
Assets of Community Value

Community Right to Bid

Guidance and Procedure
December 2018

www.scambs.gov.uk/community-right-bid

Document Control	
Date of last version	20 January 2016
Date of latest review	10 Dec 2018
Name of reviewer	Kathryn Hawkes
Consultation	n/a
Approved by	Gemma Barron

Table of Contents

1	Introduction	3
2	The Council's Statutory Duty.....	3
3	The Council's Responsibilities.....	3
4	Nominating Bodies.....	4
5	What Qualifies as an ACV.....	4
6	The Register	6
7	Relevant Disposal	7
8	Moratorium – “window of opportunity”	9
	Flowchart: Selling an Asset.....	11
9	Receiving and Assessing a Nomination for an ACV	12
10	Listing Review.....	13
	Flowchart: Nominations and Review.....	15
11	Compensation.....	16
12	Permitted Development Rights.....	16
13	Enforcement	17
14	Glossary of Key Terms.....	17
15	References	18
16	Correspondence Address.....	18

1 Introduction

- 1.1 The Localism Act 2011 introduces 'Assets of Community Value' (also known as the Community Right to Bid). The legislation allows local groups, including parish councils, to nominate assets (buildings and land) for inclusion on a register or list of Assets of Community Value. Groups can then pause the sale of an ACV should they wish to bid for it.
- 1.2 The relevant statutory provisions came into force on 21 September 2012 and are contained in Part 5, Chapter 3, sections 87-108 of the Act.
- 1.3 These provisions are supported by Regulations and also by non-statutory guidance for Local Authorities issued by DCLG in October 2012.
- 1.4 Under Section 102 of the Act, if different parts of any land are in different local authority areas, the Council will co-operate with the other authority or authorities in carrying out its functions in relation to assets of community value.
- 1.5 Applying section 101 of the Act, the Council will enforce these provisions in such manner as is prescribed in the Regulations introduced by the Secretary of State.

2 The Council's Statutory Duty

- 2.1 The Council is a local authority for the purposes of section 106 of the Act. Its obligations include:
 - the establishment and maintenance of a list of assets of community value
 - the establishment and maintenance of a list of unsuccessful community nominations
 - publicising notices of disposal of assets
 - acting as an intermediary between owners and community bidders
 - enforcing the provisions in the Act
 - compensating landowners

3 The Council's Responsibilities

- 3.1 The Council's responsibilities and functions are considered under the following headings:
 - a) Nominating bodies
 - b) What qualifies as an ACV
 - c) The Register
 - d) Relevant disposal
 - e) Moratorium ("window of opportunity")
 - f) Receiving and assessing a nomination for an ACV
 - g) Listing review
 - h) Compensation
 - i) Enforcement

4 Nominating Bodies

4.1 Local authorities cannot list land / buildings on their own initiative. The Council must receive a nomination.

4.2 The groups and bodies which may make community nominations are:

- (a) **Parish Councils** – any parish council within the borders of South Cambridgeshire may nominate an asset in their parish to the Council. A parish council may also nominate an asset in a **neighbouring parish** (where there is a shared boundary) or a neighbouring local authority (if the parish shares a border with an unparished area).
- (b) **Unincorporated groups** – nominations can be accepted from any unincorporated group of at least 21 local people who appear on the electoral roll with the local authority or a neighbouring local authority. This will, for instance, enable nomination by a local group formed to try to save an asset, but which has not yet reached the stage of acquiring a formal charitable or corporate structure. The Council has a duty to verify the names of those 21 local people listed within a nomination form.
- (c) **Neighbourhood Forums** – the procedure for becoming a neighbourhood forum is set out in section 61F of the Town and Country Planning Act 1990, added by the Localism Act 2011. There can only be one neighbourhood forum for an area. Existing community groups, civic societies and others can put themselves forward to be a neighbourhood forum. Prospective neighbourhood forums need to ensure they meet the conditions for designation set out in the legislation. For example, a forum should have an open membership policy and seek to draw its membership from across the neighbourhood area and from different sections of the community.
- (d) **Community Interest Groups with a Local Connection** – these must have one or more of the following structures:
 - i. a charity
 - ii. a community interest company¹
 - iii. a company limited by guarantee that is non profit distributing
 - iv. a so-called ‘registered society’ (known formerly as an ‘industrial and provident society’ that is non profit distributing. These groups were renamed by the Co-operative and Community Benefit Societies Act 2014.

In this context, non profit distributing means that any surplus is not distributed to its members but is wholly or partly applied to the local authority area where the asset is based or to a neighbouring authority area.

