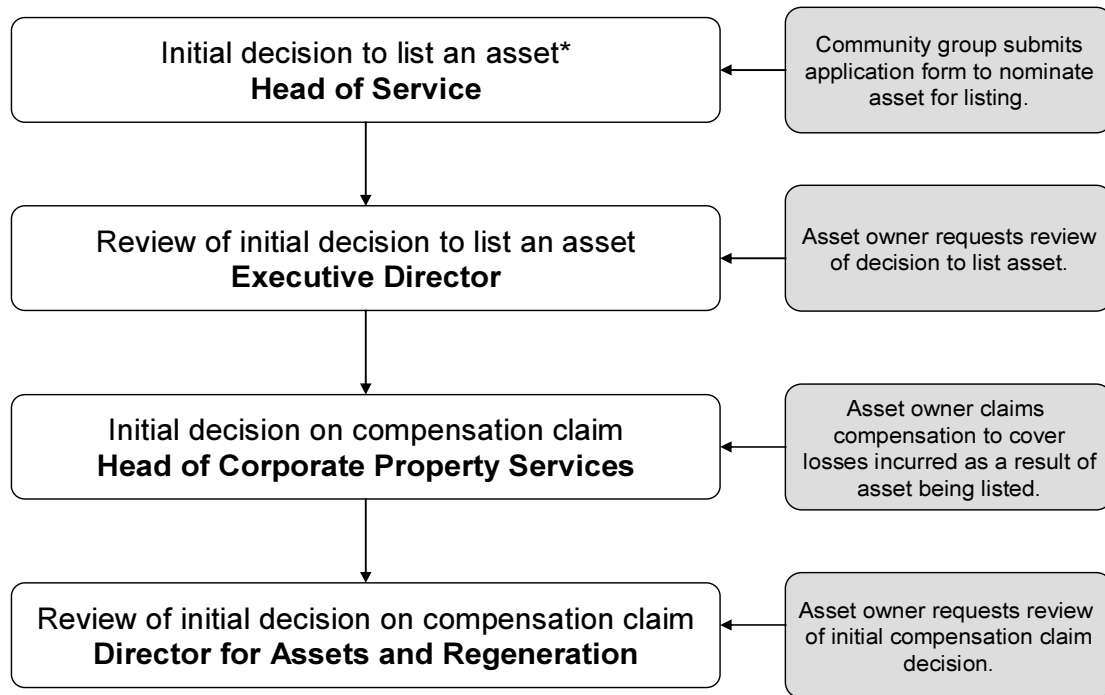
<p>Service will need to determine:</p> <ul style="list-style-type: none"> <li>• whether the application is <b>made by an eligible organisation</b></li> <li>• whether the application <b>meets the definition</b> of an ‘asset of community value’.</li> </ul> <p>4. If additional information is <b>required the designated Head of Service may (at their discretion) contact the nominating organisation</b> and ask for this to be supplied.</p> <p>5. <b>The designated Head of Service must reach a decision</b> as to whether or not to list the asset within <u>8 weeks</u> of receiving the nomination.</p> <p>6. <b>Once the designated Head of Service has reached a decision they must advise</b> the Principal Property Lawyer of that decision.</p> <p>7. <b>The designated Head of Service must then write to the nominating organisation and the property owner</b> to advise them of the decision. In the event that a nomination has been unsuccessful, the letter must include reasons for the decision not to list the asset.</p> <p>8. <b>The designated Head of Service must</b> maintain an audit trail of the evidence that informed their decision and <b>forward this to the list administrator or Principal Property Lawyer</b>.</p>	<ul style="list-style-type: none"> <li>• a charity</li> <li>• an unincorporated body whose members include at least 21 individuals and which does not distribute any surplus it makes to its members</li> <li>• a body designated as a neighbourhood forum</li> <li>• a company limited by guarantee which does not distribute any surplus it makes to its members</li> <li>• an industrial and provident society which does not distribute any surplus it makes to its members</li> <li>• a community interest company</li> </ul> <p>The legislation provides that an asset satisfies the definition of an asset of community value if:</p> <ul style="list-style-type: none"> <li>• the local authority decides that the actual main, current use of the building or land is to further the social wellbeing or social interests of the local community and it is realistic to think that there can continue to be a main use of the building or land which will further the social wellbeing or social interests of the local community; or</li> <li>• in the opinion of the local authority there is a time in the recent past when the actual and main use of the building or land furthered the social well being or social interests of the local community and, it is realistic to think that there is a time in the next five years when there could be a main use of the building or land that would further the social wellbeing or social interests of the local community.</li> </ul> <p>“Social interests” includes (in particular) cultural, recreational and sporting interests.</p>
<b>Review of the initial decision</b>	
<p>9. If within eight weeks of being notified in writing, the asset owner requests a review of the decision, the Council must undertake a review of its decision within eight weeks. The review <b>must be heard by an Executive Director</b>.</p> <p>10. In advance of the review, <b>the Executive Director must write to the asset owner</b> advising them when a decision will be made and whether any additional information</p>	<p>The owner of the land has the right to ask for the Council’s decision to be reviewed. However, the owner of the land must request a review within <u>8 weeks</u> from time they are notified that the asset is to be included on the list.</p> <p>The Council may however, extend the review request period if it so chooses.</p> <p>If requested, the review of the decision to list must be completed within <u>8 weeks</u> unless parties otherwise agree in writing.</p>

