

Assets of Community Value and Community Right to Bid

Guidance notes

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1. Introduction

This document provides guidance on the following:

- How to nominate a building or parcel of land as an Asset of Community Value (ACV)
- How ACV nominations are assessed
- Selling an ACV
- How community organisations can bid for an existing ACV that is put up for sale

Please contact the Democratic Services Team if you have any queries about the above:

Email: executivecycle@westberks.gov.uk

Telephone: 01635 519486

2. Relevant Legislation

The following legislation makes provisions for Assets of Community Value and Community Right to Bid:

- [Localism Act 2011](#)
- [The Assets of Community Value Regulations 2012](#)

3. Nominations

Who can nominate an Asset of Community Value?

Only eligible voluntary and community organisations can make nominations as defined in Regulation 5 of the Assets of Community Value Regulations 2012. These must:

- (b) have a local connection to the property they wish to nominate; this means that its activities are wholly or partly concerned with the administrative area of West Berkshire or a neighbouring local authority;
- (c) be one of the following:
 - a parish or town council
 - an unincorporated community group with at least 21 members who are registered to vote in West Berkshire
 - a local neighbourhood forum (where there is no town/parish council)
 - a charity, industrial and provident society, company limited by guarantee, or community interest company.

How to nominate an asset of community value?

Nominations can be made using the form on the [Community Right to Bid webpage](#).

A nomination must include certain information, including:

- details of the nominating body
- evidence that the nominator is entitled to make a nomination
- the address / location of the nominated asset
- details of the asset and its proposed boundaries (for the avoidance of doubt as to the land and buildings that are to be included within the nomination, we ask that a map or aerial photo is provided, with a red line to highlight the boundaries of the ACV site¹)
- the names and addresses of the current owner(s)² and occupant(s)
- how current / recent use of the site contributes / has contributed in the recent past to the local community's social wellbeing or social interests, and if it is realistic to expect that this or another use of the site could continue to do so in future

What counts as an "Asset of Community Value"?

A building or a piece of land is deemed to have a community value if:

- it can be shown that the use of the building or land currently furthers the social interests or social wellbeing of the local community, or has done so in the recent past;
- this use (or another such use) could continue to further the social interests or social wellbeing of the local community in the future;
- the use of the building or land is not "ancillary", i.e. of secondary purpose.

'Social Interests' defined within the Localism Act 2011 are cultural, recreational or sporting activities. 'Social wellbeing' is not defined in the Localism Act 2011, but it is taken to mean 'social interaction and engagement - a sense of involvement with other people and the local community'. Any benefits must be in relation to community usage rather than individual, private usage.

Residential property (including private homes, hotels, B&B accommodation, caravan sites and operational land used by statutory public bodies and utility companies) is exempt from being listed as an ACV, except where this use can be demonstrated to be ancillary to the main use (e.g., where a pub or other business has integral residential accommodation for staff, or where a pub has letting rooms, but derives the majority of its income from the pub use).

'Recent past' is not defined in legislation, but as a 'rule of thumb' this is assumed to be within the last five years.

¹ Nominations can relate to specific buildings and/or pieces of land that form part of a site

² The owner is taken to be the freeholder where there is no qualifying leaseholder, or the leaseholder most distant (in terms of intervening legal estates) from the freeholder, holding a lease granted for at least 25 years. ACV nominations can also be made on land that is not currently registered.

What happens following nomination?

You will receive confirmation of receipt after submitting your nomination.

Once we have received the completed form, we will check:

- the eligibility of the organisation making the nomination;
- whether the asset meets the legal definition or is in an excluded category; and
- the completeness of the information supplied.

The council will seek to verify the evidence submitted, but it will not undertake its own investigation to collect evidence.

If the nomination is considered to be invalid or incomplete, then the nominating party will be informed of the reasons why it has been rejected.

Upon receipt of a valid ACV nomination, the council will take all practicable steps to notify the following parties:

- the owner(s) of the property
- any lawful occupant(s) or the property
- the relevant town / parish council
- relevant district council ward members

Owners, occupiers and other interested parties are permitted to make written representations in respect of the nomination

The Council has eight weeks in which to make a decision as to whether or not the nominated asset is of community value. This is made by a specially convened officer group (the Assets of Community Value Listing Panel), which meets in private.

