



Gloucester City Council

Community Right to Bid Policy

Herbert Warehouse

The Docks

Gloucester

GL1 2EQ

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1. Introduction:

- 1.1 The 'Community Right to Bid' was implemented under the Localism Act 2011 ('the Act') which came into force on the 21st September 2012. The aim of the legislation is to enable community groups to bid for 'community assets' when those assets are put on the market by the owner. 'Community assets' are those which have a use which promotes the social interests of the area, or have had such a use in the recent past.
- 1.2 To start the process, the community group must submit an application by completing the Nomination Form at appendix A. Gloucester City Council ('the Council') will then assess the application against any relevant regulations, its own policy and the requirements of the Act.
- 1.3 Only eligible community groups, local parish councils or local neighbourhood planning forums and charities can nominate assets.

2. Definition of 'Asset of Community Value':

- 2.2 In order for any asset to be successfully nominated, the nominator must demonstrate that the asset being nominated is of 'community value' as defined under section 88 (1) of the Act. This requires that the main (no ancillary) use of the asset 'furthers the social wellbeing or social interests of the local community' and that there is a realistic prospect that this use will continue in the future. It can also include an asset which has had a 'recent use'. For the purposes of the Council's policy 'recent use' will be taken to mean within the last 5 years.
- 2.3 Schedule 1 of the Assets of Community Value Regulations 2012 ('the Regulations') sets out a list of land which is not of community value, and as such may not be listed. Land which can not be listed includes:
 - **A residence together with land connected with that residence**
 - **Land in respect of which a site licence is required under part 1 of the Caravan Sites and Control of Development Act 1960**
 - **Operational land as defined in section 263 of the Town and Country Planning Act 1990**

3. Nominating Bodies:

3.1 Under section 89 of the Act, nominations can be made by a parish council or 'by a person that is a voluntary or community body with a local connection'.

3.2 A voluntary or community body can mean any of the following:

- A body designated as a neighbourhood forum pursuant to section 61F of the Town and country Planning Act 1990;
- A parish council;
- An unincorporated body (members include at least 21 individuals and which does not distribute any surplus it makes to its members);
- A charity;
- A company limited by guarantee which does not distribute any surplus it makes to its members; or
- A community interest company.¹

3.3 Nominations can be accepted from any unincorporated group so long as they have at least 21 members who appear on the electoral roll within the local authority or neighbouring local authority.

4. Nominating Process:

4.1 In order to nominate an asset, the nominating body must complete a nomination form (see appendix A). Regulation 6 states that the nominator must provide details of:

- The nominated land and its proposed boundaries;
- A statement addressing who both the current and previous occupiers of the land are;
- The nominators reasons for making the nomination and;
- Evidence that they are eligible to make the nomination.

4.2 All applications coming in to the Council should be made using the Nomination Form and forwarded to (**nominations officers' name**) Gloucester City Council, Herbert Warehouse, The Docks, Gloucester, GL1 2EQ or emailed to example@gloucester.gov.uk.

4.3 Regulation 7 states that the Council is under a duty to decide whether or not the nominated asset should be included on the asset list. This must be done within 8 weeks of receiving the nomination. The Council must also, under Regulation 8, ensure that it takes reasonable steps to notify the owner(s) of the asset that it has been nominated by a community nomination.

¹ Regulation 5 of The Assets of Community Value (England) Regulations 2012

4.4 If it is decided that the asset will not be included on the Council's list of assets of community value, then under section 90 (6) of the Act the Council must provide the nominating body with a written response as to why the application has been unsuccessful and the reason for its decision.

5. Register of Assets of Community Value:

5.1 Section 87 of the Act requires that the Council must keep a list of all land that is of community value. The Council's list of assets of community value can be found at Appendix B. Under section 93 of the Act, a separate list of 'assets unsuccessfully nominated by community nominations' must also be kept to record any unsuccessful nominations (see Appendix C).

5.2 Any land or asset recorded on the list must be removed after a period of 5 years from the date that entry was made. Any restriction on title will also be removed. At the end of this time, assets can be re-nominated and the same process will apply to that nomination.

