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**ASSETS OF COMMUNITY VALUE**

Committee: Finance and Governance Committee

Date: 26<sup>th</sup> November 2012

Author: Julie Cornwell, Partnerships Officer

[M169]

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1.0 **ISSUE**

1.1 This report advises Finance and Governance Committee of the requirements set out in Chapter 3, Part 5 of the Localism Act 2011 (LA 2011) Community Right to Bid more commonly known as 'Assets of Community Value' (ACV), and seeks agreement for the proposed approach for setting up the list of assets and related processes as set out in the Assets of Community Value Protocol and appendices, attached at Appendix A.

2.0 **RECOMMENDATION**

2.1 That Finance and Governance Committee approve the Assets of Community Value Protocol, Appendices and associated procedures and proposed delegations listed in paragraph 4.5.

3.0 **BACKGROUND**

3.1 The LA 2011 allows community organisations to nominate buildings or other land for inclusion on a list of assets of community value, if they are considered to be of importance to a community's social wellbeing or social interests. If the building or other land is added to the list, an asset must not be sold without the Council being notified. If the owner of the building or other land wants to sell their asset, this triggers a "moratorium" (a period of time within which the asset cannot be sold) during which community organisations have the opportunity to put together a bid to buy the asset. This scheme is also therefore known as the "Community Right to Bid".

3.2 Note that although organisations are given the opportunity to bid to buy the asset, this does not oblige the owner to sell the asset to them nor are they entitled to buy the asset at a discount.

3.3 The relevant statutory provisions came into force on 21<sup>st</sup> September 2012 and the Council is therefore required to deal with any nominations that come forward from that date.

4.0 **MAINTAINING THE LIST**

- 4.1 The LA 2011<sup>1</sup> requires ECDC to maintain a list of land or buildings in the District that is of community value. This list will be called the 'List of Assets of Community Value'. ECDC must also maintain a list of unsuccessful nominations. This list is called 'List of land nominated by unsuccessful community nominations'. There is no prescribed form that the lists must take, but as it must be available for public inspection without charge the Council will make the list available on-line and in hard copy.
- 4.2 Nominations for inclusion on the list must be made by a voluntary or community body with a local connection or by a Parish Council (see section 2 of the Council's Protocol). The Regulations contain comprehensive definitions for who is entitled to make a nomination, examples of which include a neighbourhood forum, an association of at least 21 members registered to vote locally and whose surplus funds (if any) are applied for the benefit of the area, or a charity that operates in the local area. Certain information must be included in the nomination. A nomination form has been developed to help applicants complete the nomination process correctly (see Appendix A of the Council's Protocol).
- 4.3 Certain land and buildings are prevented from being assets of community value, namely buildings wholly used as residences and connected land, caravan sites, and operational land (such as that belonging to the former utilities or a rail operator). Subject to that, the asset should be listed if in the opinion of the Council:-
- an actual current use of the building or other land (that is not an ancillary use) furthers the social wellbeing or social interests (cultural, recreational and/or sporting) of the local community, and
  - it is realistic to think that there can continue to be non-ancillary use of the building or other land which will further (whether or not in the same way) the social wellbeing or social interests of the local community.
- 4.4 Alternatively, an asset can qualify if it had such a use (described at 4.3 above) in the recent past, and it is realistic to think that there is a time in the next five years when it could do so again (whether or not in the same way as before). It does not prevent the owner from applying for change of use for the building.
- 4.5 The proposed process for considering nominations as detailed in the ACV Nominations flowchart (Appendix B of the Protocol), is that the basic assessment of whether a nomination is valid (i.e. does the nominating group meet the criteria as set out in the regulations) should be made by the Community Development and Engagement Officer, Community Services and consideration of a nomination should be decided by an 'AVC Assessment Panel' comprising of the:

Head of Community Services  
Head of Legal and Democratic Services  
Head of Planning and Sustainable Development

This delegated decision will be reported to the Finance and Governance Committee at the earliest opportunity and the delegation responsibilities set out above will require amendments to the current delegations within the Council's constitution.

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<sup>1</sup> s90 (4) LA 2011

