

Borough Council of
**King's Lynn &
West Norfolk**



ASSETS OF COMMUNITY VALUE

PROCEDURE & GUIDANCE

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General Guidance and Advice

The [Regulations](#), [Explanatory Note](#), and [Guidance Note](#) published by the government provide detailed information on:

- The bodies that can make nominations (such as local parish councils)
- Land that is exempt from being listed (such as premises which are primarily residential)
- The steps that the Borough Council of King's Lynn & West Norfolk has to take when considering to list land as an asset of community value and upon listing that land (including notifying relevant parties)
- Arrangements for owners to make appeals on decisions to list or award compensation on any losses incurred as a result of being listed (including internal reviews and external tribunals)
- Exemptions to the 6 month moratorium being applied when land is put up for sale or long term lease

Who to contact

Please complete the nomination form (Appendix 14) to list an asset as being of community value.

https://www.west-norfolk.gov.uk/downloads/download/203/community_right_to_bid_documents

For general advice or enquiries please contact info@eastlaw.org.uk

Support available and other considerations

Support on the use of this right is available from an organisation called Locality.

Where the owner of a listed asset, such as a pub, applies for 'change of use' then the fact the asset is listed as an asset of community value may be a material consideration in making a decision on whether to grant change of use.

In addition, Neighbourhood Plans can formally allocate assets for community use in a site allocation proposals map, if there is good evidence to support the case (including for sites which may not meet the definition of an asset of community value). This would give it additional weight in decision making and could inform, and be informed by, the lists of nominated assets.

West Norfolk's Local Plan seeks to promote the retention and development of local services and community facilities in villages, such as local shops, meeting places, sports venues, cultural buildings, public houses and places of worship.

We will take into account the importance of these facilities to the local community when considering planning applications.

Explanation of Terms

The Act states that an Asset is of community value if in the opinion of the Council:

- i. An actual current use of the Asset, that is not ancillary, furthers the social wellbeing or social interests of the local community;
- ii. It is realistic to think that there can continue to be a principle use of the Asset which will further (whether or not in the same way) the social wellbeing or social interests of the local community;
- iii. There was a time in the recent past when an actual use of the Asset (which was not an ancillary) furthered the social wellbeing or interests of the local community; and
- iv. It is realistic to think that there is a time in the next five years when there could be non-ancillary use of the Asset that would further (whether or not in the same way as before) the social wellbeing or social interests of the local community.

1) Social Wellbeing

The Act defines that social interests include the following:

cultural interests, recreational interests and sporting interests.

If the use does not meet the social interest criteria then the Asset can only be listed if it meets the social wellbeing criteria.

However, there is no set definition for social wellbeing, either in the Act or in general circulation. In the absence of a set definition the Council will use the following definitions as a guide:

‘Social’: relating to or having the purpose of promoting companionship, communal activities.

‘Wellbeing’: the condition of being contented, healthy, or successful; welfare

(source – Collins English Dictionary)

2) Realistic

The Councils approach will be:

- i. If the Asset has a current principle use that meets the criteria, it will be presumed that the same use can continue in the future; and
- ii. If the Asset had a use in the recent past that meets the criteria, it will be presumed that the same use can continue, unless there have been events that would prevent such a use, such as dereliction or demolition.

3) Recent Past

The phrase ‘recent past’ is also not defined in the Act. The Act does however define a time period for when the land could be brought back into community use as five years.

In determining therefore whether there was a time in the recent past when an actual use of the Asset furthered the social wellbeing or interests of the local the Council may consider:

- i. If the land has been disused for more than five years and when it was last in use its principle use furthered the social wellbeing or social interests of the community;
- ii. If the land has been in use, but has been used for a non-qualifying purpose, and the land was purchased using a compulsory purchase order or other statutory power for use by the Council or other public sector body.

4) Further Considerations

Examples where the main purpose of the asset is:

- Public Services Assets:- Children centres, schools, nurseries, health centres, doctors surgeries, hospitals, day care centres and residential care homes.
- Sport, Recreation & Culture Assets:- Theatres, libraries, cinemas, swimming pools, sports centres, parks, village halls, ornamental gardens, open spaces, museums or play areas.
- Community Services Assets: - Community centres, youth centres or public toilets.
- Local Democracy Assets: - Town, civic or guild halls.
- Economic Assets: - Village shops, the local pub, markets, the post office or the local bank.

PLEASE NOTE: This is not a complete list. The Council will consider each nomination based on its merits.

The Council will exclude land that is:

- Outside the Council's area;
- Residential properties and associated land (such as gardens);
- Sites covered by Part 1 of the Caravans Sites and Control of Development Act 1960;
- Operational land such as roads and rail networks;
- Used by public utilities as defined in section 263 of the Town and Country Planning Act 1990;
- Assets not recently used and that are not currently in use for a primary social purpose; and
- Assets that have been empty or derelict for many years and remain so at the present time.