5.3 Under section 91 of the Act, the Council must give written notice to the following persons where land is included in or removed from the list of assets of community value:

- Owner of the land,
- Occupier of the land (if the occupier is not also the owner),
- The person who made the nomination.

In circumstances where it is not reasonably practicable to issue a written notice to the above persons, the Council must take steps to bring the notices to the person's attention. The Council will do this by publishing the notice on the Council's website and by placing a notice at the land or asset concerned.

5.4 Access to the lists can be gained by visiting the Council's website at www.gloucester.gov.uk. Under section 94 of the Act the Council must publish its list of assets of community value and its list of land nominated by unsuccessful community nominations. The Council must provide any person who asks for a copy, one copy free of charge.

5.5 In circumstances where the owner objects to their property being placed on the list, they have 8 weeks from the date written notice of the listing was given or any longer period allowed by the Council in writing, to make a written request for an internal review of the decision to list (section 92 of the Act). The review must be carried out within 8 weeks of receipt of the review request or such longer period as may be agreed with the owner in writing. The asset remains listed until the review is carried out.

5.6 Schedule 2 of the Regulations sets out the procedure for the review:

- The review is to be carried out by an officer of "appropriate seniority" who did not take part in making the original decision;

- The owner can appoint a representative to act on their behalf;
- The Council has to notify the owner of the review procedure as soon as practicable after receipt of the written review request;
- If the owner requests an oral hearing, an oral hearing must be held;
- Both the owner and their representative can make representations, orally and in writing to the reviewer.

5.7 Each party bears their own costs associated with the review. If the owner is not satisfied with the outcome of the internal review, they have a right of appeal against the Council's review decision and should be notified of this right in the review decision letter. The appeal is to the General Regulatory Chamber of the First Tier Tribunal and needs to be made within 28 days of the Council's review decision being sent to the owner. Appeals can be both points of law and fact. Again, the property remains on the list during this appeal process.

5.8 The owner can make a claim for compensation in respect of legal expenses incurred in a successful appeal to the tribunal (see paragraph 8 below).

5.9 Owners must submit their appeal in writing to the First Tier Tribunal by either:

- **Email:** grc.communityrights@hmcts.gsi.gov.uk
- **Post:** Tribunal Clerk
Community Right to bid Appeals
HM Courts & Tribunals
First-Tier Tribunal (General Regulatory Chamber)
PO BOX 9300
Leicester
LE1 8DJ

6. Relevant Disposal:

- 6.1 Section 96 of the Act sets out the definition of a 'relevant disposal', that being a 'disposal of freehold estate in land is a relevant disposal of the land if it is a disposal with vacant possession' or 'a grant or assignment of a qualifying leasehold estate in land is a relevant disposal of the land if it is a grant or assignment with vacant possession.'
- 6.2 Relevant disposals trigger the moratorium requirements as set out below and in the Act.
- 6.3 There are exemptions for some types of relevant disposals, and in these circumstances the owner does not need to comply with the Act. The following are examples of such exemptions:
- Disposals which are gifts;
 - Disposals by personal representatives in accordance with the will of a deceased owner;
 - Disposals between family members;
 - Transfers made in pursuance of a Court Order; and
 - Sale by a lender under a power of sale.
- 6.4 For a full list of exemptions to which section 95(1) of the Act does not apply please see Schedule 3 of the Regulations

7. Moratorium:

- 7.1 Under section 95 of the Act the owner will only be able to dispose of the asset once a specified time period has passed. In the case of any relevant disposal which is not exempt to a community group, the owner must not dispose of the asset during a 6 week interim moratorium period. This period starts from when the owner notifies the Council of their wish to enter into a relevant disposal of the asset, under section 95(2) of the Act.
- 7.2 On receipt of the owner's written notification of their intention to dispose of the asset, the Council is required to update the list, giving the interim and full moratorium end dates and the end date of the protected period. The interim period is 6 weeks; the full moratorium period is 6 months, both running from notification of the owner's intention to dispose of the asset.
- 7.3 During the 6 week moratorium period, community groups may make a written request to the Council to be treated as a potential bidder for the listed asset. If no requests are received during this period the owner is free to sell at the end of the period.
- 7.4 If a community group does make a written request to the Council to be treated as a potential bidder within the 6 week interim moratorium period then the full 6 month

moratorium will take effect. This runs from the date of the owner's notification to the Council of their intention to dispose of the asset. During this full moratorium period, the owner may continue to market the asset and negotiate sales, but may not exchange contracts or enter into a binding contract to do so later. The only exception during the full moratorium is a sale to a community group. At the end of the 6 month moratorium period the owner is free to sell to whomever they choose.

