

Guide to Assets of Community Value (ACV)

Types of Assets of Community Value

The local authority that the building or land is situated in considers whether it can be registered as an Asset of Community Value.

The Regulations Section 88(2) of the Localism Act defines an asset/land of community value if:

- (a) There is a time in the recent past (or current) when an actual use of the building or other land that was not an ancillary use furthered the social wellbeing or interests of the local community, and
- (b) It is realistic to think that there is a time in the next five years when there could be non-ancillary use of the building or other land that would further (whether or not in the same way as before) the social wellbeing or social interests of the local community

Social interests include cultural interests, recreational interests and sporting interests. Social well-being relates to social interaction and engagement - a sense of involvement with other people and the local community. If the Council considers that the building or land should be registered as an ACV, it will remain on the Council's register of community assets for five years.

It is possible to nominate assets that are in either public or private ownership.

The range of assets that can be considered to enhance a community's social well-being is wide. The following examples give an indication of the types of assets which might be defined as having 'community value':

Sport, recreation and culture such as

- Parks and open green spaces
- Sports and leisure centres including swimming pools
- Libraries
- Theatres / Cinemas
- Museums or heritage sites

Community services such as

- Community centres
- Youth centres
- Public toilets

- Town, civic and guild halls

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

- Village shops
- Pubs
- Markets

Other assets that would **not** normally be considered as having 'community value' include;

- administrative offices
- land or property where community use is secondary to its main purpose
- land attached to residential property (although the regulations set out certain exceptions for shops and pubs)
- 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

See the Regulations for the full list of exemptions and related definitions.

Community Right to Bid

The Community Right to Bid was introduced under the Localism Act 2011. It gives eligible organisations such as Town and Parish Councils and defined community groups the opportunity to nominate asset/s (building or land) they believe to be important for their community wellbeing, to be listed by the local authority as an Asset of Community Value.

When a listed asset comes up for sale, the Community Right to Bid for Assets of Community Value provides a delay in the sale process, called a moratorium. The moratorium allows community groups to prepare and make a bid for the asset of the open market. This aims to ensure that buildings and amenities can be kept in public use and remain an integral part of community life where possible.

If the owner of the land or building listed as an ACV wishes to sell, they must contact the Council who will notify the community group which nominated the asset. The community group then has six weeks to register its interest as a potential bidder. If the community group wishes to buy, it is then allowed six months to prepare a proposal and raise funds to bid to buy it. During this time (the moratorium period), the owner of the asset cannot agree a sale. However, the owner of the ACV is under no obligation to sell to a community group, and

after the moratorium period the owner of the ACV can sell to whomever they choose. After a moratorium period has ended, another moratorium period cannot begin for a further 12 months.

Further information on the legal basis of the Community Right to Bid and Assets of Community Value can be found at:

The Localism Act, Part 5, Chapter 3

Assets of Community Value (England) Regulations 2012

Registration of an ACV

Nominating an ACV does not mean that it will necessarily stay in community use. The registration of an asset as an ACV does not give community groups the right to buy assets within their community.

If a building or land is registered as an ACV this means that there is a mandated delay on the sale of the asset giving the community time to put together an alternative bid. The seller is under no obligation to accept that bid over what they arrange privately or on the open market, the community group is simply bidding like anyone else.

Nominating an ACV offers no extra protection under law to ultimately prevent the asset ceasing to be of use to the community. As of April 2019, 4,025 ACV had been registered across the country. As of February 2015 (the latest figures available), only 11 had been bought by community groups.

We share these statistics to make clear the limits of nomination. Preparing the necessary information for a nomination, undertaking a bid, and potentially responding to a landowner's appeal, is a significant bureaucratic burden which may be quite overwhelming, particularly for smaller community groups. We would advise that groups think carefully about what they want to achieve from nominating an ACV.

Sale/disposal of an ACV

The Localism Act 2011 and Assets of Community Value Regulations 2012 exempt certain types of disposal – please refer to these.

If the owner of the registered asset intends to sell (dispose of) the asset, they must inform the local authority where the asset is registered, in writing. The

notification should be sent via the contact methods at the bottom of this document.

The Council will then acknowledge receipt of the notification, and confirm the dates of the initial moratorium period.

