

Community Right to Bid (Assets of Community Value)

Overview

The Community Right to Bid allows communities to nominate buildings and land that they consider to be of value to the community to be included on a local authority maintained list. If any of the assets on the register are put up for sale, the community is given a window of opportunity to express an interest in purchasing the asset, and another window of opportunity to bid to buy the asset.

Legislation

Part 5, Chapter 3, sections 87-102 of the Localism Act 2011 provides the statutory basis of the Community Right to Bid (Assets of Community Value) legislation.

Subsequently, the Department for Communities and Local Government has released a non-statutory advice note which provides a legislative overview of the provisions in the Localism Act and the Assets of Community Value Regulations 2012:

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

Step 1: Identify an asset.

A building or piece of land can be registered as an asset of community value if it meets the relevant criteria, including the following:

- The use of the land or building currently, or in the recent past, furthers the social well-being or cultural, recreational or sporting interests of the local community.
- This use (as described above) of the building will continue to further the social well-being or interests of the local community.
- The use of the building or land must not be deemed 'ancillary', i.e. of secondary purpose. This means that the use of the land or building to further social well-being or interests of the community must be its principle use.

Assets of community value cannot be:

- Residential properties.
- Operational land used for transport, infrastructure or other related purposes by specified bodies with statutory powers.

Step 2: Get your group ready to make a bid.

A community nomination must come from a parish council, a community council or a locally connected voluntary or community body. The nomination has to be made for land or buildings in the Shepway district boundary.

The following groups can exercise the Community Right to Bid provided they are properly constituted:

- A Town or Parish council
- A body with a local connection* which is constituted in one of the following ways:
 - A company limited by guarantee.
 - An industrial and provident society.

- A community interest company.
- Any other body which is registered as a charity, including a charitable incorporated organisation.

A local connection means the groups' primary purpose is concerned with the Shepway area or the neighbourhood in which the asset is situated where this is in more than one authority's area. To comply with the definition of a 'community interest group', a local voluntary and community body must not be run primarily for profit.

Shepway District Council will need to verify the status of the organisation seeking to register an asset of community value to ensure that its status complies with the legislation.

Step 3: Make a nomination.

To nominate an asset, please complete and return the nomination form above to the Planning Policy Team.

Successful Nominations

Under the Localism Act, it is Shepway District Council, as the local planning authority who determines whether or not a nomination will be accepted or rejected. Responsibility for this decision has been delegated to the Head of Planning. The council has a statutory maximum 8 week period to make the decision from the date an appropriate nomination is received. This will require receipt of the necessary information.

If the council deems that the asset does have community value (according to the statutory guidance) and it is in the district of Shepway then it will add that asset to the 'assets of community value' list. The council can determine the format of the list, any modifications made to any of the entries on the list and any removal of an entry from the list.

If a decision is taken to list a building or piece of land as an asset of community value, then the District Council must legally notify the owner, the occupier and the community nominee of any inclusion or removal of an asset to the list, as well as the relevant Town or Parish Council.

Rejected Nominations

A nomination will be rejected if (a) the body submitting the nomination does not have the statutory right to nominate an asset; (b) the asset is not located in the district of Shepway; or (c) the asset does not meet the statutory criteria to be listed as an asset of community value. If it appears the applicant has made an error in providing the relevant information then the council will contact them and endeavour to outline how a suitable application can be made.

If a nomination is determined as being unsuccessful, Shepway District Council must notify the nominee in writing and provide an explanation as to why the nomination was unsuccessful i.e. it does not form an Asset of Community Value.

The Right to Appeal

The owner of an asset can ask Shepway District Council to review the inclusion of the asset from the list, and there will be a process for an appeal to the First Tier Tribunal.

Section 92 of the Localism Act 2011 allows the owner of asset of community value to ask for a review of the decision and a duty on the authority to review its original decision. The owner can present a case for removing the asset based on:

- The eligibility of the asset
- The eligibility of the nominator
- New factors which have come to light
- Any irrelevant or improper matter the authority has taken into account in the original decision.

The council has delegated responsibility for managing any appeals to the Head of Administration (the Council's Monitoring Officer). To submit an appeal, please send it to the Planning Policy Team in the first instance and please state the grounds for appeal.

If an owner's objection is unsuccessful then the asset will be added to the list of assets of community value. If the objection is successful then the asset will be added to the list of unsuccessful nominations.

Step 4: If the owner decides to sell.

If a building or piece of land is listed as an 'asset of community value' and the owner wants to sell the asset, they must inform the local authority. This will then trigger a moratorium period. Shepway District Council must publicise receipt of a notice of intended disposal of land or a building listed as an asset of community value.

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During a moratorium period the owner cannot conclude the sale of the asset. There are two moratorium periods to note, both of which start from the date the owner of the asset notifies the local authority of their intention to sell the asset:

- 'Interim moratorium period' – this is a **six week** period during which a community group wishing to bid for the asset must notify the local authority that they wish to be considered as a potential bidder. If this does not happen the owner can proceed to a sale.
- 'Full moratorium period' - this is a **six month** period during which a community group can develop a proposal and raise the capital required to purchase the asset.
- There is also a 'protected period' of **18 months** from the same start date to protect the owner from repeated attempts to block a sale.