## 5.0 THE EFFECT OF LISTING

- 5.1 Notice of the decision will be given to the nominating organisation, together with reasons if the listing is unsuccessful. If successful, notice will also be given to the owner and occupier with reasons to support the Council's decision. If the Council has not been informed of the owner or occupier than a land registry search will need to be carried out.
- 5.2 If the building / other land is successfully registered on the "list of Asset of Community Value" the listing must be registered as a local land charge and if the land/asset is registered at the Land Registry a restriction will be registered against the Land Registry title. Conversely, it must be de-registered following a successful appeal against a listing. The cost to the Council to register a restriction against a Land Registry title is £40 per registered tile, plus an allocation for trying to ascertain who owns a piece of land if it is not already known. There is no charge to remove the restriction from the Land Registry title.
- 5.3 Following the listing of an asset, nothing will happen until an owner wants to dispose of the freehold or a long leasehold interest in it. In those circumstances, notice of the intended disposal should be given to the Council. There are exceptions to this, including gifts of land, transmission of assets on death, transfer of the asset between family members, or transfer of a business as a going concern. The owner is explicitly allowed to dispose of the land to a Community Interest Group (CIG).
- 5.4 The Council must in turn pass on the owner's notice to the group who made the original nomination, and publicise within its area the fact that it has received notice of the intended disposal of a listed asset so that another qualifying Community Interest Group (CIG) can apply. Additional resource will be required for publicising a notice of intended sale of a community asset.
- 5.5 Notice from an owner of an intended disposal is the starting date for the following periods:-
- The "interim moratorium period" of six weeks, during which a defined "CIG" can submit a written request to be treated as a potential bidder for the land, which the Council must pass on to the owner.
  - The "full moratorium period" of six months, which is triggered if such a request is received, and during which the CIG can put a bid together to purchase the property.
  - The "protected period" of eighteen months, during which the owner is free to sell the asset without further delay, if no CIG has submitted a request and/or pursued it through to completion of a purchase within the relevant moratorium periods.
- 5.6 An owner may be entitled to claim compensation for loss/expense incurred in relation to the land which would be likely not to have been incurred if the land had not been listed (including legal expenses if the owner appeals to the First Tier Tribunal).
- 5.7 It will also be possible for an asset owner to claim compensation for expenses incurred during a sale as a result of the listing. The Government estimates an average of £2000 per claim in these circumstances.

5.8 The ACV Protocol provides for the validity and level of compensation claims to be dealt with and approved by the Head of Finance, in conjunction with the Chairman of the Finance and Governance Committee, calling on the expertise of other relevant professionals, for example in Facilities Management or external valuation, where appropriate.

5.9 The Government has indicated that it will pay compensation claims of over £20,000 submitted by the Local Authority (this could be one single claim or a number exceeding £20,000 in total). However, this is only guaranteed until 2015. Therefore a budget for paying compensation claims will need to be established.

## 6.0 REVIEWS

6.1 There are two situations in which an owner can ask the Council for a review of its decision:-

- a “listing review”, that is a review of the decision to include an asset on the list;
- a “compensation review”, that is a review of a decision whether or not to award compensation, or the amount of compensation that has been awarded.

6.2 The LA 2011 stipulates a listings review has to be carried out by an officer of “appropriate seniority” who did not take any part in making the original decision. The ACV Protocol provides for the review function to be carried out by the Deputy Chief Executive in view of his oversight of the localism agenda generally coupled with the fact that he will not be involved in the day to day decision-making processes set out in this report.

6.3 There is a further right of review in either case to a First Tier Tribunal, which can award reasonable legal costs against the Council.

## 7.0 FINANCIAL IMPLICATIONS

7.1 As detailed above, there are resource implications that cannot be met from existing budgets. The Department for Communities and Local Government has paid a ‘new burdens payment’ of £4873.00 on 15 October to ECDC. This payment is not ring-fenced and relates to costs associated with new duties under the new Community Right to Bid/ACV. Subject to Parliamentary approval further payments will be paid in both 2013 and 2014 although no guidance has been published to future levels of support.

7.2 The receipt and assessment of a small number of nominations could be managed within existing staff resources, through re-prioritising existing workloads. However, if a significant number of nominations are received, there may be a need for increased staff resource.

7.3 Other financial impacts include the payment for Land Registry searches and the registration of restrictions against land registry titles, if the land is successfully included on the Assets of Community Value list and if the land is registered at the Land Registry.

7.4 An Equality Impact Assessment (INRA) is attached at Appendix B.

8.0 APPENDICES

8.1 Appendix A – Assets of Community Value Protocol and appendices.

8.2 Appendix B - INRA

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<b><u>Background Documents</u></b>	<b><u>Location</u></b>	<b><u>Contact Officer</u></b>
Chapter 3, Part 5 of the Localism Act 2011	Room FF115 The Annexe ECDC	Julie Cornwell Partnerships Officer (01353) 616352 E-mail: <a href="mailto:julie.cornwell@eastcambs.gov.uk">julie.cornwell@eastcambs.gov.uk</a>
The Assets of Community Value (England) Regulations 2012 (2012/2421)		
Community Right to Bid: Non-Statutory advice note for local authorities, DCLG Oct 2012.		