5 What Qualifies as an ACV

5.1 Section 88 (1) of the Act states that ‘a building or other land in a local authority’s area is land of community value if, in the opinion of the authority -

- (a) an actual **current** use of the building or other land that is not an ancillary use furthers the social well-being or social interests of the local community, **and**

¹ A Community Interest Company is a company which satisfies the requirements of Part 2 of the Companies (Audit, Investigations and Community Enterprise) Act 2004 (c. 27). See in particular sections 26, 35 and 36A. There have been amendments to section 26 and a substitution of section 36A which are not significant for the Regulations.

- (b) it is realistic to think that there can continue to be non-ancillary use of the building or other land which will further (whether or not in the same way) the social well-being or social interests of the local community’.
- 5.2 Section 88 (2) of the Act extends this definition and states that ‘land is of community value if, in the opinion of the authority -
- (a) there is a time in the **recent past** when an actual use of the building or other land that was not an ancillary use furthered the social well-being 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 well-being or social interests of the local community’.
- 5.3 The Act and associated Regulations do not define ‘social well-being’ or ‘recent past’, although ‘social interests’ are described as including cultural, recreational and sporting interests.
- 5.4 The Council will consider nominations on a case-by-case basis using widely accepted definitions and good practice, established case law and relevant publications as guidance. Decisions made will not set a precedent for future decisions. Re-nominations of ACVs that have expired will be treated as new nominations and judged on their own merit – prior listing is not a guarantee of re-listing.
- 5.5 The Act also defines land which is not of community value and, therefore, may not be listed, as follows:
- a) residential property and land connected to that residence. Land is connected with a residence if:
 - i. the land, and the residence, are owned by a single owner; and
 - ii. every part of the land can be reached from the residence without having to cross land which is not owned by that single owner.
 - iii. Point ii) above is satisfied if, in cases where a part of the land cannot be reached from the residence by reason only of intervening land in other ownership on which there is a road, railway, river or canal, it would be reasonable to think that if the intervening land were to be removed there would be no gap.
 - b) caravan sites
 - c) operational land as defined in section 263 of the Town and Country Planning Act 1990.
- 5.6 Land which falls within 5.5 a) may be listed if:
- i. the residence is a building that is only partly used as a residence (i.e. that residential use is ancillary, as in the case of many pubs); and
 - ii. but for that residential use of the building, the land would be eligible for listing.
- 5.7 For the purposes of this section
- a) “residence” means a building used or partly used as a residence;
 - b) A building is a residence if -
 - i. it is normally used or partly used as a residence, but for any reason so much of it as is normally used as a residence is temporarily unoccupied;
 - ii. it is let or partly let for use as a holiday dwelling;

- iii. it, or part of it, is a hotel or is otherwise principally used for letting or licensing accommodation to paying occupants; or
- iv. it is a house in multiple occupation as defined in section 77 of the Housing Act 2004; and
- c) a building or other land is *not* a residence if –
 - i. it is land on which currently there are no residences but for which planning permission or development consent has been granted for the construction of residences;
 - ii. it is a building undergoing construction where there is planning permission or development consent for the completed building to be used as a residence, but construction is not yet complete; or
 - iii. it was previously used as a residence but is in future to be used for a different purpose and planning permission or development consent for a change of use to that purpose has been granted.

5.8 The Council will apply the definitions as set out in the Regulations when considering whether a building or other land is eligible to be nominated as an ACV.

6 The Register

- 6.1 The local authority is required to publish and maintain a register (or list) of Assets of Community Value.
- 6.2 In addition to the list of assets, the local authority is required to maintain a list of assets nominated by the community but not listed. The local authority may remove land from this second list whenever it considers such removal would be appropriate.
- 6.3 The Council will publish both lists on a dedicated section of its website: <https://www.scams.gov.uk/community-right-bid> .
- 6.4 The register of Assets of Community Value will be available for free inspection by any person.
- 6.5 The Council will provide a free copy of the register of Assets of Community Value to anyone who asks for it (but are not required to provide more than one free copy of each).
- 6.6 The list of unsuccessful nominations must include reasons for the land not being listed.
- 6.7 It is up to local authorities to decide on the detailed contents and layout of the lists and when to modify them but are required to add to the list of assets as soon as is practicable:
 - a) that a notification by the owner of intention to dispose of the land has been received by the local authority and the date on which this was received;
 - b) in all cases under (a), the end dates of the interim and full moratorium periods and the protected period;
 - c) where relevant, that the full moratorium has been triggered;
 - d) where (c) applies, the identity of the community interest group that triggered the full moratorium.
- 6.8 Local authorities are required to remove an asset from the list no later than **five years** from the date of entry on the list, or as soon as practicable:
 - a) after a relevant disposal (other than an exempt disposal);
 - b) when an appeal against a listing has been successful;

- c) when they form the opinion that the land or building is no longer of community value.

