

Report for: INFORMATION

Item Number:



Contains Confidential or Exempt Information	No
Title	Review of Community Right To Bid Procedures
Responsible Officer(s)	Kevin Mist
Contact officer, job title and phone number	Andrew Green, Community Partnerships Officer 01628 682940
Member reporting	Cllr. Bathurst
For Consideration By	Big Society Panel
Date to be Considered	7 December 2015
Implementation Date if Not Called In	
Affected Wards	All
Keywords/Index	Localism Act, Community Right To Bid

Report Summary

1. The report reviews RBWM's policy and procedures in relation to the Community Right to Bid (CRTB) introduced by the 2011 Localism Act in light of experience to date and recent legislative changes that affect permitted development rights for licensed premises nominated under the legislation.
2. It recommends the adoption of a revised policy and process for dealing with the nomination of Land or Buildings to be categorised as Assets of Community Value.
3. The key changes recommended are:
 - That responsibility for the Register of Assets and associated procedures should remain with the Community Partnerships team but with closer involvement from Development Management; this position to be reviewed in 12 months time.
 - That responsibility for Listing Reviews (where the owner of a property appeals against a decision) should be undertaken by a senior officer nominated by CMT with support from Shared Legal Services.
 - That the Council should adopt the Revised Community Right to Bid Policy at Appendix A and the revised procedure at Appendix B.
4. Appendix C summarises the nominations received to date and lessons learned.
5. These recommendations are made to ensure that the Council continues to meet its responsibilities under the Localism Act.
6. There are no immediate financial implications arising from the adoption of the new policy.

If recommendations are adopted, how will residents benefit?	
Benefits to residents and reasons why they will benefit	Dates by which residents can expect to notice a difference
Community Right to Bid legislation supports local residents to ensure that land and buildings they value are retained for the benefit of the local community. Changes to the policy and procedure are intended to ensure the legislation is implemented as effectively and efficiently as possible.	January 2016

1. Details of Recommendations

1. That responsibility for the Register of Assets and associated procedures should remain with the Community Partnerships team but with closer involvement from Development Management; this position to be reviewed in 12 months time.
2. That responsibility for Listing Reviews (where the owner of a property appeals against a decision) should be undertaken by a senior officer nominated by CMT with support from Shared Legal Services.
- 2 That the Council should adopt the revised Community Right to Bid Policy at Appendix A and the revised procedure at Appendix B.

2. Reason for Recommendation(s) and Options Considered

Option	Comments
1. The Council retains its existing policy and procedures and does not make any changes.	Changes introduced by the Town and Country Planning (General Permitted Development) (Amendment) Order 2015 mean there are closer links between ACV listing and <i>Planning</i> status. It would be more appropriate for the process to sit within Planning.
2. Responsibility for managing the Register of Assets of Community Value should pass from Community Partnerships to Development Management.	Permitted Development Rights for drinking premises nominated under the legislation are affected – so there is a closer relationship between planning and community right to bid decisions.
3. Responsibility for managing the Register of Assets should remain with Community Partnerships but Development Management should be more fully involved in the process.	The Borough Planning Manager's comments at 2.9 indicate that the changes are not sufficient to turn the decision from a community rights to a planning matter and there could potentially be confusion around the decision arising from confusion between different sets of criteria. The changes could be addressed by closer co-operation between the two teams.
This is the recommended option.	

- 2.1 The original reason for ACV nominations being dealt with by the Community Partnership Team were firstly that the legislation conferred rights on the local community but, had no direct impact on the planning status of an asset and secondly because an appeal by the property owner has to be undertaken by a senior officer not involved in the original decision and removing Planning from the original decision would enable them to undertake this role.

- 2.2 However, changes to permitted development rights relating to public houses in the *Town and Country Planning (General Permitted Development) (Amendment) Order 2015*) mean that from 6th April 2015, planning permission is required for any change of use or demolition of a public house registered as an ACV. The removal of permitted development rights takes effect for a period of five years beginning with the date on which the building was entered on the list so for public houses, our most frequently listed building type, listing as an ACV now has a direct planning implication.
- 2.3 It's also the case that, where a public house is not listed as an ACV, the developer has to send a written request to the local authority to enquire whether the building has been nominated as an ACV before carrying out any development under permitted development rights.
- 2.4 In view of these changes it the responsible Lead Member suggested that responsibility for the Register of Assets of Community Value should pass to Development Management rather than Community Partnerships.
- 2.5 However, the Borough Planning Manager has been consulted in preparation of this report and considers it would be more appropriate for the procedure to remain within Community Partnerships as there could be an accusation that that the Local Planning Authority is making a judgement around the planning merits of a nomination rather than the community rights it enshrines. Whilst the change in permitted developments rights for drinking establishments changes the relationship between community rights and planning legislation the Borough Planning Manager does not consider that this makes the Asset of Community Value decision a planning matter. There is an argument for involving Development Management more fully in the process rather than them taking on full responsibility.
- 2.6 The Lead Member has agreed on the basis of this feedback that responsibility should stay with Community Partnerships at present with a further review totake place after 12 months.
- 2.7 If officers from Development Management are involved in the original decision they can not undertake a Listing Review if the decision is subsequently challenged. It is suggested Listing Reviews should be undertaken by a senior officer appointed by CMT with the support of Shared Legal Services.
- 2.8 A revised procedure picking up the above changes is attached as Appendix A.
- 2.9 The criteria for listing decisions has been reviewed in light of advice from Shared Legal Services. They recognize that community groups do not have to demonstrate that they have the resources to submit a bid but state that they should have a clear understanding that this is the intent and purpose of the legislation.

