

Oxford City Council Assets of Community Value (Community Right to Bid) Guidance

► What is the Community Right to Bid? – a summary

The Community Right to Bid allows defined community groups to ask the Council to list certain assets as being of 'community value'. The Localism Act and the Assets of Community Value Regulations set out the opportunities and procedures to follow for communities wishing to identify assets of community value and have them listed. If an asset is listed and then comes up for sale, the new right gives communities six months to raise finance and put together a bid to buy it.

Local Authorities have a specific role in the process:

- to decide on asset listing;
- to ensure asset owners understand the consequences of listing;
- to enforce the moratorium period;
- to take decisions as part of any appeals process.

The Regulations came into force on 21 September 2012 therefore the City Council is now able to consider any applications.

The Department of Communities and Local Government has published a non-statutory Advice Note for Local Authorities. More information is available here:

<http://www.communities.gov.uk/publications/communities/righttobidadvicenote>

► Nominating an asset

Definition of a Local Asset

A nominated asset will be excluded from the List if it is used as a residence, including a residential caravan, or if it is operational land as defined in section 263 of the Town and Country Planning Act 1990. Nominated assets may be owned by anybody, including the City Council and the Crown.

The City Council will only List a nominated asset if, in its opinion:

- the actual current use (not an ancillary use) of the building or other land is one that furthers the social wellbeing or social interests of the local community;
AND
- is it realistic to think that there can continue to be non-ancillary use of the building or other land that will further the social wellbeing or social interests of the local community (whether or not in the same way as the current use).

OR

- there was a time in the recent past when an actual use (not an ancillary use) of the building or other land is one that furthered the social wellbeing or interests of the local community; AND
- it is realistic to think that there is a time in the next 5 years when there could be non-ancillary use of the building or other land that would further the social wellbeing or social interests of the local community (whether or not in the same way as before).

These definitions have been taken from the Regulations published by the Government: <http://www.legislation.gov.uk/ukdsi/2012/9780111525791/contents> There is no national guidance as to what the key terms in these definitions mean. It will be for the nominating organisation in the first instance to argue why it considers the nominated asset meets the definition in the Regulations. Appendix 1 of this guide explains the procedure for nomination and gives further guidelines on the points the City Council would wish to see considered.

Who can nominate an asset?

It is open to parishes and community organisations to nominate local assets to Oxford City Council. Community organisations may include a neighbourhood forum, a charity, and a community interest company. The nominating group should have a local connection with the asset, which broadly means that the group must demonstrate that its activities are wholly or partly concerned with the Oxford City Council area or a neighbouring authority that shares a boundary. The Regulations (see web address above) contain further information about who can nominate a local asset.

How to nominate an asset

If a parish council or community organisation wishes to nominate a local asset to Oxford City Council, the procedure and information required is set out in the Appendix. The nomination should be sent to Mr M Crofton-Briggs, Head of City Development, Oxford City Council, St Aldate's Chamber, 109-113 St Aldate's, Oxford, OX1 1DS or emailed to planning@oxford.gov.uk

Once a nomination is received, Oxford City Council has 8 weeks to make a judgement about whether the asset meets the definition set out the Act or whether it falls into one of the excluded categories, including residential property, set out in the Regulations.

If the proposed asset is properly nominated, is in the Oxford City Council administrative area, meets the definition, and is not excluded, the City Council must list it by placing it on the **List of Local Assets of Community Value** and inform all specified parties (including a parish council if relevant). We must also place the asset on the local land charges register and, if the land is registered, apply for a restriction on the Land Register.

If the City Council does not agree that the nominated asset meets the definition in the Act, or it is in one of the excluded categories, we must place it on a **List of Unsuccessful Community Nominations**. The intention of this is to ensure transparency and to avoid multiple nomination of an asset that does not meet the definition. If an owner is successful in their appeal against listing at internal review or Tribunal stage then the asset must also be moved to the list of unsuccessful nominations (see below for more information on owner appeals).

How can an Owner seek a review?

If the owner objects to their property being placed on the List, they will have a right to an internal review by the City Council of the decision to list. The owner may seek a review by writing to the City Council **within 8 weeks** of the date of the Notice of Listing. The City Council will complete the review and notify the owner of its decision and the reasons for that decision **within 8 weeks** of the owner's request, unless the time has been extended by written agreement. If the City Council were to decide to reverse its earlier decision to List the asset it will give the nominator a written copy of its decision and the reasons for that decision.

