

Appendix A – Community Right to Bid – Frequently Asked Questions

What does “nominating” an asset of community value mean?

Nominating an asset of community value means proposing that a building or land is included in a list of buildings and land of community value maintained by the local authority. This type of listing should not be confused with the listing of buildings of special architectural or historic interest. Local authorities will be required to maintain a list of land and buildings which meet the definition of an ‘asset of community value’.

What is an ‘asset of community value’

An ‘asset of community value’ is an asset that furthers the social well-being or social interests of the local community (or has done in the recent past). ‘Social Interests’ can include cultural, recreational and sporting interests. So, for example, sets of community value could be village pubs and shops, community centres and library buildings.

Can any local community group nominate assets?

Groups nominating an asset should be local and should be a parish council or a voluntary or community body with a local connection. Regulations will define the types of voluntary and community body that can nominate assets.

What does the Localism Act mean by disposal?

Disposal means either a freehold sale or disposal on a long lease of more than 25 years or more. Shorter leases do not count as disposal.

If an asset is surplus to the council’s requirements, why does the council need to look at options? Surely there is only one option – getting the best price?

In reviewing the future of any asset, it is important to look at all the options, to be sure that the council gets best value. Options include using it in a different way, disposing of it on the open market or transferring it to a voluntary or community organisation at less than best consideration to achieve wider social benefits.

Surely it's only fair to our council taxpayers that the council sells any surplus assets for the best price it can get?

Local authorities are usually required to dispose of land and building on the basis of the best 'consideration' reasonably obtainable. However, best consideration means achieving maximum 'value' from the disposal, not just maximum price. Disposal at less than market value must contribute to the 'promotion or improvement of the economic, social or environmental wellbeing of the area'.

Why should we assume that a community organisation can run a building profitably, when the Council isn't able to?

Community organisations operate on a different business model, often using volunteer effort, community intelligence about local needs and sources of funding not available to local authorities. They are in a position to run a community asset as a social enterprise. The business plan for the community asset transfer should demonstrate financial viability.

The council offers the same terms and conditions to all leaseholders. Why should it treat community organisations differently?

A community asset transfer brings benefit to the council, which makes it value for money. To gain those advantages, the lease terms need to be appropriate and proportionate.

How should the Council deal with competing interests in respect of a particular asset?

The first test is which proposals are viable and sustainable in the long term. Community asset transfer should contribute to the policies and targets of your authority. Deal with competition for a specific building by identifying the Council's key objectives in that area –using, for example, deprivation indices, local priorities and the current mix of buildings and services in the area – and assess which bid best meets those objectives. Many authorities use a scoring system.

Should there be a competitive process for every asset transfer?

Some local authorities advertise all community asset transfer opportunities to ensure fairness. Others will consider transfer requests from organisations, which currently manage a property without seeking other bids. The council's approach should be set out in its Community Asset Transfer Strategy.

Why should the Council develop a Community Asset Transfer strategy?

Developing a strategy should ensure consistency and fairness. Linked processes should detail the application process and likely timescales. Consultation with the local community and voluntary sector on the development of the strategy should ensure that it meets local needs.

How can the Council be sure it's getting value for money if it transfers an asset at less than market value – Why should it forego a capital receipt?

The Government's Best Value guidance recognises the importance of social as well as economic and environmental value in the achievement of best value. Community asset transfer can contribute to achieving the policy objectives of the local authority. Disposal to secure a capital receipt must therefore be considered alongside other options in order to secure best value.

How do we know the community organisation won't just collapse, and hand the building back, when the current leaders move on?

Any disposal carries risk – but the risks can be minimized through good policies, procedures and support. Robust assessment of the business plan for a community asset transfer will give confidence about financial sustainability, management and community support. Maintaining a supportive long-term partnership with transfer organisations will enable problems to be identified early and dealt with.

How do we know that an organisation will not simply sell the asset on and pocket the proceeds? How do we protect against that?

Community asset transfers are usually only made to organisations which have an 'asset lock' – that is a clause in their governance which restricts asset disposal. Generally this would apply to registered charities, community interest companies and charitable community benefit societies (a type of Industrial & Provident Society). Restrictions may also be written into the lease.

We have requested a community asset transfer. The local authority has agreed but will only offer us a 5-year lease. We think it should be longer. What can we do?

Find out why the council is offering a 5-year lease – this will allow you to address any issues. Length of lease can be very important if you need to raise capital funding. Many funders will expect a lease of 20 or 25 years – some even longer. Some councils offer a short lease so that the community or voluntary organisation can test out managing the building with the option of moving to a longer lease if it works well.

Our local authority has suggested that we take a community asset transfer of our local resource centre but we are worried about taking on more responsibility. What are the key issues that we should be thinking about?

You need to consider whether your organisation has the skills, enthusiasm and person power to own and manage the building and whether there is strong community support. You will need to look at the finances – what is the likely income, what are the running costs, how will you repair and refurbish the building in the long term. There is extensive written information to help you to think through these issues.

What is an exempt disposal?

An exempt disposal is exempt from the moratorium periods set out in the Act. It is the responsibility of the owner not the local authority to decide whether a particular disposal is exempt.

Does listing an asset place a restriction on what the owner can do with it, while it remains in his ownership?

No, because planning policy determines permitted uses for particular sites. However, the fact that the site is listed may affect planning decisions – it is open to the Local Planning Authority to decide that listing as an asset of community value is a material consideration if an application for change of use is submitted, considering all the circumstances of the case.

What happens if an asset is nominated which includes land within more than one local authority area?

The Act requires the local authorities concerned to co-operate in fulfilling the requirements of the Act, but leaves it to their discretion to decide how to do this in their local situation. It is likely that one of the authorities will act as the lead and manage the nomination process.

What does the Localism Act mean by the owner?

The owner is the person who holds the freehold unless there is a long leasehold in place, in which case the long leaseholder would be seen as the owner in terms of the Act.