

Community Right to Bid for Assets of Community Value

Guidance Notes (Updated September 2023)



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1. About Community Right to Bid

What's the legal basis for the Community Right to Bid?

The Community Right to Bid was introduced under the Localism Act 2011. The Assets of Community Value (England) Regulations 2012. [The Assets of Community Value \(England\) Regulations 2012 \(legislation.gov.uk\)](#) provide further details of the legislative requirements.

What does the Community Right to Bid aim to achieve?

The legislation aims to help communities faced with losing local amenities and buildings which are of importance to them. The Government recognises that over the past decade Community Asset ownership has been growing with over two hundred communities having bought their village shop, and many looking to take over their local pub to prevent it closing.

In the past, many communities have lost the use of buildings and land because they were sold privately or without a community group having the time to raise the necessary funds. The Community Right to Bid gives local community groups such as parish councils, charities, voluntary organisations and social enterprises a right to nominate a building or other land for listing by the council as an **Asset of Community Value (ACV)**. When a listed asset is to be sold, local community groups will have a chance to make a bid and buy it on the open market.

Does the Community Right to Bid give community groups a right to buy Assets within their community?

No. The legislation only stalls the selling process to give suitably constituted community groups a period of time to prepare a proposal and raise the funds required to put in an offer. The sale takes place under normal market conditions and the owner is under no obligation to sell to the group.

Where can I get help and advice about Community Right to Bid?

The Communities and Customer Services Directorate is responsible for coordinating the council's Community Right to Bid process; contact details can be found at the end of this document.

Independent support is available from Locality, the national network of over 700 community-led organisations appointed by the Government to provide advice and help relating to the Community Rights agenda. Locality can be contacted on 0845 458 8336 or by [emailing Locality](#)

2. Listing an Asset of Community Value

Who is eligible to nominate an Asset for inclusion in the List of Assets of Community Value?

The right to nominate a property is restricted to certain types of community groups. Nominations must come from a constituted local community group - or if it's un-constituted, it must be able to

show that it has at least 21 members registered to vote in Milton Keynes. Nominations may be submitted by the following:

- Parish and Town Councils
- Unincorporated bodies with at least 21 individual members and which does not distribute any surplus it makes to its members
- Charities
- Company Limited by Guarantee which does not distribute any surplus it makes to its members
- Industrial and Provident Society which does not distribute any surplus it makes to its members
- Community Interest Groups
- A body designated as a Neighbourhood Forum under the Town and Country Planning Act.

All groups must be able to show a local connection to the Milton Keynes City Council authority area.

What types of Assets are eligible for listing?

Land and buildings, either in public or private ownership, which can demonstrate 'Community Value'. Included in the Regulations' definition of land and buildings is part of a building, part of any other structure, whether or not held within the surface.

How is 'Community Value' defined?

Community Value is defined as follows:

'The current use of the building or land being nominated (that is not an ancillary use) must further the social wellbeing or social interests of the local community, and it is realistic to think that there can continue to be non-ancillary use of the building or land which will further (whether or not in the same way) the social wellbeing or social interests of the local community.'

Where the building or land does not currently demonstrate 'Community Value' as described above, it may still be nominated where it is possible to demonstrate that its main use **did** further the social wellbeing or cultural, recreational or sporting interests of the local community in the recent past, and where it is realistic to think that it will do so again in the next five years.

In this case, the nominating group would need to demonstrate that there was a time in the recent past when an actual use of the building or other land (that was not an ancillary use) furthered the social wellbeing or interests of the local community, and it is realistic to think that there is a time in the next five years when there could be non-ancillary use of the building or other land that

would further (whether or not in the same way as before) the social wellbeing or social interests of the local community. Nominations must meet these definitions.

What kinds of Assets could be considered as having ‘Community Value’?

MKCC’s Approach – Although the Localism Act notes that social interests includes ‘*cultural, recreational and sporting interests*’, social well-being applies to a much broader set of activities and includes a broad range of assets such as

- Nurseries, schools, Children’s Centres, health centres, surgeries and hospitals, day care centres and residential homes
- Parks and open green spaces, allotments, sports and leisure centres, libraries, theatres, museums or heritage sites, cinemas, markets and swimming pools/lidos
- Community centres, youth centres and public toilets
- Town, civic and guild halls
- Village shops, pubs and markets

The building or land can be private or publicly owned property.

What kind of Assets would not normally be considered as having ‘Community Value’?