# Assets of Community Value Protocol

## Introduction

The Localism Act 2011 introduces 'Assets of Community Value' (also known as Community Right to Bid). The legislation enables local groups to nominate a building or piece of land that is important for the social well-being of the area for inclusion on the local authority's 'List of Assets of Community Value' and bid for it if it comes up for sale. This protocol outlines the process that will be followed in East Cambridgeshire for qualifying voluntary and community bodies to exercise the 'Community Right to Bid' and the process that the owner must go through if they choose to sell the asset, which was listed on ECDC's list of Assets of Community Value.

## Key Terms:

- LA 2011 means Localism Act 2011
- DCLG Advice Note means 'Community Right to Bid: Non-statutory advice note for local authorities', October 2012, Department for Communities and Local Government.
- Regulations means 'The Assets of Community Value (England) Regulations 2012'.

## **PART 1 – LISTING AN ASSET**

### **1. What qualifies as an asset of community value**

The LA 2011<sup>1</sup> describes an asset of community value as 'a building or other land in a local authority's area is land of community value if in the opinion of the authority –

- a) An actual current use of the building or other land that is not an ancillary use furthers the social wellbeing or social interests of the local community, and
- b) It is realistic to think that there can continue to be non-ancillary use of the building or other land which will further (whether or not in the same way) the social wellbeing or social interests of the local community.

The LA 2011<sup>2</sup> also states that buildings or other land can be considered as an asset of community value if in the recent past they have furthered the social wellbeing or interests of the local community and the use of the building or land that was not an ancillary use and it is realistic to think that within the next five years it would further the social wellbeing or interests of the local community. The LA 2011 and associated regulations do not define 'social wellbeing' or 'recent past', although "social interests<sup>3</sup>" is described in the LA 2011 as including cultural, recreational and sporting interests. Therefore ECDC will consider each nomination on a case-by-case basis, using widely accepted definitions as guidance.

Schedule 1 of the Regulations lists land which is not of community value and therefore may not be listed. This list includes residential properties and land

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<sup>1</sup> s88 (1) (a) and (b) LA 2011

<sup>2</sup> s88(2) (a) and (b) LA 2011

<sup>3</sup> s88 (6) LA 2011

## APPENDIX A

connected to a residential property, caravan sites or operational land as defined in section 263 of the Town and Country Planning Act 1990. ECDC will apply the definitions set out in the Regulations when considering whether a building or other land is eligible to be nominated as an asset of community value.

### 2. Who may nominate an Asset

For a local group to be able to nominate land it will have to demonstrate that its activities are wholly or partly concerned with East Cambridgeshire or with a neighbouring authority (an authority which shares a boundary with East Cambridgeshire). The Regulations define what a 'local connection'<sup>4</sup> is and ECDC will apply this definition when assessing whether the nominating body qualifies.

The voluntary or community bodies that may make community nominations are set out below<sup>5</sup>:

**Parish Councils:** Any Parish Council within the borders of East Cambridgeshire can nominate an asset in their parish to East Cambridgeshire District Council (ECDC). A parish council can also nominate an asset in a neighbouring parish (where the boundaries are shared) or a neighbouring local authority if the Parish Council borders an un-parished area.

**Unincorporated groups:** Nominations can be accepted from any unincorporated group with membership of at least 21 local people who appear on the electoral roll within the local authority area, or a neighbouring local authority. The body's activities must be wholly or partly concerned with the local authority's area or with a neighbouring authority's area and must not distribute any surplus it makes to its members.

**Neighbourhood Forums:** as described in section 61F of the Town and Country Planning Act 1990.

**Community interest groups with a local connection:** The body's activities must be wholly or partly concerned with the local authority's area or with a neighbouring authority's area. These must have one or more of the following structures:

- a) A charity
- b) A community interest company
- c) A company limited by guarantee that is non profit distributing
- d) An industrial and provident society that is non-profit distributing<sup>6</sup>

### 3. How to Nominate an Asset

A nomination<sup>7</sup> must include:

- a) A description of the nominated land including its proposed boundaries;

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<sup>4</sup> Regulation 4

<sup>5</sup> DCLG Advice Note p10 and Regulation 5

<sup>6</sup> Defined in the DCLG Advice Note p11 as meaning that any surplus is not distributed to its members but is wholly or partly applied to the local authority area where the asset is based or to a neighbouring authority area.

<sup>7</sup> Regulation 6

## APPENDIX A

- b) A statement of all of the information which the nominator has with regard to –
  - i) The names of current occupants 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;
- c) The nominator's reasons for thinking that ECDC should conclude that the land is of community value; and
- d) Evidence that the nominator is eligible to make a community nomination.

ECDC has produced an 'Assets of Community Value Nomination Form' attached at Appendix A to help organisations who wish to make a nomination ensure they include all of the information set out within the Regulations. The form must be completed by a voluntary or community body as detailed at section 2 above. The form can be submitted at any time and should contain as much detail as possible to enable ECDC to make an informed decision as to whether the nomination is valid and if the building or other land should be nominated as an Asset of Community Value. The form can be completed on line or downloaded from ECDC's website and submitted to [acv@eastcambes.gov.uk](mailto:acv@eastcambes.gov.uk). The form can also be sent to Community Development and Engagement Officer, ECDC, The Grange, Nutholt Lane, Ely, Cambs, CB7 4EE.