6.9 The Council's process for accepting re-nominations prior to expiry is as follows:

- i. When an ACV is due to expire, the Council will write to the body responsible for the original nomination of that ACV (usually in the Autumn prior to the expiry) notifying them of the expiry date;
- ii. The Council will write once and will issue no further reminders;
- iii. Re-nominations will be accepted between 8-12 weeks prior to the expiry date, thereby allowing 4 weeks over and above the statutory 8 weeks for decision-making. This will give officers the best opportunity to ensure the two listings are continuous.

6.10 Nominating bodies should be aware that a new listing is subject to the same criteria as before, including submitting a completed nomination form with the required evidence. A new nomination is also subject to the same terms for review, if requested by the owner. Prior listing is not a guarantee that the asset will be re-listed.

7 Relevant Disposal

7.1 The owner of a building or land on the list of ACVs must notify the Council in writing of their wish to enter into a 'relevant disposal' of the asset.

7.2 All notifications should be submitted via the details at the end of this document.

7.3 Relevant disposal is defined as the sale or transfer of the freehold or grant or assignment of a qualifying lease, of 25 years or more, which gives vacant possession of the buildings and other land in question.

7.4 Relevant disposals trigger the moratorium requirements as set out in section 95 of the Act (see section 8).

7.5 The moratorium will not apply to all types of relevant disposal as some types are exempt, as set out below. The first exemption is in a different category to the remainder, in that the moratorium rules will have been triggered by notification of intention to sell by the owner but the sale will be able to take place during the moratorium. Categories b) to j) are in section 95(5) of the Act and k) to y) are in schedule 3 to the Regulations. Items f) and u) relate to part-listed land where the definition is partly defined in the Act and partly in the Regulations.

- a) Disposal to a local community interest group, which can be made during a moratorium period (interim or full) – see Regulation 13 (1)
- b) Disposals which are gifts (including transfer for no payment to trustees by way of settlement upon trusts)
- c) Disposals by personal representatives in accordance with the will of the deceased owner or under intestacy rules
- d) Disposal by representatives of the deceased owner in order to raise money for matters connected with the administration of the estate
- e) Disposals between family members ("family member" is defined in section 95 (7) of the Act as the owner's spouse or partner and descendants of

grandparents – which includes the owner’s own parents but not the grandparents)

- f) Part-listed land – i.e. sale of a site, only part of which has been listed, where it meets the requirements set out on the Regulations
- g) Sale of land on which a business is carried out, together with sale of that business as a going concern (in such circumstances there would normally be payment separately for the business as a going concern, e.g. the value of equipment, stock and goodwill)
- h) Disposals occasioned by somebody becoming or ceasing to be a trustee
- i) Disposals by trustees in connection with the trust, as specified in the Act
- j) Disposals occasioned by somebody becoming or ceasing to be a partner in a partnership
- k) A disposal made in pursuance of a court order
- l) A disposal made (not in pursuance of a court order) as part of a separation agreement between spouses or civil partners (or ex ditto) including agreements for the care of dependent children
- m) A disposal made (not in pursuance of a court order) for the purposes of any enactment relating to incapacity, with “incapacity” being widely defined to include physical and mental impairment and any interference with capacity to deal with financial and property matters
- n) A disposal made in pursuance of a legally enforceable requirement that it should be made to a specific person, including disposals required under planning obligation agreements; and in the case of an option to buy, nomination right, pre-emption right or right of first refusal only if the agreement was entered into before the land was listed (and in this context it should be noted that an option etc entered into *after* the land is listed would count as a relevant disposal under section 96 (4) of the Act)
- o) A disposal to the original owner (or their successor) where the land was acquired by the transferor by means of compulsory purchase *and* the transferor has made a first offer of the land to the former owner before disposing of the land on the open market (as per the *Crichel Down Rules*)
- p) Sale by a lender under a power of sale (i.e. the land was security for a loan)
- q) Disposal of land under bankruptcy or other insolvency proceedings – the wording is “insolvency proceedings as defined by Rule 13.7 of the Insolvency Rules 1986”, which gives a very wide definition of insolvency proceedings
- r) Compulsory purchase disposals - see the wide definition of “statutory compulsory purchase” in regulation 1
- s) The grant of an agricultural tenancy to a successor on the death or retirement of the current tenant pursuant to Part 4 of the Agricultural Holdings Act 1986

- t) Transfers between connected companies in a group of companies (using the definition of “group undertaking” in section 1161 (5) of the Companies Act 2006, modified to restrict “undertaking” to a body corporate)
- u) Disposals of part-listed land where:
 - i. the land being sold is owned by a single owner; *and*
 - ii. every part of the land can be reached from every other part without having to cross land which is not owned by that single owner (except intervening land in other ownership on which there is a road, railway, river or canal where it would be reasonable to think that (b) would be satisfied if the intervening land were to be removed leaving no gap)
- v) Disposals of closed Church of England churches under Part 6 of the Missions and Pastoral Measure 2011: the lengthy process in Part 6 of the measure involves public consultation and at the end of it the building will either be sold or leased for an agreed purpose, or demolished, or transferred to the Churches Conservation Trust for preservation – following which outcomes it will once more be possible to list the building and land if appropriate
- w) Disposals by any owner for the purpose of continuing health service provision on the land (in accordance with section 1 (1) of the National Health Service Act 2006)
- x) Disposal of land to be held for the purpose of a school (excluding independent schools), further education or 16-19 Academy
- y) Disposal of land subject to a statutory requirement regarding the making of a disposal, where that requirement could not be observed if the Assets moratorium rules were complied with