- Administrative offices
- Land or property where community use is ancillary to its main purpose
- Land attached to residential property (although the Regulations set out certain exemptions for shops and pubs)
- Land covered by Caravan Sites and Control of Development Act 1960
- Land used by public utilities, defined as operational land in Section 263 of the Town and Country Planning Act 1990

Properties which have not had a social use for some years or have been empty or derelict are not covered by the Act.

Residential property is excluded, including gardens, outbuildings and other associated land in the same ownership as the associated residence. Also excluded from being listed is any land licensed for use as a residential caravan site or the operational land of statutory undertakers.

A full list of exemptions and related definitions can be found [here](#) (Please see Annex A).

How do we nominate an Asset?

You can nominate an Asset by [completing the Nomination Form](#)

What information will we need to provide?

Nominations will need to include:

- A description of the nominated Asset including its proposed boundaries **clearly edged in red**, its proposed boundaries and its use. (Please see (ii) below for more detailed information).
- A statement of all information which the nominator has with regard to the names of current occupiers and also the names and current (or last known) addresses of all those holding a freehold or leasehold estate in the land;
- Reasons for thinking that the council should conclude that the Asset is one of Community Value; and
- Evidence that the nominator is eligible to make a nomination, in line with the requirements set out in the next section.

What kinds of documents should support the nomination?

Evidence is required to support the nomination demonstrating how the asset furthers the social interest or social wellbeing of the local community. We would expect to see the following evidence:

- photographs/social media posts of the events taking place at the asset
- testimonials, letters of support and statements of those who use the asset
- list of events held at the asset with frequency, numbers who attend, who attends (i.e. local community, wider community)
- list of groups who use the asset, the frequency the groups use the asset, numbers who attend, what does the group use the asset for etc.,
- other event publicity fliers/posters/social media posts
- print media articles of events that have taken place at the asset This will help us to reach a decision on whether or not the Asset is eligible for inclusion in the List of Assets of Community Value.

You must state your reasons for thinking that the Council should conclude that the property is of Community Value with as much information as you can provide to support your application i.e. how the asset furthers the social interest or social wellbeing of the local community (to be continued on a separate sheet if necessary).

For example, evidence to support a nomination for a pub might include the fact that the pub has a regular football or darts team made up from members of the local community. Maybe the pub holds fireworks or Christmas events for the local community, has a regular quiz night that's supported by locals, or is a vital resource to the elderly locally in terms of enabling them to get out and meet others. Other evidence could include information on how else the pub engages with the local community – is it a focal point for social groups? Does a particular community group regularly meet there following their meetings?

Remember, you must be able to show how the asset furthers the social interest or social wellbeing of the local community, or that its main use did further the social interest or social wellbeing of the local community in the recent past, and where it is realistic to think that it will do so again in the next five years.

The nominating group will be informed of the reason(s) why this decision has been made. Resubmissions are permitted if it can be shown that new, additional evidence has come to light since the first submission. In this case, a completely new submission would need to be made and the process would start again from the beginning.

The following should also be provided:

i) Evidence to support that the nominator is eligible to make a nomination (as appropriate to the organisation)

- Memorandum of Association
- Articles of Association
- Companies House return
- Trust Deed
- Constitution / Terms of Reference
- Standing orders
- Interest Statement for Community Interest Company

ii) Information showing the boundaries of the Asset being nominated

- Where the land is registered, the Land Registry Title Information document and map with boundaries clearly marked in red, and less than one month old. A good quality map of the asset clearly showing the boundaries, outlined in red. You can obtain these from [HM Land Registry](https://www.gov.uk/government/organisations/hm-land-registry) for a small fee.
- Attach a site plan that clearly outlines the location, the extent of the premises including parking areas etc. and is to an appropriate scale (e.g. 1:1250 for a location plan in town / 1:2500 in the country / 1:500 for a more detailed block plan for a property in town.)

- Please also be specific about whether the nomination is for part of / all of a premises - e.g. if it is a building with more than one storey please indicate whether you are nominating specific floors or the entire building. Residential dwellings cannot be nominated.
- A written description with Ordnance Survey location, explaining where the boundaries lie, the approximate size and location of any building(s) on the land and details of any roads bordering the site.

Where should the nomination be sent?

Nominations should be sent to the Communities and Customer Services Directorate whose contact details are at the end of this document.

How will the nomination be processed?

Nominations will be considered in line with the requirements set out in the regulations, including taking all practical steps to notify the following that the Asset is being considered for listing:

- The relevant Town or Parish Council
- The relevant Ward Member(s) for the Ward involved
- The owner of the Asset
- Where they are not the owner, the holder of the freehold estate and the holder of any leasehold estate
- Any lawful occupant

Where we are unable to notify any of the above, we will try to bring the notice to the person's attention – for example by publishing details on the council website.