The Council will manage the format and any modifications to the List. If the Council considers that land provides value then it will add that land to the List of Assets of Community Value for a period of five years. If the nomination is unsuccessful the Council will add the land to the List of Unsuccessful Community Nominations. Both will be published on the Council's website under Assets of Community Value. The format of the list is shown below.

The Council will notify the Owner, the Occupier, and the Nominee, as required by the procedure, of any inclusion, removal, change or intended sale of Assets. The Council, will, where necessary, publish such changes on The Councils website using the List of Assets of Community Value.

Nomination and Listing Procedure

1. The Council will accept all valid written nominations in both electronic or hard copy formats.
(The Council would recommend that nominations are made using the Council's Community Asset Nomination Form which is available to download using the Council's website).
2. Letter of acknowledgement (Appendix 1) of a VALID application will be sent to the Nominee within five working days of receipt of nomination with the date when they can expect a decision from the Council.

Valid nominations (as a minimum) require:

- Details of the group nominating the Asset.
 - Voluntary and community sector applicants will have to demonstrate a local connection by showing their activities are wholly or partly concerned with the local area.
 - A description and the address of the Asset together with a plan of the boundary.
 - Details of who owns the property and/or who occupies the Asset including the current or last known address of all those holding a freehold or leasehold estate in the Asset.
 - Details why the Asset will boost the social well-being of the community and why the Asset should be considered as having community value.
 - Any evidence of community engagement (for example: results of local surveys that support the bid).
3. Where an INVALID nomination is received the Council will respond to the nominee within 5 days (Appendix 2) with its reasons and require a revised application. Should all further information not be received within 14 days from the date of the letter the Council will reject the nomination as invalid. No further action will be taken in relation to the nomination and an entirely new application must be made if the group wishes to revisit the matter.
 4. Notification letters (Appendix 3) will be sent within five working days of receipt to the Owner, Leaseholder and the Occupier of the Asset being considered for listing. The Parish Council along with local Members for the Ward will also be informed in accordance with Regulation 8.
 5. The Council will consider any objection to the listing from the Owner. Objections are required in writing no later than two weeks from the date shown on the Council's notification letter.
 6. Nominations will be reviewed by an Officer of the Council who will make a recommendation to the Executive Director for Central and Community Services. A copy of the draft decision notice will also be copied to the Portfolio Holder for Performance and Portfolio Holder for Housing and Community. The Executive Director then formally approves the inclusion of the asset on the List of Community Assets or on the List of Unsuccessful Community Nominations.
 7. A confirmation letter will be sent no later than 9 weeks from the date of the letter notifying persons of the nomination. The letter will be sent to the Nominee and

the Owner informing them that the bid was either successful or unsuccessful (Appendix 4 & 5).

Where successful the letter will detail:

- a. The intention of the Council to include the Asset on the List of Assets of Community Value.
- b. That the Asset will remain on the list for a period of five years.
- c. That the Owner has a right to request an Internal Review of the Council's decision to list an Asset. This must be given in writing before the end of the eight week Deliberation Period starting from the date shown on the letter.
- d. That the Owner has a right to appeal to the First Tier Tribunal if they are dissatisfied with the outcome of the Internal Review.

Where unsuccessful the letter will detail that the Asset will be placed on the List of Unsuccessful Community Nominations for a period of 5 years. Re-nomination of a building or piece of land following an unsuccessful nomination will be considered if the Nominator is able to show a significant or substantial change in the circumstances surrounding the nomination.

8. The Council will include details of the listing on the Local Land Charge Register and apply to the Registrar for the listing to be recorded on the Land Registry as a Form QQ restriction.

Review of Decision Procedure

1. The Council will review its decision to add an Asset to the list if requested, in writing, by the Owner no later than eight weeks from the notification that the Asset has been added.
2. A letter of acknowledgement will be sent to Owner within five days of request for Internal Review (Appendix 6). The letter will include:
 - Contact details of the Reviewing Officer
 - The date when the review will be completed.
 - Their right to Appeal if dissatisfied and to reasonable compensation if their Appeal is successful.
3. An Internal Review must be undertaken by an officer of the Council who did not take part in making the decision to include the Asset on the List. The Owner may appoint a representative to act on his or her behalf. The Reviewing Officer must provide the representative with any documentation which is required to be sent to the Owner.
4. An oral hearing must be held at the Owners written request. Where no request is made in writing the Reviewing Officer can decide if they require an oral hearing.
5. Both the Owner and representative may make representations to the Reviewing Officer both orally or in writing.
6. The Reviewing Officer must complete the Review by the end of eight weeks from the date when the written request was received from the Owner.
7. On completion the Reviewing Officer will complete the LACV Review Form and the Council will provide a written response to the Owner (Appendix 7). The letter will state:
 - They have been successful and the Asset will be removed from the List or;
 - They were unsuccessful and the Asset will remain on the List.