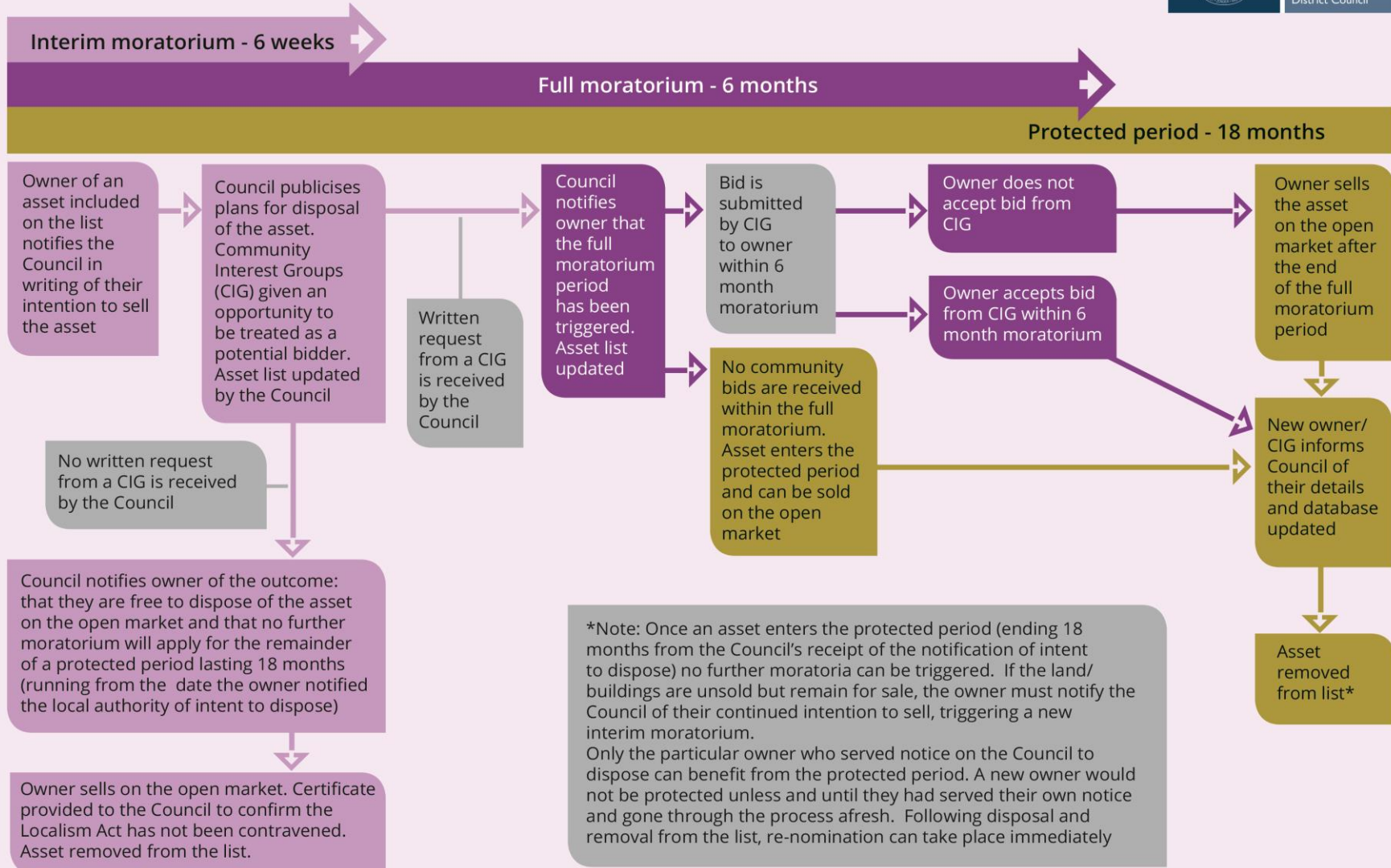
8 Moratorium – “window of opportunity”

- 8.1 The **interim moratorium period** is triggered by the owner’s notification in writing to the local authority of an intention to enter into a relevant disposal of a listed asset (exempt disposals do not need to be flagged with the local authority but it would help the local authority maintain an up to date record of contact information if they were).
- 8.2 Once the local authority has been notified of the owner’s intent to dispose, they are required to update the list to show this and give the end dates of the interim and full moratorium periods and of the protected period.
- 8.3 The nominating community group must be informed and the local authority must publicise the matter in the neighbourhood of the asset in question. It is for the local authority to determine how this is done.
- 8.4 The interim moratorium period is the period of six weeks beginning with the date on which the Council receives notification in relation to the disposal. During this time, the owner may not enter into a sale of the asset, unless such a sale falls within one of the exemptions or is to a local community interest group.
- 8.5 During the interim moratorium period a community interest group (not restricted to the nominating group) may request to be treated as a potential bidder for the

asset. Receipt of a written request to be treated as a potential bidder triggers the full moratorium period.