- 7.5 Should a bid from a local community group not be forthcoming or is unsuccessful the owner has a protected period of 18 months from the date of the owners notification to sell, to sell the asset without further delay. If, after the full 18 months 'protected' period, the asset has not been sold then the owner will again be required to notify the Council of the intention to enter into a relevant disposal and the moratoriums will again be available to the community groups.

8. Compensation:

- 8.1 It is recognised that these provisions could have a financial impact on some owners and as such there is a compensation scheme for private property owners. The Regulations allow an owner of a listed asset or previously listed asset to claim compensation for loss or expense incurred in relation to the land which would not have been incurred if the land had not been listed.
- 8.2 The time limit for claiming compensation is whichever is earlier of 13 weeks from the end of the interim or full interim period or from the date when the land ceases to be listed. The Regulations require claims to be made in writing, stating the amount of compensation sought and providing supporting evidence. The burden of proof is on the owner.
- 8.3 All claims for compensation which meet the criteria set out in the Regulations must be considered by the Council. Unlike the other processes associated with the community right to bid, there is no specific time limit for the Council to reach a decision on the claim for compensation. However there is an expectation that the Council will reach a decision as soon as is reasonably practicable when it has all relevant information required to come to a decision.

9. Appeals:

- 9.1 Under Regulation 16, a person who has made a claim for compensation under Regulation 14 can ask the Council to review its decisions. The Council must give written notification to the person who asked for the review explaining the decision and the reasons for that decision.
- 9.2 Under Regulation 17 the person who requested the compensation review can appeal the decision of the Council to the First Tier Tribunal.

APPENDIX A



Community Right to Bid – Nomination Form

Please complete this form and return to example@gloucester.gov.uk or via post to Gloucester City Council, Herbert Warehouse, The Docks, Gloucester, GL1 2EQ.

Applicant Details:

Please provide contact details for the person we should contact to discuss this nomination

Contact Name:	
Email Address:	
Telephone Number:	
Contact Address:	
Your Organisation: (E.g. Voluntary Body, Community Body, Charitable Organisation, Parish or Town Council)	
Community Area:	

Eligibility

<p>Please provide evidence that you meet the definition of a community nominator as set out in the regulations (i.e. a parish council or a voluntary or community body with a local connection).</p> <p>(If you are an unincorporated group please provide a list of 21 names on the local electoral register)</p>	
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Nominated Land/Building:

<p>Location and description of Nominated Land/Building: (Please describe in as much detail as possible the land you wish to nominate including its proposed boundaries. Please attach a map if possible.)</p>	
<p>Details of current/last known owner: (Please provide as much information as possible, including current or last known addresses of any freeholder or leaseholders. Please attach a Land Registry Entry where possible.)</p>	

Supporting Information:

<p>Please set out your reasons for nominating this land/building: (Please provide as much information as possible, including how the asset is currently used, benefits to the local community etc.)</p>	
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I confirm that all the information provided is accurate and complete

<p>Name:</p>	
<p>Signature:</p>	
<p>Date:</p>	

APPENDIX B



**Assets of Community Value:
List of Assets of Community Value**

Date Application received:	Asset nominated:	Community Nominee:	Reasons for listing:	Date of decision of Council:	Notice from owner to dispose (S95(2)) Date received	Interim moratorium End date (6 weeks)	Full moratorium triggered Yes / No End date (6 months)	Date of expiry of listing:

