

Procedure for Administering Assets of Community Value

Rushcliffe Borough Council

December 2012

Assets of Community Value

The Localism Act 2011 introduced Assets of Community Value enabling certain groups to express an interest in and potentially buy an asset that enhances the social wellbeing and interests of the local community. This procedure has been developed to help Rushcliffe Borough Council administer this new Community Right.

Nomination

Who can nominate an ACV?

1. Bodies eligible to nominate an ACV are as follows:
 - **Parish Councils.** This may be for an asset in its own area, or in the neighbouring parish council.
 - **Neighbouring Parish Councils.** If the parish council borders an unparished area, then they may nominate an asset within that neighbouring local authority.
 - **Unincorporated groups.** 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.
 - **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 local community.
 - **Community interest groups with a local connection.** These must have one or more of the following structures:
 - a) A charity
 - b) A community interest company
 - c) A company limited by guarantee that is non-profit distributing
 - d) An industrial and provident society that is non-profit distributing (these groups will be renamed as community benefit societies by the Co-operative and Community Benefit Societies and Credit Unions Act 2010 when it comes into force)

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.

What needs to be contained in the nomination?

2. A community nomination must include a description of the nominated land or building including its boundaries, the name of current occupant / owner, reasons why the land or building is felt to be of community value, and evidence that the nominator is eligible to make a nomination.

When can nominations be submitted?

3. Nominations must be written, submitted by one of the bodies above and contain the information specified. Nominations can be submitted at any time to the Council's Chief Executive.

Assessment

What criteria are used in assessing a nomination?

4. An initial assessment will check that all required information has been submitted in order to establish that the land or building is eligible for nomination (eg not a residential property or operational land), that the body submitting the nomination is eligible to do so and that the land or building does, or could, enhance the social wellbeing and interests of the local community.

What role does the owner of the land or building have?

5. Part of the assessment process will be to consult with the current owner of the land or building nominated. The owner can object to the land or building being included on the registered list and the Council must consider the grounds for objection but the owner of the land or building does not decide whether the asset is included on the list or not.

Who makes the decision and how long does it take?

6. A decision to include an asset on the register of Assets of Community Value rests with the Executive Manager for Communities (or equivalent) following consultation with the relevant Cabinet portfolio holder, the ward member and the current owner of the land or building. This decision must be made within 8 weeks of receiving the initial nomination.

What happens next?

7. A decision is then made as to whether the land or building is considered to be an Asset of Community Value or not. If the decision is that it does, or could, benefit the social wellbeing or interests of the community then it is listed on a register of Assets of Community Value and published on the Council's website. Unsuccessful nominations are also published on the Council's website with an explanation of why they were unsuccessful. Both the nominating group and current owner of the land or buildings should be notified of the decision. The relevant parish or town council will also be notified.
8. If an asset is included on the list, an owner has the right to request the Council to review its decision. This request must be submitted 8 weeks from the date written notice of the listing was given. The asset will remain listed while the review is carried out. The internal review will be conducted by an officer of appropriate seniority of the Council not previously involved in the decision to list the asset. This officer will be nominated by the Chief Executive.

The Council will aim to complete the review within 8 weeks, if a longer period is necessary this will be agreed in writing. 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 Council's decision. This appeal must be made within 28 days of the notice of the decision of the Council's internal review.

Does the list ever get reviewed?

9. The published list of Assets of Community Value should be reviewed every two years to ensure it remains current.

Intention to Sell

What happens when the owner of a registered asset wishes to sell?

10. The owner of a registered asset must notify the Council if he wishes to sell. The Council will then inform the group who originally nominated the asset of the owner's intention to sell.

What happens next?

11. The nominating group has a six week window of opportunity to decide whether or not it is in a position to put forward a proposal to buy the land or building if the owner of the nominated asset wishes to sell. It does not have to put forward the proposal within this six week window, just express an interest. This expression of interest triggers a six month moratorium period during which the owner can not sell the asset and the community group has time to put together a bid for the asset.

Does the owner of the registered asset have to sell to the community group?

12. No, the owner of the asset may still choose to sell the asset on the open market following due consideration of the community bid and the end of the six month moratorium. This process gives the community the opportunity to bid for an asset, it is not a requirement for the owner to sell to the community.

What happens if the community group does not express an interest in bidding for the land or building at that particular point in time?

13. Under these circumstances, the owner of the land or building is free to sell it on the open market.

Further Council Involvement

Does the Council have any further involvement?

14. The Council could decide to offer help to communities in preparing bids, finding funding or in an advisory capacity.
15. Where necessary the Council will consider claims for compensation from owners of registered assets that find themselves barred from selling whilst the community prepare a bid for ownership. The process for considering payment of compensation will be consistent with that set out in the Assets of Community Value (England) Regulations 2012.

Two flow charts are included to illustrate this process.