- 8.6 The **full moratorium period** is a period of six months, also beginning with the date on which the Council receives notification in relation to the disposal. During this time, the owner may not enter into a sale of the asset, unless such a sale falls within one of the exemptions or is to a local community interest group.
- 8.7 The Council has a proforma for expression of interest by a community interest group to be treated as a bidder and this can be found on our website: <https://www.scambs.gov.uk/community-right-bid>
- 8.8 The community interest group does not have to provide any evidence of intention or financial resources to make such a bid, although the Council would welcome this. However, they must provide evidence that they have one or more of the structures outlined above, in section 4.
- 8.9 The local authority must as soon as is practicable let the owner know that a request to be treated as a bidder has been received.
- 8.10 If no expression of interest to bid is forthcoming from a local community interest group during the interim moratorium period, the asset enters the **protected period**. Similarly, should no bid be forthcoming during the full moratorium period, or be unsuccessful, the asset enters the protected period at that point. The protected period is 18 months, also beginning with the date on which the Council received notification in relation to the disposal. During this time, the owner is free to sell the asset to whomever they choose and without further delay.
- 8.11 If, after the full 18 months protected period the asset has not been sold but remains for sale, the owner will again be required to notify the Council of the intention to enter into a relevant disposal and the moratoria will again be available to the community.
- 8.12 If a relevant disposal takes place within the full moratorium period to a local community interest group, or during the protected period on the open market, the asset is removed from the asset list and no subsequent owner of the asset can benefit from the protected period. At this point, therefore, South Cambridgeshire District Council will accept a re-nomination for ACV listing.
- 8.13 All expressions of interest should be submitted via the details at the end of this document.
- 8.14 The Asset of Community Value provisions *do not*:
- Restrict who the owner of a listed asset sells to, i.e. there is no obligation to sell to a community organisation;
 - Restrict the price at which the owner sells;
 - Restrict what the owner can do with their property once listed, subject to the necessary planning approval.

Assets of Community Value: Selling an Asset



9 Receiving and Assessing a Nomination for an ACV

- 9.1 The Council as the 'local authority' defined within the Act is the body to receive any nominations in relation to assets within the South Cambridgeshire District Council area.
- 9.2 Prior to making a nomination, nominating bodies are asked to contact the owner or tenant of the land / buildings to ensure transparency. They are also asked to contact the relevant Development Officer for guidance and to familiarise themselves with the assessment criteria, which are designed to help organisations making a community nomination and ensure the Council receives the required information as set out in the Regulations.
- 9.3 Nominations must be made on the Council's asset nomination form and submitted via the details at the end of this document.
- 9.4 The form can be submitted at any time and must contain as much information as possible to enable officers to make an informed decision about whether the nomination is valid and whether or not to list the land or building as an ACV.
- 9.5 Details of how to access the nomination form and accompanying assessment criteria can be found on the Council's website:
<https://www.scambs.gov.uk/community-right-bid>.
- 9.6 Nominations will be available on the Council's website until such time as a listing decision has been made. Personal details contained within the form will be redacted, particularly at questions A2 and B2.
- 9.7 Nominations must include:
- (a) a description of the nominated land including its proposed boundaries. These boundaries do not have to be the same as ownership boundaries nor is it necessary for all parts of the land to be in the same ownership. The Council requests that a map with boundaries marked in red be provided as part of your nomination.
 - (b) a statement of all the information which the nominator has with regard to:
 - i. the names of the current of the current occupants of the building or land, and
 - ii. the names and current or last-known addresses of all those holding a freehold or leasehold estate in the building or land;
 - (c) the nominator's reasons for thinking that the responsible authority should conclude that the building or land is of community value;
 - (d) evidence that the nominator is eligible to make a community nomination. Parish councils making their first nomination will be required to submit an electronic copy of their standing orders. Further copies will not be required with subsequent nominations, unless the standing orders have been amended.
- 9.8 The Council is required to make a decision in response to a nomination within eight weeks of receiving the nomination. Within this, officers will endeavour to allow a four-week consultation with parties having a charge on the land/buildings.