The nominator's contact details as provided on the nomination form will be used for future correspondence, including, in the event that the Asset is listed, notice that the owner has advised of an intention to dispose of the Asset.

It is therefore essential that the nominator ensures any changes in contact details during the period of listing are notified to the council via the Communities and Customer Services Directorate, whose contact details are at the end of this document.

We will check that the property satisfies the criteria for acceptance and that the community group fits one of the categories laid down in the legislation. We will check the application nomination to confirm that all requisite information has been provided by the nominator.

Once validated, we will decide whether the nominated Asset should be included in the List within 8 weeks.

We will then notify the following of our decision and the reasons behind this:

- The owner of the land, (including setting out the grounds for appeal)
- The occupier of the land (if not the owner)
- The nominator

- Where they are not the owner, the holder of the freehold estate and the holder of any leasehold estate

- The relevant Town or Parish Council

- The relevant Ward member(s) for the Ward involved

We will add the property to a List of Community Assets which will appear on the council website.

Information provided in the nomination form will be processed in accordance with the Data Protection Act.

A copy of the nomination form will be shared with the owner of the Asset in the event that the nominating organisation subsequently submits an intention to bid. The information provided will be subject to the Freedom of Information Act, but personal information (names and contact details) will not be released in response to Freedom of Information requests.

If the council decides that the nomination cannot be accepted, we will write to the nominee setting out our reasons. The property will then be added to a list of unsuccessful nominations which will appear on the council website.

Please note that we are unable to accept any additional information after the nomination has been submitted, unless explicitly requested by the Council.

How can I find out which Assets have been nominated for inclusion in the List of Assets of Community Value?

We publish on the council website – www.milton-keynes.gov.uk/community-right-bid

- The Listed Assets of Community Value

- The Assets nominated but not Listed (eg refused, de-listed or expired)

Local Authorities are required to add to the List of Assets, as soon as practicable:

- i) that a notification by the owner of an intention to dispose of the land has been received by the local authority and the date this was received;

- ii) in all cases under (i), the end dates of the interim and full moratorium periods and the

protected period;

iii) where relevant, that the full moratorium has been triggered; and

iv) where (iii) applies, the identity of the community interest group that triggered the full moratorium.

How long will an Asset remain on the List?

Where an asset is included in the List of Assets of Community Value, the entry can only be removed following:

- a relevant disposal (other than an exempt disposal)
- when an appeal against listing has been successful
- when the local authority form the opinion that the land or building is no longer of community value; or
- no later than five years from the date of entry on the list.

It is for the local authority to decide how long unsuccessful nominations are held on the List of Assets Nominated but Not Listed. The intention of this is to ensure transparency and to avoid multiple nominations of an asset that does not meet the definition.

What effect does Listing have?

Once an asset is listed, nothing further will happen until the owner decides to dispose of it. Where an Asset is included in the List of Assets of Community Value, the owner is required to notify the council in writing or by email to Communities and Customer Services Directorate whose contact details are at the end of this document, of their intention to dispose of the Asset.

If any unregistered land included in the List of Assets of Community Value becomes registered for the first time (because of disposal, mortgaging or voluntary registration), the owner or new owner must notify the council as soon as is practicable and complete the Land Registry form QQ to enter a restriction on their Land Register.

3. Disposing of an Asset of Community Value

What does an owner need to do if they wish to dispose of an Asset included in the List of Assets of Community Value?

Where an owner wishes to dispose of an Asset which is included in the List of Assets of Community Value and it is not an exempt disposal, they must notify the council in writing or by email to

Communities and Customer Services Directorate whose contact details are at the end of this document of their intention to do so.

Certain types of disposal are exempt from these arrangements, including:

- disposals in the form of a gift;
- disposal containing a business which uses the property and is a going concern;
- disposal within a family or between trustees or companies in a group; disposal in the execution of a will or arising from various legal proceedings; and
- disposal of property that is part of a larger estate, part of which is not listed, but where the whole estate is owned by the same person and is a single lot of land.

What happens once an owner has notified the council of an intention to dispose of an Asset included in the list of Assets of Community Value?

The council will acknowledge receipt of the notification confirming the dates upon which the interim moratorium period took effect and when this period will end.

The List of Assets of Community Value will be updated to show that we have received notice of an intention to dispose of the Asset, together with the date of that notification and the resulting interim and full moratorium periods and the protected period.

The council will notify the nominator in writing or by email that we have received notice of an intention to dispose of the Asset and will publish details in the area where the Asset is situated.

What do community groups need to do if they wish to make a bid to purchase the Asset?