The Act allows Owners, who believe that they have incurred losses as a result of these procedures, to apply for compensation from the Council. A claim for compensation must be made in writing to the Council and received no later than 13 weeks after the loss or expense was incurred. It should state the amount of compensation sought for each part of the claim and be accompanied by supporting evidence.

The Council will give written notification of its decision and the reasons for such decisions in respect of a claim for compensation.

An Owner can ask the Council to review a claim for compensation if rejected or the value to be paid is less than the original amount claimed. The Owner must request a review within a period of eight weeks beginning on the date of the Council's decision. The Council will undertake a review within eight weeks of the receipt of the request and provide its decision in writing to the Owner.

If the Owner is not satisfied with the review they may appeal to the First Tier Tribunal. Claims for compensation will be considered for the following:

- 1) Arising from the period of delay in entering into a binding agreement to dispose of an Asset.
- 2) A claim for reasonable legal expenses incurred in a successful appeal to the First-Tier Tribunal against the Council's decision to list an Asset.
- 3) A claim for reasonable legal expenses incurred in a successful appeal to the First-Tier Tribunal if the Council refuse to pay compensation or the full amount being claimed.

Disposal of an Asset

1. The Council will be accountable for enforcing the Act and to minimise non-compliance and proper use of the moratorium process a Local Land Charge will be placed on the Local Land Charges Register for any listed Asset. The Council will also apply for the listing to be recorded on the Land Registry as a restriction.
2. A non-compliant disposal of a listed Asset will be void and not recognised in law. For clarification the following disposals are exempt from the moratorium process.
 - i. Disposal through the gift of an Asset.
 - ii. Disposal of an Asset containing a business which uses the Asset and which is a growing concern.
 - iii. Disposal within a family or partnership, between trustees of a trust or companies in a group.
 - iv. Disposal in the execution of a will, Compulsory Purchase Order or legal proceedings such as a result of a court order.
 - v. Disposal of an Asset that is part of a larger estate, part of which is listed, but where the whole estate is owned by the same person and is a single lot of land.
 - vi. Disposal from one National Health Service body to another.
 - vii. Disposal of closed Church of England churches (Part 6 Mission and Pastoral Measure 2011).
 - viii. Disposals for ongoing educational provision.
 - ix. Disposals as a result of power of sale, bankruptcy or insolvency.
3. Owners have a duty to provide the Council with a written Notice of Disposal detailing their intention to dispose of any part of any listed Asset. Failure to notify the Council will result in the disposal of a listed Asset being void and not acknowledge in law.
4. Letter of acknowledgment sent to Owner within five working days of receipt of Notice of Disposal (Appendix 8). The letter will include:
 - The date when the six week Interim Moratorium Period expires.
 - When the 18 month Protection Period will expiry.
 - Reference to the disposal process in terms of the Localism Act 2011.
5. The Council will also notify the Nominee responsible for the listing, within 5 working days of receipt of the Notice of Disposal, of the Owners intention to dispose of a listed asset under Section 95 of the Localism Act 2011 (Appendix 9).
6. Once the Council has notified the Nominee and published that an Asset is eligible for disposal on its website, the Nominee or any other eligible Community Interest Group has a period of six weeks called the Interim Moratorium to inform the Council in writing that they want to submit an Expression of Interest.
7. Once a group has submitted an Expression of Interest the Council will inform the Owner in writing (Appendix 10) that such group should be seen as a potential bidder.
8. The Community Interest Group then has the six months Full Moratorium Period starting from date when the Council acknowledged the Notice of Disposal to prepare and submit a bid to the Owner.

9. If no Expressions of Interest are received during the Interim Moratorium the Council will notify the Owner in writing that they are free to dispose of the Asset at any time during the 18 months Protection Period (Appendix 11).
10. Failure to dispose of the Asset during the Protection Period will require the Owner to submit a new Notice of Disposal.

Further Information

Where land is being removed from the list the local authority must also give the following written notice:

- The owner of the land.
- The holder of the freehold estate and the holder of any leasehold estate in the land (where they are not the owner)
- The occupier of the land (if they are not also the owner)
- The parish council if any of the land being added or removed is in the parish council's area.
- The voluntary or community body that made the nomination (if the land was included as a result of a community nomination).

The local authority will also include reasons for the removal (Appendix 12). Where it is not reasonably practicable to give written notice to these persons then the local authority will take reasonable, alternative steps to bring the notice to the attention of the relevant person, by publishing on the website.

Where land has been included on the List of Assets of Community Value it will be removed after a period of 5 years (Appendix 13).

Please note that this guide is based on the Localism Act 2011 regulations and guidance available at the time and it is important that you use these guidance notes in conjunction with the most up to date regulations and guidance available.