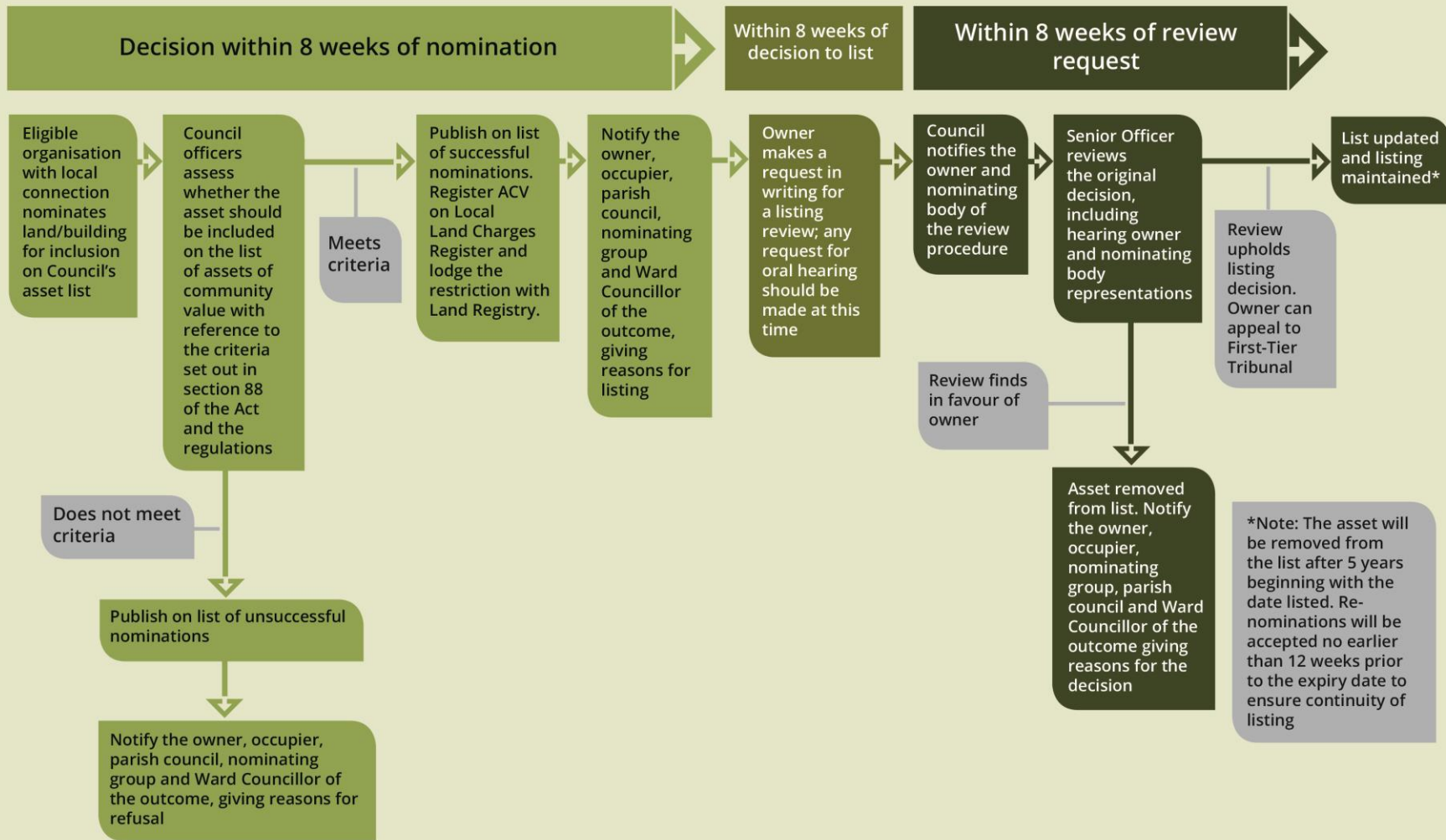
- 9.9 The Council must take all practicable steps to inform the following that an asset has been nominated:
- a) a parish council (if any) in which the land or building lies (or partly lies);
 - b) the owner as defined in Section 107 of the Act. This definition ensures that only one level of legal proprietary rights will qualify as ownership for the Act;
 - c) all others with a legal estate, i.e. if the owner is not the freeholder then the holder of the freehold estate, any other leaseholder apart from the owner; and
 - d) any lawful occupant (which could include a licensee).
- 9.10 The Council will also inform the local district ward councillor/s of a nomination within their ward and the portfolio holder for The Community Right to Bid.
- 9.11 The nomination will be assessed based on the information submitted. Only in exceptional circumstances (e.g. where a Local Ward Member has been unobtainable prior to submission) will supplementary information be considered. See the 'Assessment Criteria' document for details of how the nomination will be assessed.
- 9.12 Nominations will be assessed in the first instance by the relevant Development Officer for the Locality concerned (North, South East, South West). He/she will liaise with colleagues in considering the nomination.
- 9.13 The Development Officer may decide to undertake a site visit in order to substantiate that the land/building has community value and will contact the parish council if this is not the nominating body.
- 9.14 The Development Officer reaches a view as to whether the nominated land/building fulfils the criteria and seeks advice from 3C Shared Legal Services if necessary.
- 9.15 The Head of Sustainable Communities and Wellbeing signs off the entry into the list of successfully nominated assets (or into the list of unsuccessfully nominated assets where this is the case), which is displayed on the Council's website.
- 9.16 When an asset is added to or removed from either list, the Council must inform the owner, the occupier of the land if not the owner, and the successful or unsuccessful community nominator of the asset.
- 9.17 The Council must also inform any freeholders and leaseholders of the asset who are not the owners, together with the parish council the land lies in (or partly lies in), that an asset has been added to, or removed from, the list.
- 9.18 A local authority which is not able to give notice to any of these people in the usual way – for instance due to lack of names or addresses – can take reasonable alternative steps to bring the notice to a person's attention. This could include, for instance, a notice attached to the property.
- 9.19 The owner is advised of his/her right to internal listing review as part of the Notice of Decision to Include Land on the Council's List of Assets of Community Value.
- 9.20 The Portfolio Holder and the local Member are made aware of the listing decision. Officers dealing with the ACV listing will work through a checklist of actions and communications that need to be completed, including notifying the local Land Charges team and the Land Registry.