3. Key Implications

Defined Outcomes	Unmet	Met	Exceeded	Significantly Exceeded	Date they should be delivered by
The Council has a revised policy and procedure in place by January 2016 for dealing with nominations to list land or buildings as Assets of Community Value under the CRTB.	The necessary changes are not in place by January 2016 and the Council fails to meet its legal obligations as a consequence.	The Council has a revised policy and procedure in place by January 2016.	N/A	N/A	January 2016
Decision on whether land or buildings should be included in the list of Assets of Community Value.	The Council fails to make one or more decisions within 8 weeks.	The Council makes decisions on 100% of nominations within 8 weeks (as required by regulations).	The Council makes decisions on 100% of nominations within 7 weeks.	The Council decides 100% of nominations within 6 weeks.	March 2016

4. Financial Details

a) Financial impact on the budget (mandatory)

The costs to local authorities associated with implementation of CRTB were covered by central government during the Spending Review period (2011/12 – 2014/15) but they are now required to cover the additional costs of administering the scheme and meeting compensation claims from within their own budgets.

The Localism Act allows for private property owners, who believe that they have incurred losses as a result of complying with these procedures, to apply for compensation from the local planning authority. Government provided a safety net until March 2015 for local authorities facing claims of over £20,000 in one year but this provision has now expired and the authority would need to meet any claims from within its own resources.

There have been two appeals against the Council's listing decisions (one of which is currently outstanding) but the Council has not to date received any compensation claims.

5. Legal Implications

5.1 The policy and procedure are intended to meet RBWM's obligations under the 2011 Localism Act.

5.2 Criteria for nomination have been reviewed with a view to establishing whether the Council can set criteria that relate to community groups' capacity to bid for assets if/when they come up for sale.

5.3 Advice from Shared Legal Services is as follows:

I have reviewed the legislation (Part 5 Chapter 3 of the Localism Act 2011, and the Assets of Community Value (England) Regulations 2012, which together deliver the Community Right to Bid) and government guidance in relation to the legislation.

As you are aware, under s90 of the Localism Act, if the Council receive a community nomination it must accept the nomination if the asset is in the Council's area, meets the definition, and is not excluded. The legislation does not provide for the Council to require the applicant to demonstrate a business plan when considering a nomination.

The definition of 'land of community value' only refers to the use of the building or land. The size or value is not referred to anywhere in the legislation or guidance. legislation makes no reference to the type of asset, only the use of land. The types of land which have been granted ACV status under the legislation include car parks, school playing fields, local parks and nature reserves, as well as pubs and village halls. The Council are therefore unable to limit the range of assets capable of being granted ACV status, based on the type or size of the asset, either the asset comes under the definition of 'land of community value' or it does not.

With regards to declining a nomination if the community group is unable to demonstrate how it can viably acquire and manage the asset in the future, section 4.3 of the ACV Guidance note states that;

"Nominations can be accepted from any unincorporated group with membership of at least 21 local people who appear on the electoral roll within 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."

In addition, when making a nomination, a community group is only required to provide the following:

- I. A description of the nominated land including its proposed boundaries. These boundaries do not have to be the same as ownership boundaries, for instance as shown on the Land Registry plan if the land is registered; nor is it necessary for all parts of the nominated site to be in the same ownership.*
- II. Any information the nominator has about the freeholders, leaseholders and current occupants of the site.*
- III. The reasons for nominating the asset, explaining why the nominator believes the asset meets the definition in the Act.*
- IV. The nominator's eligibility to make the nomination."*

Eligibility would therefore only appear to be decided on whether the group is able to provide the above information and whether it meets the definition of a "voluntary or community body" under s89 of the Localism Act.

6. Value for Money

The policy and accompanying procedure have been reviewed to minimise bureaucracy and to ensure value for money.

7. Sustainability Impact Appraisal

There is no direct impact on sustainability issues stemming from this report.

