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(registered in England and Wales, limited company number 7846516,  
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## **Community assets and protecting open space**

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## 1. **Introduction**

This information sheet tells you how to make use of the community asset process to protect your local open space. Once land is listed as a community asset, local people have the opportunity to take control of it, should it come onto the market, by bidding for it within a timetable. In addition a listing may affect planning decisions because the local planning authority can decide that the listing is a material consideration if an application for change of use is submitted.

Part 5, Chapter 3 of the Localism Act 2011 has introduced the concept of community assets ('assets of community value'). These assets are defined as buildings or other land which are mainly in actual use for the social, well-being or social interests of the local community. They include: parks and open green spaces; sports and leisure centres; libraries; theatres; museums or heritage sites; cinemas; swimming pools; community centres; youth centres; public toilets; town, civic and guild halls; village shops; pubs; markets. Assets which have been so used in the recent past and could realistically come back into such use within the next five years can be included. Certain types of property are excluded, such as residential premises and licenced caravan sites.

## 2. **Listing of community assets**

The local authority (district, borough or unitary council in England and Wales (it is not yet in force in Wales) must keep a list of community assets within its area. Once listed, the asset remains on the list for five years (but the Secretary of State can specify a different period). The local authority decides the form and content of the list.

## 3. **Who can apply for a community asset listing?**

An application can be made by a parish council or by a voluntary or community body with a local connection. The meaning of

‘voluntary or community body’ is defined in the Assets of Community Value (England) Regulations 2012 (SI 2014/2421) as:

- (a) a body designated as a neighbourhood forum under 61F of the Town and Country Planning Act 1990;
- (b) a parish council;
- (c) an unincorporated body whose members include at least 21 individuals and which 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; or
- (g) a community interest company.

The regulations also define ‘local connection’ so as to include a body whose activities take place mainly in the area of the local authority or of a neighbouring authority; in the case of a parish council a connection is local if it relates to a contiguous parish within the same local authority area.

#### **4. How to apply for listing a community asset**

You apply for a listing on a form supplied by the local authority. There is no prescribed form but it must invite some prescribed information including:

- (a) a description of the nominated land including its proposed boundaries; this can be provided by the Land Registry Title Information document and map with boundaries marked in red (where the land is registered); or by a written description with ordnance survey location describing where the boundaries are, the approximate size of the area, the location of any building(s) on the land and details of any roads bordering the area;
- (b) a statement of all the information which the applicant has of?
  - (i) the names of current occupants of the land, and

- (ii) the names and current or last-known addresses of all those holding a freehold or leasehold estate in the land;
- (c) the applicant's reasons for thinking that the local authority should conclude that the land is of community value; and
- (d) evidence that the applicant is eligible to make a community nomination.

It is usually possible to download the form from the local authority's website and sometimes it can be completed on line.

Application for listing can be done at any time. There is no final date by which applications have to be sent in.

## **5. Procedure in handling applications**

The local authority has a duty to consider an application but no time limit is prescribed. One council (South Oxfordshire District) has stated that it will normally process applications within eight weeks of receipt.

On receipt of an application, the local authority should notify the relevant town or parish council (if not the applicant); the owner of the asset; where they are not the owner, the freeholder and the leaseholder (if any); any lawful occupant; statutory undertakers (such as utility companies).

Where the application is successful, the local authority must notify: the owner of the land; the applicant; the relevant town or parish council (if not the applicant); the occupier of the land (if not the owner); where they are not the owner, the freeholder and the leaseholder (if any).

## 6. Listing review

Within eight weeks of being notified that an asset is listed, the owner of the asset may apply to the local authority for a review of the listing decision. If the review upholds the listing, and the owner is not satisfied, he or she may appeal to the general regulatory chamber of the First Tier Tribunal.

Once a listing is final it remains on the register for five years. The lists of both successful and unsuccessful listing applications can be viewed on the local authority's website.

### Summary timetable for community listing

Day one	Asset is nominated
Up to 8 weeks later	The local authority has 8 weeks to decide whether or not to list the asset.
Up to a further 8 weeks later	The owner may seek a review of the local authority's decision within 8 weeks of receiving it.
Up to a further 8 weeks later	The local authority must review the decision if requested to do so (the period may be extended by agreement).
Up to 28 days later	The owner may appeal against a review decision to the First Tier tribunal.
Five years from listing	The local authority must remove the asset from the list.

## 7. Protection

DCLG non-statutory guidance note on assets of community value (October 2012) – 'it is open to the local planning authority to decide whether listing as an asset of community value is a

material consideration if an application for change of use is submitted, considering all the circumstances of the case.'

## 8. **Examples**

Refusal to allow the development of Kensal Rise Library into flats. The asset of community value (ACV) listing was a material consideration because it 'reasonably demonstrates that there is a local demand for community facilities within the locality and in particular a demand that those facilities should be provided on the site.'

A study by *Horticulture Week* (September 2014) looked at 134 English local planning authorities and found that 43 assets termed 'outdoor spaces and recreation' were listed, this included 36 open spaces and 12 allotments.

## 9. **Disposal of community asset**

Where the owner of a community asset wishes to dispose of it, he or she must notify the local authority in writing. The authority must then notify the applicant of the proposed sale. The owner cannot dispose of the asset for a six-week period, so as to give the applicant an opportunity to ask to be treated as a potential bidder for the asset. The applicant must submit an intention to bid to the local authority in writing within the six-week period. Once an intention to bid has been submitted, the applicant has six months from the date on which the owner notified the local authority of his intention to sell to develop the bid.

The sale of a community asset is like any other sale of land and is a matter for negotiation between buyer and seller at an agreed price. A seller is not bound to accept an applicant's bid, even if it is the only one. Where no sale results from an applicant's bid within the six-month period, the owner is free to sell on the open market for a further 12 months. If there is then no sale, the process outlined in the previous paragraph starts again.

## 10. **Exempt assets**

Some buildings and land are excluded from the delayed disposal process. These include land attached to residential property and land used by public utility companies (water, electricity, gas etc). The delayed disposal process does not apply to businesses and associated land that are being sold as a going concern and a wide range of non-commercial disposals of land, such as through the will of a deceased owner.

## 11. **Links and references**

The relevant legislation is Part 5 Chapter 3 of the Localism Act, supplemented by the Assets of Community Value (England) Regulations 2012 (SI 2014/2421).

The Department for Communities and Local Government has issued non-statutory guidance to local authorities which can be found at:

<https://www.gov.uk/government/publications/community-right-to-bid-non-statutory-advice-note-for-local-authorities>

The Locality website – <http://mycommunityrights.org.uk/> contains useful advice and information on the community right to bid.

The Pinterest website –

<https://www.pinterest.com/communitiesuk/community-rights/>

- also contains useful advice and information.

*While the Open Spaces Society has made every effort to ensure the information obtained in this factsheet is an accurate summary of the subject as at the date of publication, it is unable to accept liability for any misinterpretation of the law or any other error or omission in the advice in this paper.*

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