<p>will be required to inform that decision.</p> <p>11. To inform the review, the <b>Head of Service who made the original decision must</b> compile the relevant documentation to enable the Executive Director to reach their decision.</p> <p>12. Following the review <b>the Executive Director must</b> write to the asset owner and nominating body advising of the decision, set out how the decision was reached and the implications.</p> <p>13. If the request to review the listing of the asset is successful the entry must be removed from the successful nominations list <b>by the list administrator (acting on behalf of the Principal Property Lawyer)</b> and included on the list of unsuccessful nominations.</p> <p>14. <b>The Executive Director must</b> maintain an audit trail of the evidence that informed their decision and <b>forward this to the list administrator or Principal Property Lawyer.</b></p>	<p>An oral hearing must be held at owner's written request. If no request is made, the Council can decide whether or not an oral hearing is required.</p> <p>Representations to the Executive Director reviewing the decision may be made by the owner/owner's representative orally and/or in writing.</p> <p>The listing can also be removed if the Council for any reason no longer considers the land to be of community value and after a period of five years has elapsed (however after five years the asset can be re-nominated).</p> <p>If the asset owner wishes to appeal against listing review decision they can lodge their appeal to a First-Tier Tribunal</p> <p>The list must be published and be available for free inspection. One free copy of list must be provided on request</p> <p>Local authorities are required to add that an asset has been listed to the local land charges register. This will ensure that all prospective new owners will be aware that an asset has been listed, since local land charges apply to both registered and unregistered land.</p> <p>Local authorities are required to apply to the Land Registry for entry of a restriction on the Land Register when they list a building or other land as an Asset of Community Value, or, if necessary, where the owner of the listed asset has changed. The local authority is also required to apply to the Land Registry for cancellation of the restriction when it removes an asset from its list.</p>
<b>Disposal of a listed asset</b>	
<p>15. Once the asset owner notifies the Council of their intention to sell the listed asset, <b>the Principal Property Lawyer must give written notification</b> to the community organisation which nominated the asset for listing and arrange for public notification of the proposed disposal (in the area where the land is situated). The letter to the nominating body as well as the public notification must clearly set out the process and timescales involved.</p>	<p>The asset owner must notify the Council in writing that they wish to enter into a relevant disposal. A "relevant disposal" is a disposal with vacant possession.</p> <p>During this moratorium period a community interest group may request in writing to be treated as a potential bidder for the asset; this will bring the full moratorium period into force (see Appendix B).</p> <p>Only a defined "community interest group" may express an interest in bidding for an asset. The community interest group does not have to</p>