A landowner may not dispose of land included on a list of assets of community value unless:

- Shepway District Council has been informed of the proposed disposal;
- The interim moratorium period has ended without a written request having been received from a community interest group to be treated as a potential bidder; or
- The full moratorium period has ended;

There are some circumstances when the disposal of an asset that is listed as having community value can be exempt from the regulations concerning the moratorium period. These include:

- If the disposal is a gift
- If the disposal is made between members of the same family.
- If the land or building being disposed of is part of a bigger estate.
- If the disposal is of a building or piece of land on which going-concern business is operating, provided that the sale is to a new owner to continue the same business.

Step 5: Decide whether or not you want to submit a bid.

Once notified that an asset is being sold, incorporated groups have 6 weeks to inform Shepway District Council they want to bid for it. This is called making an 'expression of interest'.

If the council receives an expression of interest within the 6 week period this will trigger the full moratorium period where a community interest group will have six months to develop a business plan and raise funds to buy the asset. If no expression of interest is received then the owner can proceed with the sale.

All expressions of interest must be submitted in writing to the Head of Planning within six weeks of Shepway District Council receiving notification of the intention to sell. Both dates will be publicised on the council website.

Step 6: Prepare and submit your bid.

Having submitted a formal expression of interest, a community group has six months to prepare and submit a bid to buy the community asset.

The DCLG advises that any bid should include a detailed description of:

- Why the community group is best placed to take over the asset
- How the community group will finance the purchase
- How the community group will run the asset

Step 7: The owner considers all bids

At the end of the full moratorium period, the owner of the asset decides who they wish to sell the asset to (or can decide not to sell).

Step 8: Take ownership of the asset

If the owner decides to sell the asset to the community interest group, then the group then goes through the process of buying the asset from the current owner. The asset would then be for the community group to manage and run.

Guidance and Assistance

The My Community Rights website provides advice and guidance for people looking to exercise the Community Right to Bid: <https://mycommunity.org.uk/community-right-to-bid/>

A good starting point for those wanting to find out more about the Community Right to Bid is their guide to Understanding the Community Right to Bid:

<https://mycommunity.org.uk/files/downloads/Understanding-the-Community-Right-to-Bid.pdf>

There is also a step-by-step guide setting out how the Community Right to Bid works in practice: <https://mycommunity.org.uk/community-assets-and-ownership>

Organisations that offer support:

- Locality is the leading nationwide network of community enterprises – it helps people to set up and run locally owned and led organisations: <https://locality.org.uk>
- Community Matters provides advice and support on setting up and running a community group: <https://communitymatters.org.uk>
- Asset Transfer Unit provides advice and expertise on asset transfer to community ownership and management: <https://locality.org.uk/resources/community-assets-transfer>
- ACRE provides information, support and advice through members of the Rural Community Action Network to grass roots organisations wishing to take over the ownership or management of community assets: <https://acre.org.uk/about-acre/>
- Village SOS provides support and grants of up to £50,000 for rural villages wanting to set up community enterprises: <https://www.tnlcommunityfund.org.uk/funding/programmes/village-sos>
- The Plunkett Foundation provides support and advice for rural communities wanting to save their shop, pub, post office or other community service: <https://plunkett.co.uk>
- The Place Station allows people to share ideas about new uses for old buildings and search for surplus public buildings online: <https://theplacestation.org.uk>
- the National CLT Network provides help and advice for Community Land Trusts: <https://www.communitylandtrusts.org.uk>

Pub is the Hub is an independent not-for-profit advisory organisation that aims to encourage local communities and pub owners to work together to keep local services, where possible, within the pub. It also helps with guidance on availability of project funding: <https://pubisthehub.org.uk>

The My Community Rights website has details of funding support available to community groups wishing to exercise the Community Right to Buy:

- Apply for pre-feasibility and feasibility grants: <https://mycommunity.org.uk/all-about-grants>
- Community grants programme run by The Social Investment Business: <https://mycommunity.org.uk/site-search?q=grants>

The DCLG identifies the following potential sources of funding for community interest groups formulating a bid:

- The Community Shares website has information about raising money through community shares and bonds: <https://communityshares.co.uk>
- My Funding Central provides access to thousands of funding and finance opportunities for charities, voluntary organisations and social enterprises: <https://www.myfundingcentral.co.uk>
- The Association of Charitable Foundations: <https://www.acf.org.uk>
- The National Council for Voluntary Organisations: <https://ncvo.org.uk/help-and-guidance/>
- Charity Bank: <https://charitybank.org>
- Community Development Finance Association: <https://cdfa.org.uk>
- Co-operative and Community Finance: <https://coopfinance.coop>
- Social Finance: <https://www.socialfinance.org.uk>

- Triodos Bank: <https://www.tridos.co.uk/business-lending/large-loans/charities-and-social-enterprises>

Further Information

For information and advice please contact the Planning Policy team.

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