An intention to bid on a Listed Asset that has come up for sale should be sent in writing or by email to Communities and Customer Services Directorate whose contact details are at the end of this document by a community group that can demonstrate a local connection.

The council must receive the intention to bid within the six weeks of the notice to dispose of the Asset (normally ending at midnight on the last working day of that period). Nominators are advised to obtain proof of delivery either through using appropriate recorded receipt postage or by obtaining a receipt for the hand-delivered post.

This notification will trigger a six week 'interim moratorium period' (a period of delay) during which the Asset owner may not dispose of the Asset (other than where the disposal is exempt under the Regulations). This interim moratorium is for a period of six weeks from the date upon which the council receive written notification of the owner's intention to dispose of the Asset. During this six week period, suitably constituted community groups and organisations which can demonstrate a local connection may submit an intention to bid.

Unconstituted community groups must use the interim moratorium period to become constituted.

To become constituted, community groups will need to have one or more of the following structures and request formally in writing or by email to Communities and Customer Services Directorate whose contact details are at the end of this document that a six month moratorium period be invoked to enable funds to be raised.

- A charity
- A community interest company
- A company limited by guarantee that is non-profit distributing
- An industrial and provident society that is non-profit distributing (also called community benefit societies)

The Regulations provide a full definition of 'Community Interest Group' for the purposes of the Community Right to Bid legislation (Regulation 12).

The council will pass the intention to bid to the owner of the Asset or inform them of the details as soon as practicably possible after receipt.

If a notification to bid is received in writing or by email from a constituted group within the six week interim moratorium period, this then triggers the full six month moratorium period (starting from the date which the council received written notification from the owner of their intention to dispose of the Asset) during which the Asset cannot be sold except to a qualifying community group - see '**What effect does Listing have?**' This gives the community group six months in which to develop and submit a bid.

This six month moratorium period is intended to enable the community group to prepare to be able to submit a bid to the owner to purchase the Asset. Any subsequent sale takes place under normal market conditions. There is no obligation for the group to make a bid, and the group has no rights of purchase over other potential buyers. The owner is under no obligation to sell the Asset to the community group or any other person. If the owner decides to sell to the community group, they may do so within the six month moratorium period.

After the full moratorium period, the owner of the asset can sell it to whomever they choose and at whatever price.

If no community interest group notifies the council within six weeks that it wishes to bid, the owner is free to sell their property as they see fit.

If after the six month moratorium period the community group has not successfully bought the property, a further 12 month protection period is triggered (the total eighteen month period commencing on the day upon which the council received written notification of the owner's intention to dispose of the Asset). During this protection period, the Asset may be sold by the owner on the open market without the risk of the moratorium period being triggered.

Exempt disposals

The Localism Act 2011 and the Assets of Community Value (England) Regulations 2012 detail circumstances where a disposal is exempt – for example where the disposal is as a result of a court order, a separation agreement made between spouses or civil partners, upon inheritance and as a result of insolvency proceedings. A full list of exemptions and related definitions can be found [here](#) (Please see Annex A).

Can an owner market the Asset during the moratorium period?

Yes, there is nothing to prevent the owner actively marketing the Asset during the moratorium period; the restriction refers only to exchange of contracts on the sale of the Asset.

If an owner of an Asset is happy to sell to a Community Interest Company, can they go ahead with the sale without waiting for the moratorium period to end?

Yes, where the owner and a community group are able to agree terms within the six month moratorium period, they may proceed with the sale without waiting for the moratorium period to end.

4. Appeals

What if an owner isn't happy that their Asset has been Listed?

The owner of an Asset included in the List of Assets of Community Value may ask the council to review their decision. This request must be made in writing or by email to Communities and Customer Services Directorate whose contact details are at the end of this document within eight weeks of the date upon which the council provided the owner with written notification by email of the decision to list or longer where this has been agreed to this in writing.

How will a request by an owner to review a Listing be dealt with?

The council will usually acknowledge receipt of the request and advise of the procedure to be followed in connection with the Listing review.

The Listing review will be undertaken by a senior council officer independent of the original decision-making process.

The owner may request an oral hearing and may appoint any representative to act on their behalf in connection with the review. The oral hearing will consist of a short presentation by the owner or their representative to the Listing review panel. They will then be asked to leave prior to the Listing review panels' decision.

Where no request for an oral hearing is made by the owner, the council will decide whether or not an oral hearing would be beneficial to the Listing review process. The owner, or their representative, may make written and/or oral representation to the reviewer.

The council will complete the Listing review process within eight weeks of the receipt of the written request for the review, or a longer period where this has been agreed with the owner.