<p>16. Upon notification, <b>the Principal Property Lawyer must amend the successful nominations list to show that:</b></p> <ul style="list-style-type: none"> <li>• the notice of disposal has been received,</li> <li>• the date the notice was received and the end of the: <ul style="list-style-type: none"> <li>- interim moratorium period (<u>6 weeks</u> from date of notification),</li> <li>- full moratorium period (<u>6 months</u> from date of notification) and</li> <li>- protected period (<u>18 months</u> from date of notification).</li> </ul> </li> </ul> <p>17. If during the six week moratorium period no eligible community organisation submits a written expression of interest to bid for the asset, <b>the Principal Property Lawyer must write to the asset owner</b> advising them that they are free to proceed with the sale of their asset to whomsoever they wish.</p>	<p>provide any evidence of intention or financial resources to make such a bid.</p> <p>However, a community interest group must have one or more of the following structures:</p> <ul style="list-style-type: none"> <li>• a charity</li> <li>• a community interest company</li> <li>• a company limited by guarantee that is non profit distributing</li> <li>• an industrial and provident society that is non profit distributing (these groups will be renamed as community benefit societies by the Co-operative and Community Benefit Societies and Credit Unions Act 2010 when the relevant provisions come into force)</li> </ul>
<b>Responding to a request to bid</b>	
<p>18. If the Council receives a written request (in any form) within the six week interim moratorium period from a <b>community interest group</b> wishing to be treated as potential bidder, <b>details must be passed to the owner of the land by the Principal Property Lawyer.</b></p> <p>19. <b>The Principal Property Lawyer must also write to the eligible organisation</b> advising that their expression of interest has been received and has been forwarded on to the asset owner.</p>	<p>During this period it is up to the bidding organisation or organisations to pull together a business plan and finances to bid for the asset.</p> <p>Other than passing on the details of a potential bidder to the asset owner the Council is not required to play any further role in facilitating a possible sale.</p>
<b>Dealing with compensation claims</b>	
<p>20. <b>Claims for compensation will be handled by the Head of Corporate Property Services.</b> Upon receipt of a claim <b>the Head of Corporate Property Services must write back</b> to the claimant confirming receipt.</p> <p>21. <b>In considering the claim, the</b></p>	<p>The owner of land is entitled to claim compensation where they have “incurred loss or expense in relation to the land which would not have been incurred if the land had not been listed”.</p> <p>However, the claim must be made within <u>13 weeks</u> after loss or expense incurred/finished</p>