APPENDIX C

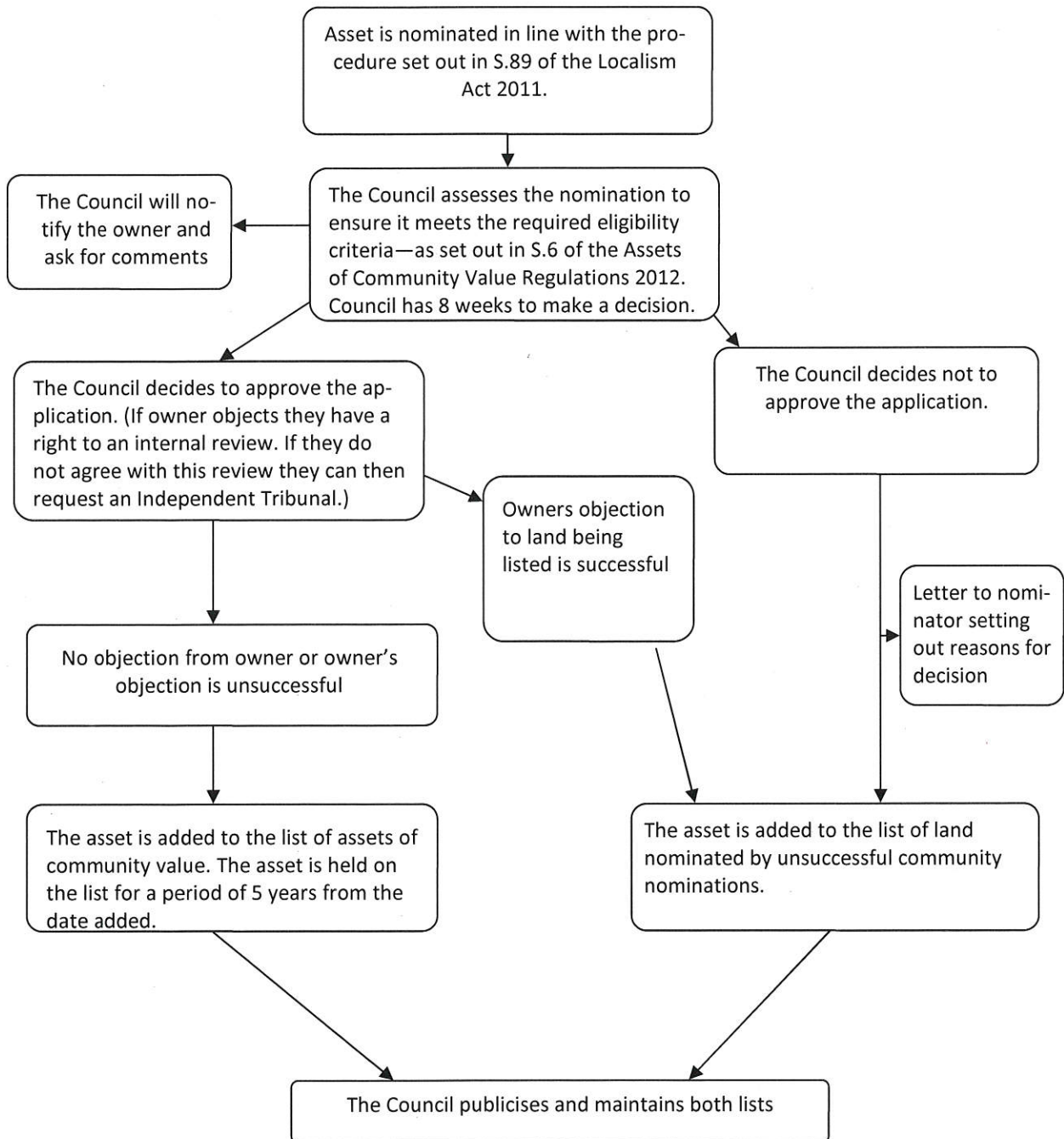


Assets of Community Value:

List of Land nominated by Unsuccessful Community Nominations

Date Application received:	Asset nominated:	Community Nominee:	Reasons for listing:	Decision of Council and reasons:	Date of decision of Council:

**Flow Chart 1:
Assessment and listing process**



Flow Chart 2:
The moratorium process