Initial moratorium:

- The initial moratorium period (a delay) lasts for 6 weeks from when the local authority receives the written notification of the owner's intent to dispose of the asset.
- The local authority will update the register of Assets of Community Value to show the owner's intent to dispose of the asset and to give the interim and full moratorium end dates.
- The local authority will contact the group which nominated the ACV to inform them of the owner's intent to sell.
- The local authority will publicise the owner's intent to sell in the neighbourhood of the asset in question.
- During this period, the nominating group or any other community group which can demonstrate a local connection may submit an intention to bid for the asset.

Full moratorium:

- If the nominating group or other community group decides to submit an intention to bid for the asset, they must do so in writing to the local authority.
- This triggers the full moratorium period, which lasts for 6 months starting from the date that the local authority received written notification of the owner's intent to sell.
- This 6 month period is intended to enable the nominating group to prepare and submit a bid to the owner to purchase the asset.
- Any subsequent sale takes place under normal market conditions, unless the owner decides to sell to the nominating group.
- There is no obligation for the nominating group to make a bid and they have no rights of purchase over other potential buyer.
- The owner is under no obligation to sell the asset to the nominating group, community group or any other person.

Bidding to purchase an asset

- An intention to bid may only be submitted by suitably constituted 'community interest group' which can demonstrate a local connection, as defined in the regulations.
- The regulations provide a full definition of 'community interest group' for the purpose of the Community Right to Bid legislation (Regulation 12).
- 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'.

The intention to bid should be sent in writing via the contact methods at the bottom of this page

- We must receive the intention to bid within six weeks of the notice to dispose of the asset (ending at midnight on the last working day of that period).
- Nominators are advised to obtain proof of delivery either through using appropriate recorded receipt postage or by obtaining a receipt for hand delivered post.
- 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. This will then trigger the full six month moratorium period during which the asset cannot be sold.

Moratorium Period

Marketing the asset during the moratorium period

There is nothing to prevent the owner actively marketing the asset during the moratorium period; the restriction refers only to exchange of contracts on the sale of the asset, during this period.

Asset sale agreed during the moratorium period

Where the owner and a community interest group or nominating group are able to agree terms within the six month period, they may proceed with the sale without waiting for the moratorium period to end.

No bid received within full moratorium period

Protected period:

In cases where no bid is received or accepted by any community interest group or nominating group in the six month period, the asset owner is then free to dispose of the asset on the open market for a further period of 12 months, known as the protected period. At the end of this further 12 months, if no sale has been achieved, the whole process begins again.

Review, Appeals and Compensation

Owner dissatisfaction with asset listing

- The owner of an asset included in the register of community assets may ask the council 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.
- The request should be sent to:

Any comments on the above should be sent in writing via the contact methods at the bottom of this page

Request by the owner to review a listing

- The Council 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.
- 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.
- 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.
- 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:
 - 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 councillor for the area
- Where the review concludes that a change to the listing is required, we will adjust the register of Assets of Community Value and advise the Land Registry accordingly.

Owner dissatisfaction of asset review

- 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 the Council's decision on the listing review.
- Further information can be found on the [Gov.UK website](https://www.gov.uk)

Owner compensation for asset inclusion in the ACV register

- The owner or former owner of an asset included in the register of Assets of Community Value is entitled to make a claim for compensation from the 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.
- 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 of loss.

Claims should be sent in writing to the contact details listed at the bottom of the page

Owner dissatisfaction with treatment of claim

- The person making the compensation claim may ask for a review of the decision the council makes 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. The request should be clearly marked Assets of Community Value and sent to the address above.

- The Council 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.
- 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.
- 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.
- We will notify the owner in writing of the outcome of the review.

Owner dissatisfaction with outcome of a compensation review

- Where the 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 compensation review.
- Further information can be found on the [**Gov.UK website**](https://www.gov.uk)

Nominating group appeal against the Council's decision not to list an asset

- There is no statutory right of appeal for the nominating group.
- Where the nominating group is unhappy with the Council's decision in connection with their nomination, we will consider this in accordance with the Council's corporate complaints procedure.

Contact Details for ACV disposals, purchases, reviews, appeals or dissatisfaction

Please get in contact via the following methods;

[**customer.services@eastherts.gov.uk**](mailto:customer.services@eastherts.gov.uk) - Please ensure that '**Assets of Community Value**' is in the subject line

Or to:

Assets of Community Value, Communications, Strategy and Policy, East Herts Council, Wallfields, Pegs Lane, Hertford, SG13 8EQ