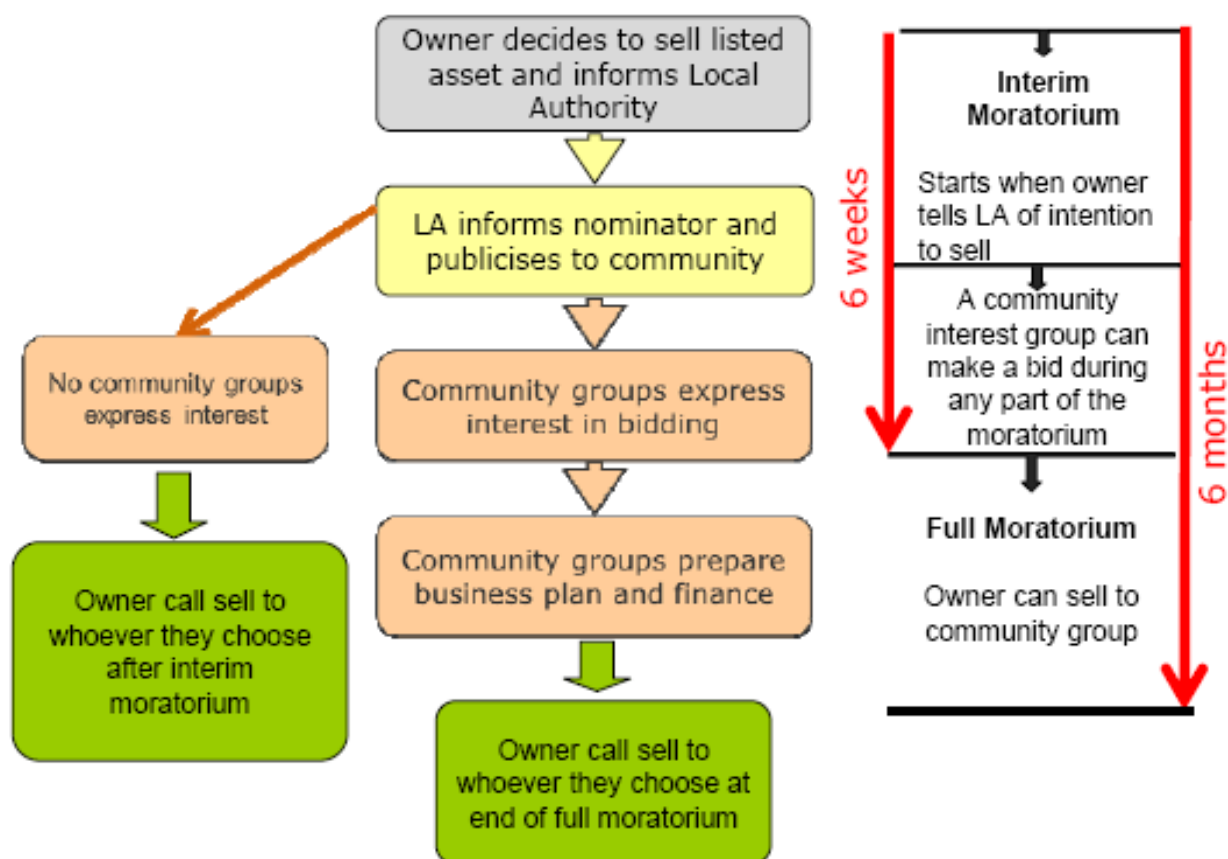
<p><b>Head of Corporate Property Services must</b> ensure that there is sufficient evidence available to reach a decision.</p> <p>22. At their discretion the <b>Head of Corporate Property Services may</b> need to undertake a more detailed investigation in order to establish the validity of the claim. This may include inviting the claimant to provide additional evidence.</p> <p>23. <b>Once the decision has been made the Head of Corporate Property Services must</b> write to the claimant with details of the decision.</p> <p>24. <b>The Head of Corporate Property Services must</b> maintain an audit trail of the evidence that informed their decision and <b>pass this on to the Principal Property Lawyer.</b></p>	<p>being incurred.</p> <p>There is no time frame for a decision to be reached.</p>
<b>Compensation claim review</b>	
<p>25. In the event that the Council rejects a claim for compensation and the owner requests a review, <b>the review must be conducted by the Director for Assets and Regeneration.</b></p> <p>26. <b>The Head of Corporate Assets and Property, who made the original decision, must</b> assemble the relevant documentation to enable the Director for Assets and Regeneration to undertake their review.</p> <p>27. <b>The Director for Assets and Regeneration must</b> maintain an audit trail of the evidence that informed their decision and <b>forward this to the Principal Property Lawyer.</b></p>	<p>A request to review a compensation claim must be made within <u>8 weeks</u> of written notification of reasons for decision on compensation, or such longer period as the Council may allow</p> <p>The asset owner has the right to lodge an appeal against the compensation review decision. This appeal will need to be lodged before a First-Tier Tribunal.</p>

## Decision making flow chart



\*The asset lists for both successful and unsuccessful nominations will be maintained by Legal Services.

## Flow chart for bidding process





## REGISTER OF COMMUNITY ASSETS – SUCCESSFUL NOMINATIONS

Asset details	Date asset registered	Nominating body	Land Charge entry date	Land Registry restriction date	Notice of disposal date	Interim moratorium period expires	Full moratorium period expires	Protected period expired	Owner(s) of asset

REGISTER OF COMMUNITY ASSETS – UNSUCCESSFUL NOMINATIONS

Asset details	Date of nomination	Nominating body	Date of decision not to list	Reasons for decision not to list	Owner(s) of asset



# **Application to Nominate Assets of Community value**

## Application to nominate an asset of community value

If you wish to nominate an asset of community value for listing you will need to complete this application form. The responses to the questions in your application will enable the Council to reach a decision about your nomination. In the event that the information you supply is insufficient to make a decision, your application will be rejected.

