



# Community Right to Bid

## Guidelines for the Nominations and Listing of Community Assets

### Introduction

Communities now have the opportunity to nominate land or buildings which are important to their social interest and wellbeing, and bid for it, if it comes up for sale. Examples of this include parks and public open spaces, sports and leisure centres, village shops, village pubs and libraries.

### 1. What is an asset of Community Value?

When we assess whether a particular building or piece of land is of community value, we must determine whether it meets the definition of an asset of community value as set out in Section 88 of the Localism Act 2011.

A building or piece of land in Craven district is deemed to be of community value if:

- a) The current main use of the building or land furthers the social interests or social wellbeing of the local community or a use in the recent past has done so and, it is realistic to think that there can continue to be a main use of the building or land which will further the social interests or social well-being of the local community, whether or not in the same way as before.
- b) The main use of the land or building in the recent past furthered the social interests of the local community and , it is realistic within five years the land or building can be brought back into a use that furthers the social interest or wellbeing of the local community, whether or not in the same way as before.

The interpretation of the definition of a community asset creates a very wide range of possible assets to be considered as suitable for nomination. It is proposed to use the following categories as part of the nomination process

- Education, health and well- being and community safety to include, nurseries, schools, children's centres, health centres, day care centres or care homes, community centres, youth centres or public toilets.
- Sport, recreation and culture to include: parks and public open spaces, sports and leisure centres, libraries, swimming pools and theatres
- Economic use providing an important local social benefit which would no longer be available if that use stopped - to include village shops and pubs.

## **2. Who can nominate an asset?**

Only specific parishes and voluntary or community organisations are able to nominate an Asset of Community Value. Craven District Council is not permitted to make nominations. Those organisations specified within the regulations are set out below:

- A. A Parish Council
- B. A body designated as a neighbourhood forum
- C. An unincorporated body whose members include at least 21 individuals, with a local connection and does not distribute any surplus it makes to its members
- D. A charity
- E. A company limited by guarantee which does not distribute any surplus it makes to its members
- F. An industrial and provident society which does not distribute any surplus it makes to its members
- G. A community interest company

In addition the body must have a local connection, which means that its activities are wholly or partly concerned within the district of Craven.

## **3. How to nominate an asset**

A nomination has to include certain information. A nomination form has been prepared to ensure this information is submitted as part of the nomination. Please see Appendix B for a copy of the nomination form.

Categories of assets excluded from listing:

- Residential property, including gardens, outbuilding and other associated land.
- Land licensed for use as a residential caravan site
- Operational land of statutory undertakers as defined in section 263 of the town and Country Planning Act 1990

Community nominations may be made at any time, including after an asset has been put onto the market.

#### **4. What happens following nomination?**

The Council has to decide whether or not to list the asset within 8 weeks of receiving the nomination.

- A Council Officer (The Partnerships Officer) will be the named point of contact for community groups to send their nominations to.
- The Partnerships Officer will check the technical issues such as eligibility of the organisation making the nomination and in conjunction with:
  - o A Planning Policy Officer from either CDC or YDNP depending on location of nominated asset
  - o Relevant ward member(s)
- Assess whether the asset complies with the definition of an asset of community value.
- The Partnerships Officer will notify the following if an asset has been nominated:
  - o all owners
  - o leaseholders
  - o lawful occupants (which could include a licensee) and
  - o parish council/meeting in which the land lies (or partly lies)
- The decision to include the nominated Asset of Community Value on the Register on Community Assets will be taken by the Director of Services.
- The decision will be subject to a seven day call in period for Members to challenge the determination of whether or not assets are listed.
- In the event an application is “ called in “ within the seven day period, a Member Panel be established consisting of the relevant Ward Member(s) and the Lead Member for Empowering Communities and the Member Panel be given delegated authority to determine whether or not land or buildings are listed as ”Assets of Community Value “ in accordance with the Legislation and Operational Guidelines.

Both successful and unsuccessful nominations are required to be publicised on two lists, one for each category and made available for public inspection on the Council website.

The entries are to be maintained for a period of five years unless altered or removed by virtue of disposal or change of circumstance.