8. Risk Management

Risks	Uncontrolled Risk	Controls	Controlled Risk
Lack of clarity around roles, responsibilities and procedures leads to one or more nominations not being determined within the statutory deadlines.	Medium	The revised policy and procedure are intended to establish clear roles, responsibilities and procedures.	Low
Failure to adjust procedures in light of recent legislative changes could lead to confusion and uncertainty around the planning status of some land and/or buildings.	High	The recommendation that Planning should take the lead on ACV nominations is intended to address this risk.	Low

9. Links to Strategic Objectives

Residents First

- Work for safer and stronger communities by devolving power to the community

Delivering Together

- Strengthen Partnerships by working with the community to identify Assets of Community Value

Equipping Ourselves for the future

- Deliver effective services – by securing the involvement of local communities in delivering local services

10. Equalities, Human Rights and Community Cohesion

The legislation provides greater opportunities for those affected by closure and disposal of private and public assets to obtain and run them. The identification of

Assets of Community Value will be conducted in an open transparent way to ensure that all eligible groups have an opportunity to make nominations. Appropriate support will be considered for groups who require it, targeting those who lack the skills, expertise and knowledge to make a competitive bid for an asset.

11. Staffing/Workforce and Accommodation implications

There are no direct staffing, workforce implications arising from the report. If Members determined that this function should move to Development Management there would be training implications and a potential impact on other work undertaken by the unit should the workload around ACVs increase in future.

12. Property and Assets

There is no requirement within the legislation for the Council to dispose of its assets. The legislation will only be triggered if and when the Council has already decided to dispose of a council owned property or when a lease comes up for renewal.

13. Any other implications

None arising from the report

14. Consultation

15. Timetable for Implementation

The revised procedures reflect the current situation and would take immediate effect from the date of the Big Society Panel's agreement.

16. Appendices

Appendix A – Proposed Revision to Community Right to Bid Policy
Appendix B - Community Right to Bid Procedure
Appendix C –History of Nominations Received and Lessons Learned

17. Background Information

- 17.1 The Community Right to Bid (CRTB) came into effect on 21st September 2012. It gave communities a right to identify land or buildings that they believe to be of importance to their community's social well-being and wish to retain in community use.
- 17.2 Local authorities are required to develop, maintain and publish a list of Assets of Community Value. If an owner of a listed asset wants to sell they are required to notify the local authority, which in turn, has to notify interested parties. If local groups are interested in buying the asset they then have six months to prepare a bid to buy the asset before it can be sold.
- 17.3 The right includes private assets such as the local pub or village shop as well as assets owned and managed by the Council or another public body.

17.4 Nominations for listing have to be submitted by a 'relevant body'. Parish Councils and Voluntary or Community Groups with a local connection are defined as relevant bodies under the legislation. An 'unincorporated body' comprising 21 residents eligible to vote in the parish are also a 'relevant body' for the purposes of nomination although they would not be able to submit a bid.

17.5 The regulations require that a decision on whether or not to list a property or not must be made within eight weeks of a nomination being received. Local authorities have to decide which officer should make the decision as to whether or not land is of community value as defined by s.88 of the Localism Act.

18. Consultation (Mandatory)

Name of consultee	Post held and Department	Date sent	Date received	See comments in paragraph:
Internal				
Jenifer Jackson	Borough Planning Manager	11/11/2015	17/11/2015	See comments at 2.9
Kevin Mist	Head of Community Services	18/11/2015	18/11/2015	
Sean O'Connor	Interim Head of Legal Services	19/11/2015	20/11/2015	Section 5
Andrew Brooker	Head of Finance	18/11/2015		
Cllr. Bathurst	Lead Member for Policy and Performance	18/11/2015	19/11/2015	Changed recommendation/ Amended criteria.
Cllr. D. Wilson	Lead Member for Planning	17/11/15		
Cllr. Burbage	Leader of the Council			

Report History

Decision type:	Urgency item?
For information	No

Report no.	Full name of report author	Job title	Full contact no:
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Royal Borough of Windsor and Maidenhead: Community Right to Bid Policy – Revised November, 2015

1. Introduction and Overview

- 1.1 The Community Right to Bid (CRTB) gives communities the right to identify a building or other land that they believe to be of importance to their community's social well-being. If such an asset or piece of land comes up for sale, the community will be given a fair chance to make a bid to buy it on the open market. The right will include private assets such as the local pub or village shop as well as assets owned and managed by the Council. To the extent that they meet the definition it will also include premises owned by other public bodies.
- 1.2 Local authorities are required to develop, publish and maintain a list of assets of community value. If an owner of a listed asset wants to sell it they are required to notify the local authority who in turn have to notify interested parties. If local groups are interested in buying the asset they will have six months to prepare a bid to buy it before the asset can be sold.

2. Royal Borough of Windsor and Maidenhead (RBWM) Policy Position on CRTB

- 2.1 RBWM is committed to transparency and open government and will develop, publish and maintain a list of all properties owned by the Council on its website.
- 2.2 RBWM will publicise the Community Right to Bid on its web site and in resident newsletters and will provide links to the government's Community Rights web site where there is further information, support and advice for community groups interested in exercising the right. RBWM's Community Partnerships Team will actively engage local residents to ensure that they are aware of the right, its potential benefits and the associated responsibilities. The Council is committed to empowering local communities and will ensure that local community groups are fully informed and receive all necessary support. The Council will encourage neighbourhood planning groups to identify potential assets of community value as part of the neighbourhood planning process. However, in line with the requirements of the legislation, the responsibility for identifying land or property that communities value and would wish to take into community ownership, rests with the communities themselves and it is local community groups who will need to bring forward nominations.
- 2.3 The Council will put appropriate structures in place for responding to nominations from relevant bodies and will ensure that nominations are dealt with efficiently and effectively. The procedure for responding to nominations is outlined in Appendix B.
- 2.4 RBWM recognises, as does government guidance¹, that the provisions will impact the rights of private property owners. To avoid unnecessary bureaucracy that will potentially arise from the associated rights of appeal and compensation, the Council will establish clear criteria for supporting or rejecting nominations for listing that are put forward by community groups. The grounds for supporting or