Before completing this application **please read** the frequently asked questions section attached as an appendix. The explanations in that section will help you to better understand whether the asset you propose to nominate meets with the definition of an 'asset of community value'. They also provide additional information about your rights to nominate and bid for assets as well as the rights of asset owners.

Your completed application should be emailed to: [community.assets@lewisham.gov.uk](mailto:community.assets@lewisham.gov.uk)

Alternatively you can send your completed application to:

Assets of Community Value  
List Administrator  
Legal Services  
3rd Floor  
Town Hall  
Catford  
SE6 4RU

For information, the table below summarises the 'assets of community value' nominating and bidding process in four simple stages.

### **Stage one: Identify an asset for nomination**

If an eligible community or voluntary group thinks that a local asset meets the definition of an 'asset of community value' they can fill in an application form and ask the Council to list the property as an 'asset of community value'. If the nomination meets the relevant criteria and is approved by the Council, the asset will be included on the list. A list will also be compiled for any unsuccessful nominations that do not meet the criteria.

### **Stage 2: The owner wants to sell their asset**

If the owner wants to sell their asset they must notify the Council, which will then notify the community group that nominated the asset and publicise the proposed sale to the wider community. If within six weeks of informing the Council of their intention to sell their asset an eligible community interest group does not come forward, the owner is free to sell their asset for a period of eighteen months from the date that they notified the Council of their intention to sell the asset.

### **Step 3: A designated community group wants to bid for the asset**

If an eligible community interest group *does* express an interest in bidding for the asset, this group or groups will be granted extra time to prepare a business plan and gather the finance needed to purchase the asset. All in all, the time-frame for groups to put together their bids is six months starting from the time the asset owner informs the Council of their intention to sell the asset.

### **Step 4: The point at which the asset is to be sold**

The six month window of opportunity is only for eligible community interest groups to

put their business plans together and gather necessary funding. Once the six month window has expired, the asset owner is free to sell their property to who they want. They are under no obligation to sell the asset to any eligible community interest group or groups who bid to purchase the asset.

## Nomination form

**1. In this section, please describe the building or land you wish to nominate including its proposed boundaries**

**2. In this section, please provide all the information you have with regard to the names of current occupants of the building or land and the names and current or last known addresses of all those holding a freehold or leasehold estate in the land**

**3. In this section, please explain why you think that the Council should conclude that the building or land is of community value**

**In this section please provide evidence that you are eligible to make a community nomination.**

**Your details**

<b>Your Organisation</b>	
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<b>Contact name</b>	
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<b>Position held</b>	
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<b>Address</b>	
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<b>Postcode</b>	
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<b>Telephone</b>	
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<b>Email</b>	
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### **What is the definition of an asset of community value?**

The legislation provides that an asset satisfies the definition of an asset of community value if:

- the local authority decides that the actual main, current use of the building or land is to further the social wellbeing or social interests of the local community and it is realistic to think that there can continue to be a main use of the building or land which will further the social wellbeing or social interests of the local community; or
- in the opinion of the local authority there is a time in the recent past when the actual and main use of the building or land furthered the social well being or social interests of the local community and, it is realistic to think that there is a time in the next five years when there could be a main use of the building or land that would further the social wellbeing or social interests of the local community.

“Social interests” includes (in particular) cultural, recreational and sporting interests.

### **Who can nominate an asset of community value?**

The legislation sets out that the following bodies can nominate an asset of community value for listing:

- a charity
- an unincorporated body whose members include at least 21 individuals and which does not distribute any surplus it makes to its members
- a body designated as a neighbourhood forum
- a company limited by guarantee which does not distribute any surplus it makes to its members
- an industrial and provident society which does not distribute any surplus it makes to its members
- a community interest company
- a parish council

### **To make a nomination, does a nominating body have to have any local connection to the area?**

Yes it does. Organisations whose activities are wholly or partly concerned with the local authority’s area or with a neighbouring authority’s area can make a nomination. Certain other organisations can also nominate if any surplus they make is wholly or partly used for the benefit of the local authority’s area or for the benefit of a neighbouring authority’s area.