- 9.21 With regard to re-nomination following expiry of the five-year listing, the Council will write to remind a nominating body that the asset they originally nominated is due to expire in the coming year. No further reminders will be issued. Re-nominations will be considered no earlier than 12 weeks (and ideally no later than 8 weeks) before the expiry of the listing, to give officers the best opportunity to ensure the two listings are continuous.

10 Listing Review

- 10.1 If an asset has been included on the register of Assets of Community Value, an owner has the right to request a listing review of the local authority's decision, under section 92 of the Act. The Council has developed a procedure for listing reviews (see <https://www.scambbs.gov.uk/community-right-bid>).
- 10.2 The deadline for the owner to request this listing review is eight weeks from the date written notice of listing was given (or from the date that alternative steps were completed to bring the listing to the owner's attention) or a longer period allowed by the Council in writing. The property will remain listed while the listing review is carried out.
- 10.3 The listing review must be conducted by an officer of appropriate seniority who did not take part in the original decision to list. In South Cambridgeshire District Council's case, the Reviewing Officer will usually be the Head of New Communities, in consultation with the Legal and Democratic Services Manager.
- 10.4 The owner may appoint a representative and the local authority will be required to provide all relevant documentation to the representative.
- 10.5 The owner and / or their representative may make representations to the reviewer orally and / or in writing. The local authority must complete their review within 8 weeks, unless a longer period had been agreed in writing.
- 10.6 At South Cambridgeshire District Council, provision has been made for the nominating body to attend the review in order that the widest range of representations can be heard at the earliest opportunity.
- 10.7 The owner and the local authority will bear their own costs of the review.
- 10.8 If the owner is not satisfied with the outcome of the internal review (i.e. that the decision to list is upheld) they have the right to appeal to the First Tier Tribunal against the local authority's review decision. The written response following the internal review should inform the owner of their right to an independent appeal. The owner making the appeal can either be the same owner who requested the listing review or, if the property has been sold in the meantime, the new owner.
- 10.9 All requests for a listing review should be made in writing via the details at the end of this document.
- 10.10 An owner's appeal against a local authority listing review decision must be made to the General Regulatory Chamber of the First Tier Tribunal. The deadline for appealing is specified in the procedural rules of that Chamber as 28 days from the date on which notice of the decision appealed against was sent to the owner. Appeals may be both on points of law and on findings of fact. The property will remain listed during the appeal process.

Assets of Community Value: Nominations and Review



11 Compensation

- 11.1 Private owners and former owners may claim compensation for loss and expense incurred through the asset being listed or previously listed. The Regulations specifically provide that this will include a claim arising from a period of delay in entering into a binding agreement to sell which is wholly caused by the interim or full moratorium period; or for legal expenses incurred in a successful appeal to the Tribunal.
- 11.2 The time limit for making a claim for compensation is specified as whichever is earlier of 13 weeks from the end of the interim or full moratorium period (as appropriate) or from the date when the land ceases to be listed. The assumption is that most claims for compensation will arise from a moratorium period being applied; however, the wording allows for claims for loss or expense arising simply as a result of the land being listed.
- 11.3 Claims must be made in writing, state the amount of compensation sought and provide supporting evidence. The burden of proving the claim falls on the owner.
- 11.4 The local authority must consider the claim and is required to give written reasons for its decision. No time limit is specified for responding to the claim. The reason for this is that it may take the authority some time to assemble all the necessary evidence; however, once it has all the facts the authority should reach a decision as quickly as is practicable.
- 11.5 The compensation scheme does not extend to public authorities and bodies.
- 11.6 The owner may ask the Council to review either or both of its decisions in relation to a claim, as follows:
 - a) Whether compensation should be paid
 - b) If compensation is to be paid, the amount of that compensation
- 11.7 The owner must request a compensation review in writing before the end of the period of eight weeks beginning with the day on which written notice of the decision made on compensation was given by the Council, giving appropriate evidence to support the request.
- 11.8 The compensation review will broadly follow the Council's procedure for a Listing Review, in accordance with schedule 2 to the Regulations.
- 11.9 All claims and appeals should be made in writing via the details at the end of this document.