The council will notify the owner in writing or by email of the outcome of the Listing review, and where the review concludes that a change to the listing is required, the council will also notify:

- The occupier of the land (if not the owner)
- The nominator
- Where they are not the owner, the holder of the freehold estate and the holder of any leasehold estate
- The relevant Town or Parish Council
- The Ward Member(s) for the area

Where the review concludes that a change to the listing is required, the council will adjust the List of Assets of Community Value and advise the Land Registry accordingly.

The authority and the owner shall each bear their own costs of the review.

What happens if the owner of an Asset isn't satisfied with the outcome of this review?

Where an owner remains dissatisfied with the outcome of the review, they may appeal to the General Regulatory Chamber of the First Tier Tribunal against the council's decision on the Listing review. The owner must appeal within 28 days of the council's decision on the review.

Appeals should be sent to the General Regulatory Chamber of the First Tier address detailed at the end of this document. Appeal documentation can be found [here](#).

What recourse does an owner have if they feel that they have suffered costs or expense as a result of their Asset being included in the List of Assets of Community Value?

The owner or former owner of an Asset of Community Value is entitled to make a claim for compensation from the council in respect of incurred losses or expense in relation to the Asset which would be likely not to have been incurred if the land had not been Listed. This does not include costs in connection with a review of the authority's decision on listing or on compensation. The council will not consider any compensation claims that request the full market value.

Following any moratorium period owners may proceed with the sale of the asset and therefore this is not a loss incurred. Claims can only be made for the actual loss, with a clear cause and effect relationship between the loss and the moratorium period or to the asset being listed.

Compensation claims should be made in writing or by email to Communities and Customer Services Directorate whose contact details are at the end of this document and must be made within thirteen weeks after the loss or expense was incurred or finished being incurred. Claims must state the amount of compensation being claimed for each part of the claim and be accompanied by supporting evidence.

The [Regulations](#) should be consulted for details of bodies that are not entitled to compensation.

What happens if an owner is not satisfied with the way a compensation claim has been treated?

The person making the compensation claim may ask for a review of the council's decision reached in relation to their claim. This must be made in writing or by email to Communities and Customer Services Directorate whose contact details are at the end of this document within eight weeks of the date upon which the council advised of their reasons in relation to the claim.

The council will acknowledge receipt of the request and advise of the procedure to be followed in connection with the review. The compensation review will be undertaken by a senior council officer independent of the original decision-making process.

Where no request for an oral hearing is made by the owner, the council will decide whether or not an oral hearing would be beneficial to the compensation review process. The owner, or their representative, may make written and oral representation to the reviewer.

The council will complete the compensation review process within eight weeks of the receipt of the written request for the review, or a longer period where this has been agreed with the owner. The council will notify the owner in writing or by email of the outcome of the compensation review.

What happens if an owner is not satisfied with the outcome of a compensation review?

Where an owner remains dissatisfied with the outcome of the compensation review, they may appeal to the General Regulatory Chamber of the First Tier Tribunal against the council's decision on the Listing review. Appeals should be sent to the General Regulatory Chamber of the First Tier address detailed at the end of this document.

Can a nomination be submitted for an Asset that has been removed from a List?

New submissions will only be accepted for Assets that have previously been removed from either the Listed Assets of Community Value or the List of Non-Listed Assets if it can be shown that new, additional evidence has come to light since the first submission.

A completely new submission would need to be made and the process would start again from the beginning. The council reserves the right to reject re-submissions if, in its opinion, insufficient additional information has been provided.

Contacts

Communities and Customer Services Directorate
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Civic Offices
1 Saxon Gate East
Milton Keynes
MK9 3EJ

local.councils.liaison@milton-keynes.gov.uk

www.milton-keynes.gov.uk

General Regulatory Chamber of the First Tier Tribunal
Tribunal Clerk
Community Right to Bid Appeals
HM Courts and Tribunals
First Tier Tribunal (General Regulatory Chamber)
PO Box 9300
Leicester
LE1 8DJ

GRC.CommunityRights@hmcts.gsi.gov.uk

Useful links

[Chapter 3 of the Localism Act 2011](#)

[The Assets of Community Value \(England\) Regulations 2012](#)

[Non statutory advice note for local authorities produced by the Department for Communities and Local Government](#)

[Department for Communities and Local Government Community Rights website](#)

[Community assets and ownership - MyCommunity](#)

[Research Briefing - House of Commons Library - Assets of Community Value](#)

Contact details

Communities and Customer Services Directorate

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Website - www.milton-keynes.gov.uk

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