¹ DCLG – Assets of Community Value Policy Statement, Sept. 2011

rejecting nominations are set out in Appendix A – Criteria for accepting or rejecting nominations for listing as Assets of Community Value.

- 2.5 The criteria will relate solely to the process of nomination for listing. Nothing in the criteria would prevent the Council (or another owner) transferring an asset to a community group outside the terms of CRTB if this will serve to improve local services or enhance local facilities.
- 2.6 Listing as an Asset of Community Value will not place any restrictions on what an owner can do with their property, once listed, if it remains in their ownership, because it is planning policy that determines permitted uses for particular sites.
- 2.7 There is an exception to this rule in the case of Drinking Premises where Changes introduced by the Town and Country Planning (General Permitted Development) (Amendment) Order 2015 will affect permitted development rights.

Criteria for accepting or rejecting a nomination for listing as an Asset of Community Value

1. The Department of Communities and Local Government has defined an asset of community value as follows:

“A building or other land should be considered an Asset of Community Value if:

- a) its actual current use furthers the social wellbeing and interests of the local community, or a use in the recent past has done so
- b) and that use is not an ancillary one
- c) for land in current community use it is realistic to think that there will continue to be a use which furthers social wellbeing and interests
- d) or for land in community use in the recent past it is realistic to think that there will be community use within the next 5 years
- e) In either case, this test applies whether or not that use is exactly the same as the present use or the use in the recent past
- f) it does not fall within one of the exemptions (e.g. residential premises and land held with them.)”²

2. Bids must be submitted to the Council’s Community Partnership Team by a parish council or a local voluntary or community organisation with a local connection. Nominating groups must have a primary purpose concerned with the local authority’s area or the neighbourhood where the asset is situated if this is in more than one local authority area.³
3. Nominations must include the following information, prescribed by statute for the Council to be able to consider them;
 - A description of the nominated land including its proposed boundaries
 - Any information the nominator has about the freeholders, leaseholders and current occupants of the site
 - The reasons for nominating the site and why the nominator believes the asset meets the definition in the Act
 - The nominators eligibility to make the nomination.
4. Nominations can be made at any time, including after an asset has been put onto the market. Community groups are encouraged to nominate assets of community value as early possible and if possible before they come to the market.
5. DCLG guidance recognises that certain categories of land should be excluded from listing. These are specified in the regulations and are:⁴

² Community Right to Bid non statutory advice for local authorities

³ Ditto

1. ⁴ Assets of Community Value (England) Regulations 2012 (SI 2012/2421) – Sept 21 2012

a) Residential premises, including sites for mobile homes and boats. For a building which is or includes residential premises this will include land held with the residence under a single legal title, which would go beyond immediate gardens, outbuildings, yards etc and extend to all land held under that title. The exception to the exclusion of residential premises will be premises which include living quarters which are an integral part of a pub or shop and which are otherwise eligible for listing

b) Operational land as defined in Part 11 of the Town and Country Planning Act 1990 – that is land used for transport infrastructure and some other related purposes by specified bodies with statutory powers.

6 In considering appeals against listing as an asset of community value made by owners RBWM will take into account the following:

- a) The eligibility of the asset
- b) The eligibility of the nominating body
- c) Any new factors that have come to light since the original decision was made
- d) Any irrelevant or improper matter which the local authority might have taken into account in reaching its original decision

7 RBWM will not take the commercial effect of a decision to list the land or buildings into account. This is a separate matter that will be dealt with in relation to any claim for compensation.

8. Community Groups are not required to demonstrate that they have the resources to bid for the property at the time of the nomination but they should have a clear understanding that the purpose of the legislation is to enable the community to bid for the asset if/when it comes up for sale or renewal of the lease.