12 Permitted Development Rights

- 12.1 The Town and Country Planning (General Permitted Development) (England) (Amendment) (No. 2) Order 2017 (SI 2017/619), effective 23 May 2017 amends legislation relating to Class A4 (drinking establishments).
- 12.2 Firstly, it removes Permitted Development Rights allowing the change of use of a building falling within Class A4 (drinking establishments) to a building within classes

A1(shops), A2 (financial and professional services), and A3 (restaurants and cafés) and to a temporary flexible use or a state funded school for up to 2 academic years. These PDR are removed from all pubs, not only those on the Council's register of ACVs.

- 12.3 Secondly, it introduces a brand new permitted development right allowing certain other changes of use of a Class A4 (drinking establishments) namely, a change of use to "drinking establishments with expanded food provision", and vice versa. These changes are permitted regardless of the pub's status as an ACV.
- 12.4 Where the owner of an ACV is required to seek planning permission prior to carrying out works, he/she must do so in accordance with planning regulations. Where permission is not required and the ACV listing has no bearing, the community must be mindful of the limits of the legislation in protecting community assets.
- 12.5 It will be for the Council's planning committee to decide whether the status of an ACV is sufficient material consideration to refuse permission for change of use.

13 Enforcement

- 13.1 The Act provides for various mechanisms to encourage compliance by requiring local authorities to:
 - a) inform owners and other interested parties that an asset has been listed;
 - b) enter on the local land charges register the fact that an asset has been listed; and
 - c) in the case of registered land, apply for a restriction on the land charges register
- 13.2 Additionally, to give a strong incentive to owners to comply with the Act, non-compliant disposals will be deemed ineffective (void), meaning that the change of ownership has not taken place (regardless of whether it has erroneously been registered with the Land Registry – this would have to be rectified once the fact that the sale was void had been discovered).
- 13.3 However, the disposal would *not* be deemed ineffective if the owner made all reasonable efforts to find out whether the land was listed and was unaware that the land was listed when sold.

14 Glossary of Key Terms

- 14.1 The Council means South Cambridgeshire District Council
- 14.2 The Act means The Localism Act 2011
- 14.3 DCLG means The Department for Communities and Local Government
- 14.4 DCLG Advice Note means 'Community Right to Bid: Non-statutory advice note for Local Authorities', October 2012, Department for Communities and Local Government
- 14.5 The Regulations means 'The Assets of Community Value (England) Regulations 2012'.
- 14.6 ACV means Asset/s of Community Value

14.7 References to land can include buildings where relevant

15 References

- 15.1 Department for Communities and Local Government's Community Right to Bid: Non-statutory advice note for local authorities:
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/14880/Community_Right_to_Bid_-_Non-statutory_advice_note_for_local_authorities.pdf
- 15.2 Part 5 Chapter 3 of the Localism Act 2011:
<http://www.legislation.gov.uk/ukpga/2011/20/part/5/chapter/3>
- 15.3 The Assets of Community Regulations 2012:
<http://www.legislation.gov.uk/uksi/2012/2421/contents/made>
- 15.4 Communities and Local Government Committee Report, Feb 2015:
<http://www.publications.parliament.uk/pa/cm201415/cmselect/cmcomloc/262/26205.htm>
- 15.5 Town and Country Planning Use Class guidance:
<http://www.planningportal.gov.uk/permission/commonprojects/changeofuse>
- 15.6 Further information relating to Community Right to Bid and the process followed by the Council can be found on our public website:
<https://www.scambs.gov.uk/community-right-bid>
- 15.7 This guidance and procedure document has been refreshed using the good practice and case law contained in Simon Adamyk; *Assets of Community Value – Law and Practice* - Wildy, Simmonds and Hill Publishing, 2017

16 Correspondence

All correspondence relating to the Community Right to Bid (Assets of Community Value), including nomination forms, notification of intent to enter into a relevant disposal, expression of interest forms and requests for an internal review, should be sent -

by email to: partnerships@scambs.gov.uk

by post to:
Project Officer - ACV
Health and Environmental Services
South Cambridgeshire District Council
Cambourne Business Park
Cambourne
Cambridge
CB23 6EA