## **5. What happens when an asset is listed?**

- All specified parties (as above) must be informed in writing if the nominated asset is listed.
- The asset must be placed on the local land charges register and if the land is registered, apply for a restriction on the Land Register in form QQ.
- Nothing further will happen until an owner wants to dispose of the nominated asset, either through a freehold sale, or the grant or assignment of a lease, granted for at least twenty five years. The owner is required to notify the Council when they wish to sell a nominated asset.

## **6. Appealing against a nomination as an asset of community value**

- An owner of a nominated asset of community value has the right to appeal against the decision to nominate the asset.
- There is no right of review by the nominating group against a decision not to include an asset on the list.
- The deadline for the owner to request the review is 8 weeks from the date written notice of the listing was given. The property will remain listed while the review is carried out.
- The Chief Executive or such other senior officer appointed by the Chief Executive is given delegated authority for the determination of reviews against the listing of an asset and for the determination of reviews against the payment, or not of compensation, and/ or the amount to the Owner.
- The owner and/or their representative may make oral or written representations. The review has to be dealt with within 8 weeks of the request, unless a longer period has been agreed in writing by both parties.
- If the owner is not satisfied with the outcome of the internal review they have the right to appeal to the First-Tier Tribunal against the decision.
- In the event of an appeal the Council will have to present its case to the Tribunal.
- An owner may be able to claim compensation for reasonable legal expenses from a successful hearing at the Tribunal to overturn the listing decision.
- The property will remain listed throughout the First-Tier Tribunal.

## 7. Proposed sale of a nominated asset of Community Value

The owner of a listed Asset of Community Value is required to notify the Council in writing when they wish to dispose of it.

- The Council will notify the group which originally nominated the asset for inclusion on the list.
- The Council will also be required to publicise to the wider community that it has received notice of the intended disposal of a listed asset.
- A community interest group; either the Parish Council/ meeting or one of the groups listed in categories A-G in the list given at point 2 above and having a local connection to the land must advise the council in writing that they intend to make a bid for the asset. This must be done **within 6 weeks** from the notification to the community of the owner's intention to sell.
- If such a request is received the owner must comply with a 6 month moratorium period to give the community interest group the time to submit a bid. The owner cannot dispose of the land other than to the community interest group that has expressed an interest during this 6 month moratorium period.
- At the end of the 6 month moratorium period the owner is able to dispose of the asset as they choose with no obligation to sell to the community interest group.
- Following the 6 month moratorium period the owner is then protected for an 18 month period (from the date of their notification to dispose) against any additional notifications from a community interest group to make a bid for the asset.

## 8. Exemptions

Some disposals are exempt and can take place unimpeded by the community right to bid. Some examples are:

- disposals as a result of a court or tribunal order
- settlement of a separation agreement
- a gift of the asset
- transfer between family members
- transfer due to inheritance
- a disposal with other land
- a person joining or leaving a partnership
- under the terms of a trust

## **9. Compensation**

All owners, other than public authorities may claim compensation within 13 weeks of the end of the interim or full moratorium periods for:

- i loss and expense incurred through the asset being listed or previously listed i.e. they have incurred loss or expense in relation to the land which would not have been the case if it had not been listed.
- i legal expenses incurred in a successful appeal to the Tribunal

N.B The owner of the asset may also request a review of any decision relating to compensation.

Claims must be made in writing to the Partnerships Officer state the amount of compensation sought and provide supporting evidence. The burden on proving the claim falls on the owner.

The Corporate Head of Business Support in consultation with the Section 151 Officer be given delegated authority to determine whether or not compensation is payable to an Owner.

No time limit is specified for responding to the claim.

## **10. Enforcement**

To limit any unintentional non-compliance, listing of a community asset is to be included on the Local Land Charges register, therefore a non-compliant disposal of property would be ineffective from the outset, i.e. void.

## **11. Supporting Information**

Appendix C – Flow chart setting out the governance framework for listing Community Assets

Appendix D – Flow Chart setting out the governance process for the sale of registered Community Assets.