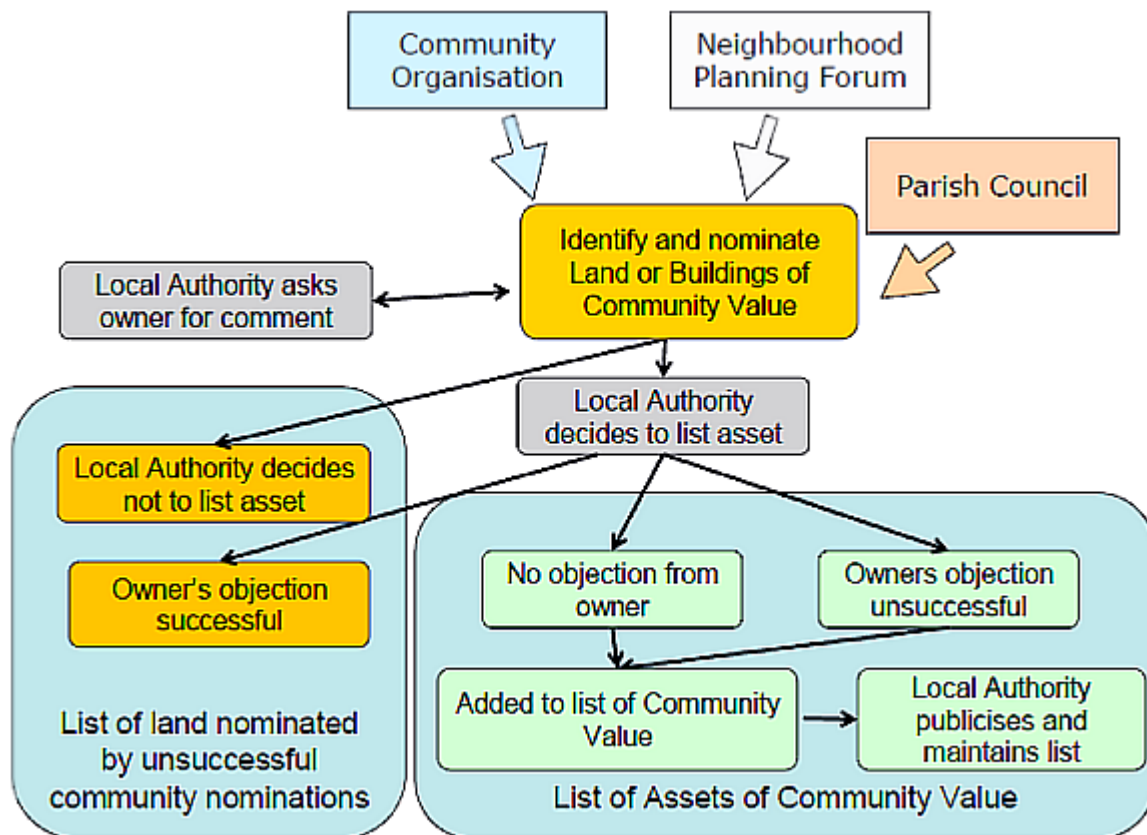
9. The procedure for assessing nominations against these criteria is outlined in Annex B.

NOTE:

- Listing as an Asset of Community Value – gives community groups an opportunity to bid for land or property if/ when it comes up for sale
- The legislation bestows a right to 'bid' and not a right to 'buy'. Listing will not trigger sale of a property and there is no obligation on the owner at the end of the six month 'moratorium' to sell to a community group
- Listing does not in itself limit what the owner can do with their property whilst in their ownership – that is defined by planning law.
- The legislation only applies to sale of a freehold or a lease for more than 25 years. There are certain other exceptions such as sale property without vacant possession or where the business is sold as a going concern.

COMMUNITY RIGHT TO BID PROCEDURE

STAGE ONE : NOMINATION AND LISTING



Source: DCLG Non-statutory advice note for local authorities

- 2.
3. 1.1 Nominations should be submitted to the Development Control Unit in the Corporate Services Directorate. .
4. 1.2 The Development Control unit will inform the relevant Lead Member and Ward Members as soon as possible that a nomination has been submitted.

What happens following nomination?

1.7 The Council has to decide whether or not to list the asset within eight weeks following the nomination. Once we have received the completed form we will check the technical issues, such as the eligibility of the nomination and the organisation making the nomination, completeness of the information supplied, and the fact that the asset is not in an excluded category. These checks will be undertaken by the Development Control Unit.

1.8 The Council will take all practicable steps to notify the owner and lawful occupants that it is considering listing the property on the Council's web page. We will also notify these people of the outcome of the nomination.

(This is not a requirement of the legislation and potentially confuses the situation.

)1.10 Decisions as to whether the nominated assets are of community value will be made by the Community Partnerships Manager in consultation with the Lead

Member for Policy and Performance and relevant members as appropriate and with advice from Shared Legal Services as necessary.

1.11 RBWM has established criteria, Annex B of the Policy and procedure, for establishing if the criteria established by the regulations have been met. These will form the basis for officers' deliberations.

The legislation envisages a two stage procedure where listing an asset and triggering a moratorium are separate events. Community Groups may nominate an asset at any time but are encouraged to nominate Assets of Community Value before a sale has been initiated wherever possible.

1.12 Assets that are considered to be of community value will then be added to the "List of Assets of Community Value". Assets will remain on the list for five years and a land charge will be registered against the property. When the five years have expired, an eligible community organisation can submit a new nomination.

1.13 The relevant Lead Member and Ward Members will be informed of the outcome together with the parish council and all of the parties specified by the legislation (i.e. the owner of the freehold and any relevant leaseholders).