Successful nominations are added to the 'List of Assets of Community Value'. Assets will remain on the list for five years and a land charge will be registered against the property. After five years the listing will expire, it will be removed from the List and the land charge will also be lifted. However, an eligible community organisation can submit a new nomination to have the asset relisted. This can be done prior to the expiry of the previous listing in order to prevent it from lapsing.

For unsuccessful nominations, the council will write to the nominating organisation to explain the reasons for the decision. The property will be added to the "List of Unsuccessful Community Nominations" and will remain on the list for five years.

Following an unsuccessful community nomination, an eligible community organisation can submit a new nomination at any time, providing it contains fresh information that addresses the reasons why the previous nomination was unsuccessful. However, the council reserves the right to reject nominations, where:

- due to the number of nominations already rejected, it is considered unlikely that enough ‘new evidence’ could be provided to meet the requirements of the Act; and/or
- the council perceives that the repeat nomination is vexatious.

The List of Assets of Community Value and the List of Unsuccessful Community Nominations can be viewed on the [Community Right to Bid webpage](#).

The owner's right to object

If the council decides to list a property as an Asset of Community Value, the property owner can ask for a review of the decision. The review will be carried out by a senior officer of the council who was not involved in the original decision.

A request for a listing review must be made in writing within eight weeks of the notice of listing to:

Service Director
 Strategy and Governance
 West Berkshire Council
 Market Street, Newbury, RG14 5LD

Or email: Executivecycle@westberks.gov.uk

Nominators are not able to appeal the decision made in respect of their nomination. However, they can make a complaint through the council's complaints procedure if they feel due process has not been followed in assessing the nomination.

4. Selling an Asset of Community Value

Once an asset has been listed, nothing further will happen unless and until the owner decides to dispose of it, either through a freehold sale, or the grant or assignment of a qualifying lease (i.e., originally granted for at least twenty-five years). If an owner wishes to sell all or part of a listed Asset of Community Value, they must notify the council in writing to:

Service Director
 Strategy and Governance
 West Berkshire Council
 Market Street, Newbury, RG14 5LD

Or email: Executivecycle@westberks.gov.uk

Upon receipt of such a notification, the council will:

- record the intention to sell the asset on the ‘List of Assets of Community Value’
- advertise this in the local media, and
- inform the nominator, the parish council, and relevant ward Members.

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

If an eligible community interest group notifies the council within six weeks that it wishes to bid for the property, we will inform the owner. The community group will have six months from the date when the owner originally notified the council of their intention to sell the asset in which to raise funds and submit their bid to buy the asset on the open market. The owner is unable to conclude the sale during this time, except to an eligible community group, but they can continue to market the property during this period.

At the end of the six month period, the owner has the right to sell their property to any party and at any price during the remainder of the 18 month ‘protected period’ that applies from the date when the owner originally notified the council of their intention to sell the asset.

If no sale takes place within the 18 month protected period, and of the owner decides to keep the asset on the open market for sale, the process will start again, with the owner required to give the council written notification of their continued intention to sell. However, the moratorium period only applies while the asset remains listed as an ACV. If an asset reaches the end of its five year listing during the moratorium period, the owner will be free to sell to whomever they choose after the listing expiry date.

5. Community Right to Bid

Who can bid?

Only certain groups are entitled to trigger the moratorium when bidding for an ACV. Not all groups that are eligible to nominate are also eligible to bid. Community interest groups must have a local connection with the asset and be one or more of the following:

- a registered charity;
- a community interest company;
- a company limited by guarantee; or
- an industrial and provident society.

If more than one community interest group is interested in purchasing a property, we would encourage the groups to work together.

How do community groups bid?

If an eligible community interest group wishes to submit a bid, it must notify the council in writing within the initial six week moratorium period:

Service Director
Strategy and Governance
West Berkshire Council
Market Street, Newbury, RG14 5LD

Or email: Executivecycle@westberks.gov.uk

The Council will acknowledge the request to bid and will notify the owner that the moratorium period has been triggered. The status of the listed asset will be changed on the 'List of Assets of Community Value' to reflect that it is for sale and that the six month moratorium has been triggered.

6. Useful Links

Further details and background information:

- [My Community Rights website - Community Right to Bid](#)
- [Community Right to Bid - The Implications for Supporters Trusts](#)
- [A Plain English Guide to the Localism Act 2011](#)
- [Explanatory Note - The Assets of Community Value \(England\) Regulations 2012](#)

Appendix A: Summary of ACV Listing Process

Guidance for the “Assets of Community Value Listing Panel” in determining applications for nomination on the West Berkshire Council List of Assets of Community Value.