### **If my group nominates a community asset for listing will it also be able to bid for the asset if the owner decides to sell the asset?**

The legislation sets out that only community interest groups can bid for assets. These are a charity, a company limited by guarantee which does not distribute any surplus to its members, an industrial and provident society which does not distribute any surplus to its members or a community interest company, in each case having a local connection to the building or land; or a parish council.

### **Who makes the decision on whether or not a nomination has been successful?**

Decisions as to whether or not a nomination has been successful are made by the local authority. In making its decision the local authority must comply with the legislation.

### **How long will the decision take and how will I find out what it is?**

The local authority is required to make its decision within 8 weeks of receiving a nomination. The local authority will notify the owner and occupants of the asset that it is considering a nomination. If the local authority decides to list the asset, it will notify the owner, occupant and the community nominee. If the nomination is unsuccessful, the local authority will give the community nominee written reasons for its decision not to list.

### **Is there a right of appeal against a listing?**

Yes there is. At the time when the local authority makes its decision it will take into consideration all relevant and available information. However, if after the decision has been taken to list an asset, the asset owner contacts the local authority within 8 weeks (or such longer period as the local authority may allow) asking for the decision to be reviewed, the local authority is obliged to carry out an internal review of its decision. This will generally be at an oral hearing which will be heard by a senior officer of the local authority who took no part in the original decision. If following that review (which must be completed within 8 weeks unless the parties agree otherwise) the local authority decides that the asset does not fit the criteria of an asset of community value, the asset will be removed from the list. If the local authority decides not to remove the asset from the list, the owner has a further right of appeal to an external Tribunal.

### **Once the local authority agrees to list an asset what happens next?**

If the local authority agrees to list an asset, it will then be included on the local authority's register of assets of community value. This register includes details of all successful nominations; the description of the asset; who nominated the asset and the date when the asset was nominated. Members of the public will be able to view the list on the Council's website. It will also be available for free inspection at Community Services, Town Hall, Catford and one free copy of the list will be provided on request.

### **What happens if my nomination has been unsuccessful?**

As well as a list of successful nominations, the local authority is obliged to maintain a list of unsuccessful nominations. This list will include a summary of the asset that was nominated; the asset owner; the nominating group and the reason for the decision not to nominate the asset. Members of the public will be able to view the list on the Council's website. It will also be available for free inspection at Community Services, Town Hall, Catford and one free copy of the list will be provided on request.

### **What sorts of buildings are exempt from listing as assets of community value?**

The legislation sets out that there are some assets that are exempt from listing. These are:

- a private residence and land connected with that residence
- statutory undertakers' land
- caravan sites

### **If an asset is listed, how long does the listing last for?**

The asset will remain on the list for 5 years, after which it will be removed. However, it can then be re-nominated to go back on the list. An asset can also be removed if, at any time, the local authority no longer considers it to be of community value. Notice of removal is required to be given to the owner, occupant and the community nominee who originally nominated the asset to go on the list.

### **How do I find out when an owner of a listed asset is proposing to dispose of it?**

The owner must notify the local authority that it wishes to dispose of the asset. The local authority will then amend the list to show that notice of disposal has been received and the dates of the initial moratorium period (6 weeks from notification), full moratorium period (6 months from notification) and protected period (18 months from nomination). The local

authority will give written notice to the community nominee who originally nominated the asset to go on the list and will publicise the proposed disposal in the area where the asset is situated. If the local authority receives a written request from a community interest group within the interim period to be treated as a potential bidder, it will pass the details to the owner of the land.

For more information about the Localism Act 2011 and Assets of Community Value please click on the links below:

[Localism Act 2011](#)

[Assets of Community Value Statutory Regulations](#)