1.14 The organisation which originally nominated the asset will be notified of the outcome. They will also be notified if the asset is subsequently removed from the list following a review of the decision.

1.15 If the nominated asset is not considered to be an asset of community value, or if the nomination was ineligible, we will provide an explanation as to why it was unsuccessful to the organisation which made the nomination. In such circumstances, the property will be added to the list of "Land Nominated by Unsuccessful Community Nominations" and will remain on the list for five years.

1.16 If we decide to list a property, the property owner can ask for a review. The review process will be led by Planning with representation from Legal, Finance and Property Services. Further guidance will be provided in a letter to the property owner.

1.17 The review of the initial nomination will allow the Owner and the Nominating Body to make representations on the evidence considered before the original listing but also submit further relevant evidence. Accordingly, the review will be of all the evidence including that after the initial listing. The review may result in upholding or rejecting the listing and such decision may be based on the same reasons given at the time of listing or for some other reason."

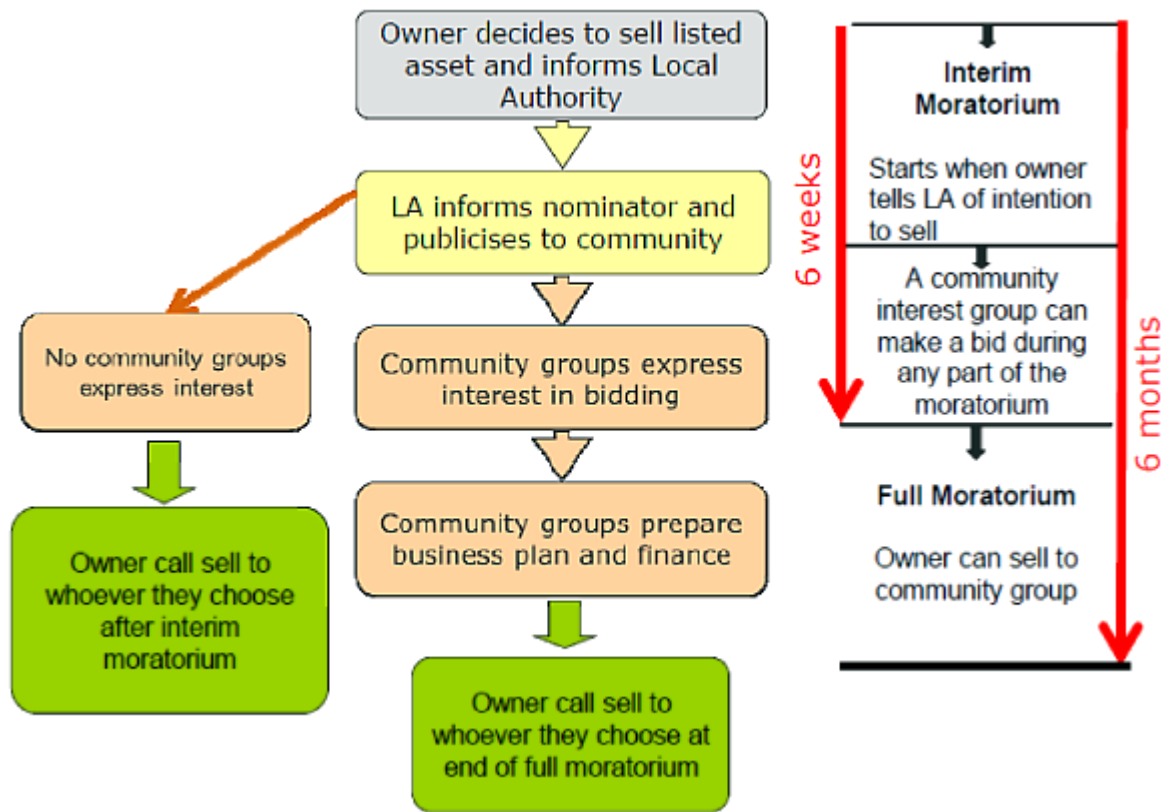
1.18 The timescale can be extended with the permission of the Owner.

1.19 If the appeal is not upheld, the owner has a further right of appeal to an independent tribunal.

1.20 Nominators are not able to appeal the decision made in respect of their nomination. However, they can make a complaint through the Council's complaints procedure if they feel the Council has not followed the correct procedure.

Nothing further will happen in relation to the asset unless and until the owner decides to dispose of it, either through a freehold sale, or the grant or

STAGE TWO : RELEVANT DISPOSAL



Source: DCLG Non-statutory advice note for local authorities

2.1 The owner of the property must advise the Council when they intend to sell the property and we will publicise this on our website and the Council will inform the nominator. If no community interest group notifies the Council within six weeks that it wishes to bid, the owner is free to sell their property as they see fit.

2.2 If an eligible community interest group notifies the Council within six weeks that it wishes to bid for the property, it will have up to six months in which to prepare its case.

Who can bid?

2.3 Only community interest groups that meet the Government's criteria can bid, not all groups that are eligible to nominate are also eligible to bid. Community interest groups should have a local connection with the asset and be one or more of the following:

- a Parish Council
- a registered charity
- a community interest company
- a company limited by guarantee
- or an industrial and provident society.