Step A	
A1. Is the nominating organisation an eligible body to nominate?	Yes <input type="checkbox"/> No <input type="checkbox"/>
<p>The types of organisations eligible to make a nomination are defined in Regulation 5 of the Assets of Community Value (England) Regulations 2012 as below:</p> <ul style="list-style-type: none"> (a) a body designated as a neighbourhood forum pursuant to section 61F of the Town and Country Planning Act 1990 (not applicable in West Berkshire) (b) a parish council; (b) an unincorporated body: <ul style="list-style-type: none"> (i) whose members include at least 21 individuals (who are eligible to vote in West Berkshire), and (ii) which does not distribute any surplus it makes to its members; (c) a charity; (d) a company limited by guarantee which does not distribute any surplus it makes to its members; (e) an industrial and provident society which does not distribute any surplus it makes to its members; or (f) a community interest company. 	
A2. Does the nominating body have a local connection to the asset nominated and, in the case of an unincorporated body, a company limited by guarantee or a community interest group, applies any surplus it makes wholly or partly for the benefit of the local authority's area or for the benefit of a neighbouring authority's area?	Yes <input type="checkbox"/> No <input type="checkbox"/>
<p>“Local Connection” is defined in detail in Regulation 4 of the Assets of Community Value (England) Regulations 2012.</p>	
A3. Does the nomination include the required information about the asset?	Yes <input type="checkbox"/> No <input type="checkbox"/>
<p>This is set out in Regulation 6 of the Assets of Community Value (England) Regulations 2012 as follows:</p> <ul style="list-style-type: none"> (a) a description of the nominated land and a map showing its proposed boundaries; (b) a statement of all the information which the nominator has with regard to: <ul style="list-style-type: none"> (i) the names of current occupant(s) 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, complete with copies of the Title Register and Tiele Plan. 	
A4. Is the nominated asset outside of one of the categories that cannot be assets of community value as set out in Schedule 1 of the assets of Community Value (England) Regulations 2012?	Yes <input type="checkbox"/> No <input type="checkbox"/>
<p>Excluded categories include:</p> <ol style="list-style-type: none"> 1. A residence together with land connected with that residence 2. Land in respect of which a site licence is required under Part 1 of the Caravan Sites and Control of Development Act 1960 3. Operational land as defined in section 263 of the Town and Country Planning Act 1990 	

If “Yes” to all of step A proceed to step B.

If “No” to one or more of step A, inform nominator that nomination is ineligible.

Step B – Establishing the non-ancillary use that the application is based on

B1. Is the current or recent usage which is the subject of the nomination an actual and non-ancillary usage?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
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If the current or recent usage that is the subject of the nomination is actual and non-ancillary, proceed to step C.

If not, place on List of Unsuccessful Nominations.

Step C – Determining whether the current usage or usage in the recent past furthers social wellbeing or social interests

C1. Does the current or recent usage which is the subject of the nomination further the social wellbeing or social interests of the local community?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
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Matters to consider include:

1. Who benefits from usage of the asset – the local community or others?
2. How does usage of the asset further the social wellbeing or social interests of the community on whose behalf the application is being made?
3. What evidence is provided?

If “Yes” to C above, proceed to Step D.

If “No” to C above, place on List of Unsuccessful Nominations.



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Step D – Realism of future usage

D1. Is it realistic to think (for “current” uses) there will continue to be social use of the building or other land, or (for “recent” uses) that it is realistic to think that there will be community use (whether or not in the same way) again within the next five years?

Yes
No

Matters to consider include:

1. Has the building/land-take/space/legal requirement for this usage changed significantly since its initial use so that the asset is no longer fit for purpose?
2. In the event that a community bid were successful in securing the asset, are the proposed future use and operating model considered to be viable?
3. Could the asset be made fit for purpose practically and within reasonable resource requirements and timescales?

If “**Yes**” to D above, place on List of Assets of Community Value.

If “**No**” to D above, place on List of Unsuccessful Nominations.

Decision made by officer Group	
Date decision made	
Date passed to Planning Registration Team	
Date entered onto Decision Register and registered on Land Charges	
Date instructions sent to Legal to register at the Land Registry	
Date entered onto Geographic Information System (GIS)	