If the owner remains in disagreement with the listing after the internal review they have a right of appeal to an independent Tribunal. The regulations also allow for the City Council to permit a longer period if requested. The owner should explain why it is believed the Listing decision

should be altered by reference to the definition in the Act. The owner should at this stage indicate if he or she wishes the City Council to hold an oral hearing

The City Council will ask the nominated Director to review the decision. Even if the owner has not requested an oral hearing the City Council may arrange for one to be held. If there is to be an oral hearing the owner may be represented (including legally). The City Council will arrange such a hearing to be held in public, albeit the public will not be able to address the Director.

► What happens once an asset is listed?

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 lease of more than 25 years.

Unless an exemption applies, the owner will only be able to dispose of the asset after a specified window has expired. The first part of this window is a **6 week interim period**, which will apply in all cases from the point the owner notifies the local authority. This will allow community interest groups to make a written request to be treated as a potential bidder. If none do so in this period, the owner is free to sell their asset at the end of the 6 weeks.

If a "community interest group" as defined in the Regulations does make a request during this interim period, then the full **6 month moratorium** will operate. During this period the owner may continue to market and negotiate sales, but may not exchange contracts (or enter into a binding contract to do so later). There is one exception. The owner may sell to a community interest group during the moratorium period.

After the moratorium period – either the 6 weeks or the full 6 months – the owner is free to sell to **whomever they choose and at whatever price**.

Not all proposed sales have to be notified to the City Council however. A range of disposals will be exempted from the provisions. The full list of exemptions is given in Annex A of the *DCLG advice note for local authorities*.

Appendix 1: Procedure for Nominating an Asset of Community Value

In response to the Assets of Community General Regulations 2012 the City Council will follow the following procedures to consider whether to include a nominated asset on the published **List of Local Assets of Community Value**.

Procedure the City Council will follow

1. Receipt of application based on the information required (see below)
2. Validation check
3. City Council will take all practicable steps to notify the owner and any lawful occupier
4. City Council will be open to receive representations by a specified date (21 days)
5. Determination within 8 weeks of receiving the nomination, by the Head of Service (City Development)
6. *If listed*: add details to the List; Give written notice to owner, occupier, nominator, explain right to internal review.
7. Register a restriction against the registered title (if registered) and as a local land charge
8. *If not listed*: give written reasons for the decision to the nominator
9. Add details to the List of Unsuccessful Community Nominations.

Application Information required for nomination of an Asset of Community Value

	Evidence to be supplied
Identity of the nominated land including proposed boundaries (See para 6 of Regulations) e.g. wish to include the car park area next to a building)	A map of the nominated land including its proposed boundaries
All the information the nominator has on: * Names of occupiers * Names and address of all with freehold or leasehold interest in the land (or last known address)	The names of current occupants of the land The names and current or last-known addresses of all those holding a freehold or leasehold estate in the land
Current or recent non-ancillary use of the land and or buildings	Numbers of people making use of the facility History of use
A statement with reasons why the nominator concludes that the land is of community value addressing the tests in the Regulations	<i>See guidance above</i>
Name of the Nominator	
Address of the Nominator	
Explanation of why the nominator is entitled to make the nomination (see categories in the Regulations)	Articles of Association Constitutions Terms of Reference Governance documents
What your local connection to the nominated asset is. (Local connection is defined in detail in para 4 of the Regulations)	Maps documents

The City Council will use the criteria set out in the Regulations to decide whether the nominated asset should be included on the List.

Additional guidance on making a Nomination

There is no national guidance as to what the key terms in the definitions of local assets mean. It will be for the nominating organisation in the first instance to argue why it considers the nominated asset meets the definition in the Regulations.

However, the City Council suggest that consideration is given to the following points.

- “Social wellbeing or social interests of the local community”. The City Council would like to receive evidence to explain why the nominated asset was of value to the local community (who benefits from the use), including the level or scale of use of the asset (how strongly does the local community feel about the usage), the impact of its loss (who will lose if the use ceases) and the way in which it is believed it was of value (Highlighting the value to community pride, inclusion, sense of place, sustainable living)
- “Recent past”. The City Council would suggest that to justify that the use holds some social value to the local community it should not have ceased to be used more than three years before the date of the nomination. If it was longer then a stronger argument should be provided.
- “Realistic to think the use can take place within 5 years”. The City Council would like to receive evidence to show how the community organisation propose to reinstate the use either itself or in partnership with another partner. The evidence might include any steps it has taken to assess the sustainability of the use for example by explaining that it has assessed such financial matters as set-up and running costs and estimated receipts (outline business plan, survey report, market intelligence)