2.4 Full details of eligibility criteria can be found in the guidance notes for voluntary and community groups interested in nominating assets of community value and in the [Act](#) (Part 5, Chapter 3) and [Regulations](#).

2.5 If more than one community interest group is interested in purchasing property, we would encourage the groups to work together.

How do community groups bid?

2.6 Within six weeks from the Council notifying the community that an owner wishes to sell their listed property, an eligible community interest group would need to let the Council know in writing that it wishes to bid. This then opens a six month period (from the day the owner notified the Council) in which to prepare a bid, this is known as the moratorium period.

2.7 The Council will acknowledge the request to bid and will notify the owner that the moratorium period has been triggered. The status of the listed asset on the list will be changed to reflect that it is for sale and that the moratorium has been triggered.

N.B. The term 'relevant disposal' indicates there are exceptions defined in the [Act](#) and [Regulations](#) that may mean that the disposal is not a relevant one.

STAGE THREE : CLAIMS FOR COMPENSATION

3.1 Private owners can claim compensation for loss and expense incurred through the asset being listed or previously listed. This can 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 successful appeal to the Tribunal.

3.2 The time limit for a compensation claim is specified in Schedule 2 to the Regulations 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.

3.3 Claims must be made in writing, state the amount of compensation sought and provide supporting evidence. They will be received by the Business and Community Partnership team for consideration by Chief Officers Management Team.

3.4 The local authority must consider the claim and is required to give written reasons for its decision. No time limit is specified as it may take time to assemble all the necessary evidence but once the evidence has been gathered the Council should come to a decision as quickly as is practicable.

3.5 The Council can then request the Department of Communities and Local Government for financial support providing evidence of the compensation costs incurred.

No further moratorium can be triggered for a protected period. (Eighteen Months)

Further details of the processes can be found in the Act and Regulations and explanatory notes published by the Government.

APPENDIX C : HISTORY AND KEY LESSONS FROM PAST NOMINATIONS

KEY FACTS	OUTCOME	LEARNING POINTS
<p>Wraysbury Lakes 1 and 2</p> <p>Nominated by: Wraysbury Parish Council - 23 November 2012</p>	<p>Removed from list following appeal by owners who successfully argued that sale of land on which a business is carried on, together with sale of that business as a going concern constituted one of the exemptions under the legislation. The Lakes are managed for fishing and as such their sale constituted sale of a business.</p>	<p>This was the Council's first experience of the Community Right to Bid. A sale by auction was imminent and there was huge pressure to list the land to the extent that the whole process was completed within 24 hours. The property was listed but the owners requested a Listing Appeal which was upheld</p> <p>Because the business was sold as a going concern the sale was not a 'relevant disposal' under the legislation so a six month moratorium could not be triggered. Given that the primary purpose of the Lake was to facilitate fishing, on a commercial basis the community use was an ancillary one and would not justify listing.</p> <p>The property should not in retrospect have been listed. This would have saved the time and effort involved in the subsequent review and avoided raising local people's expectations.</p>
<p>29 Lincoln Road, Maidenhead</p> <p>Nominated by: Hindu Society of Maidenhead - 3 December 2012</p>	<p>The property was listed February 2013 and will remain listed until February 2018.</p>	<p>The Hindu Society were encouraged to nominate a Council owned site that had once been a nursery school. This generated confusion as they were under the impression that they had been invited to bid for the property as a potential site for a Hindu Temple. Local residents were similarly confused and opposed listing on the basis that they thought it conferred rights on the Hindu Society as the nominating body. The Hindu Society applied for planning permission, for a Temple, on the site but were refused. An alternative site has since been identified.</p> <p>The property was listed on the basis that it meets the definition in the Act. Community groups were invited to bid for the lease and Property Services have agreed for a Pre-School to go on the site. Legal documentation has been signed and they are waiting for the tenant to get planning permission.</p> <p>The legislation is quite limited in what it can achieve but is sometimes 'over-sold' to residents and voluntary sector groups who expect it to do things it was not designed to do. It is particularly inappropriate for land the Council owns and that a community group is interested in purchasing or leasing. The Council and the interested party can come to an agreement to sell the land or not. Use of the</p>

		legislation adds a layer of complication and elongates the process.
<p>Golden Harp Public House</p> <p>Nominated by: Furze Platt Action Group (unincorporated body).</p>	<p>The property was listed 18th February 2013 and an appeal by Tesco turned down – but Tesco had already taken on and begun to convert the site at the time of the nomination. – so it remains a Tesco Local.</p>	<p>There was a concerted campaign by Furze Platt Action Group, an unincorporated body of 21 residents, supported by the Local Branch of CAMRA, but at the point the property was listed Tesco had already taken over the site and had begun a process of converting it.</p> <p>It still met the test of a community use ‘in the recent past’ but struggled to meet the test of a reasonable expectation it would continue in community use. It was eventually argued that use as a Tesco Local could in itself constitute a community use. A subsequent appeal by Tesco was refused but the only effect of listing is to prevent the land being ‘sold on’ for residential or other use.</p> <p>The legislation works poorly when a sale is already in process or has been completed. Local community groups should be encouraged to nominate sites that they value before a crisis presents itself.</p>
<p>Fifield Inn</p> <p>Nominated by: Bray Parish Council July 2013 -</p>	<p>The property was listed September 2013 and will stay listed until September 2018.</p>	<p>Straight forward – no particular complications or learning points</p>
<p>Holyport Real Tennis Courts</p> <p>Nominated by Holyport Real Tennis Club</p>	<p>Removed from list when no ‘intention to bid’ was received after six weeks.</p> <p>However, the original buyer withdrew and the property was sold to sympathetic owners, supported by the Real Tennis Club, who have retained Real Tennis on the site.</p>	<p>This was a notable success in that, although the property remains in private rather than community ownership, it has been retained for community use.</p>
<p>Quaker Meeting House, West Street, Maidenhead</p> <p>Nominated by: Maidenhead Quakers.</p>	<p>Nomination withdrawn by the applicants.</p>	<p>Maidenhead Quakers nominated their own building in the expectation that it would offer some ‘protection’ in terms of regeneration proposals in the Maidenhead area of opportunity. When it was explained to them that the principle effect of listing the property was to limit their own ownership rights they sought legal advice and subsequently withdrew their nomination.</p> <p>This is another example of a community group</p>

		having a misplaced conception of what the legislation can deliver.
<p>Crown Public House, Burchetts Green</p> <p>Nominated by: Burchetts Green Village Association</p>	<p>The property was listed September 2013 but was removed from the List because no bid was received within the six month moratorium.</p> <p>Eighteen month moratorium when the property could not be nominated again expired March 2015.</p>	<p>Greene King announced an intention to sell October 2013.</p> <p>Burchetts Green Village Association formally announced an intention to bid October 2013 when the lease came up for sale but did not submit a bid for the property so it was removed from the list and could not be nominated again for a period of eighteen months.</p> <p>The nomination was prompted by concern around a change of tenant but the legislation can only prevent, or in fact delay, buildings passing out community use. Nothing was in effect achieved by listing the property and there was no real commitment from the Village Association to bid for the property.</p>
<p>Dew Drop Inn, Burchetts Green</p> <p>Nominated by Burchetts Green Village Association- September 2013</p>	<p>The property was listed September 2013 – listing will expire September 2018.</p>	<p>Relatively straight forward.</p>
<p>Alexandra Gardens, Windsor</p> <p>Nominated by: Windsor and Eton Society - 31 March 2015</p>	<p>The property was listed May 2015 and will remain listed until May 2020.</p>	<p>The original proposal sought to list Alexandra Gardens and the Goswells. Windsor and Eton Society were persuaded this was impractical and would delay matters as the two pieces of land are in different ownership, though both managed by the Council.</p> <p>The only other complication was that the bid was submitted during the pre-election Purdah period which made it difficult to secure appropriate political advice.</p>
<p>Theatre Royal, Windsor</p> <p>Nominated by: Windsor and Eton Society - 31 March 2015</p>	<p>The property was listed May 2015 and will remain listed until May 2020.</p>	<p>Relatively straight forward with the only complication being submission during the pre-election Purdah period.</p>

<p>Crauford Arms, Maidenhead</p> <p>Nominated by: Furze Platt Action Group - 11 May 2015</p> <p>Current status: Listing Review Requested</p>	<p>The property was listed May 2015.</p> <p>The property owners have requested and been granted a Listing Review.</p>	<p>There was huge pressure from residents and members to resolve the nomination quickly as there was a mistaken, according to the owners, belief that it was imminently about to change hands. The decision was turned around in 48 hours.</p> <p>There was a dispute about whether the notice had been appropriately served and whether the time frame for requesting a review had therefore been met. The appeal suggests that the speed with which the nomination was turned round means that the authority did not follow proper procedures. SLS advice was that the notice had been properly served but that given the haste with which the decision had been made the Listing Review should be granted.</p> <p>Recent changes in the regulations mean that owners of Licenses premises are supposed to enquire whether a property has been nominated as an ACV before it can be sold. The same regulations limit permitted development rights for properties that have been nominated so it should not be necessary in future to determine nominations with such haste risking appeals and potentially claims for compensation.</p>
<p>Wagon and Horses, Pinkneys Road, Maidenhead.</p> <p>Nominated by: Slough, Windsor & Maidenhead CAMRA (Campaign for Real Ale) - 19 August 2015</p>	<p>The property was listed October 2015. Listing will expire October 2020.</p>	<p>Relatively straight forward.</p>
<p>Goswells, Windsor</p> <p>Nominated by Windsor and Eton Society, November 2015.</p>	<p>Still under consideration.</p>	
<p>Jolly Farmer, Cookham Dean</p> <p>Nominated by CAMRA, November 2015</p>	<p>Still under consideration.</p>	