### **4. Procedure when a nomination is being considered**

The process that ECDC will follow when it receives a nomination is detailed in the flow chart at Appendix B. ECDC will decide whether land nominated by a community nomination should be included on the list of Assets of Community Value within eight weeks of receiving the nomination<sup>8</sup>. It will inform the relevant parish council, the owner of the land, any freeholders or leaseholders, any lawful occupant of the land<sup>9</sup> and the Ward Councillor of the receipt of a nomination and notify them of the outcome once all of the information it has received on the nomination form has been considered.

If ECDC are not able to give notice to any of the people listed above by letter – for instance due to lack of information as to the names or addresses of owners/occupiers – reasonable alternative steps will be taken to bring the notice to a person's attention. This could for example include a notice attached to the property.

The LA 2011<sup>10</sup> requires ECDC to maintain a list of land or buildings in the District that is land of community value. This list will be called the 'List of Assets of Community Value'. ECDC must also maintain a list of unsuccessful nominations, This list is called 'List of land nominated by unsuccessful community nominations'. ECDC will make both lists available on its website and a paper copy of both lists will be available for inspection at ECDC's reception at The Grange, ECDC, Nutholt Lane, Ely, Cambs, CB7 4EE, during normal opening hours. One free copy per person of each list will be also be supplied upon request.

The list of 'Assets of Community Value' will include information in respect of the land to which the entry applies, the name of the community group that has submitted the

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<sup>8</sup> Regulation 7

<sup>9</sup> Regulation 8

<sup>10</sup> s90 (4) LA 2011



## APPENDIX A

nomination, the date that the nomination was received and why it was successful. ECDC will amend the list as required to exclude any of the land that has since it was included in the list been the subject of a relevant disposal other than one referred to in section 95 (5) of the LA 2011 and remove the entry if an appeal against the listing is successful or if ECDC no longer considers the land to be an asset of community value.

The list of 'land nominated by unsuccessful community nominations' will also contain information in respect of the land to which the entry applies, the name of the community group that has submitted the nomination and the date that the nomination was received. The reasons why the nomination was not successful will also be listed. Once a decision has been made as to whether the building or other land is an Asset of Community Value it will be added to the relevant list and published accordingly<sup>11</sup>.

If the nomination is successful, ECDC will register the asset as an Asset of Community Value on the Local Land Charges Register and if the land is registered ECDC will apply to register a restriction against the Land Registry title. These are statutory requirements and should ensure that if an asset is offered for sale, individuals / organisations are made aware that the asset is registered as an Asset of Community Value. The asset owner will also be informed of their right to request a listing review under section 92 of the LA 2011 Act and ECDC will explain the consequences for the land and the owner of the land's inclusion in the list<sup>12</sup>.

ECDC will remove the nominated building or other land from the 'Asset of Community Value' and 'land nominated by unsuccessful community nominations' lists after 5 years from the point of inclusion on the list. ECDC will also cancel the local land charge registration and remove the restriction from the Land Registry title at this time. The asset can be re-nominated following the procedures set out at section 3 above.

### **5. Procedure for a listing review**

The LA 2011 does not provide for an appeal mechanism against ECDC's decision if a nomination is unsuccessful. However there is an appeal mechanism for an owner if they disagree with ECDC's decision to list an asset as an Asset of Community Value this is known as a listing review.<sup>13</sup> The owner and ECDC must bear their own costs of such a review.

In accordance with Schedule 2 of the Regulations, the owner must request the listing review in writing before the end of the period of eight weeks beginning with the day on which written notice of inclusion of the land in the list was given by ECDC.

Upon a written request for a review, ECDC will notify the owner of the procedure for the review. This will confirm that the review will be carried out in accordance with Schedule 2 of the Regulations and will be undertaken by a senior officer that had no involvement in the original decision to accept the building or other land on the list of 'Assets of Community Value'. The owner may appoint any representative to act on his or her behalf representations can be made in writing, orally or both. The owner

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<sup>11</sup> s94 LA 2011

<sup>12</sup> s91(3) LA 2011 For example, if a building or other land is added to the list of assets of community value, the fact of listing may be a material consideration if the owner applies for planning permission affecting the asset.

<sup>13</sup> S92(1) LA 2011

## **APPENDIX A**

should inform ECDC if a representative is appointed whereupon ECDC will correspond with the representative and is not obliged to supply copies of documents to the owner.

ECDC will complete the review by the end of the period of eight weeks beginning with the date that it receives the written request for the review, or such longer period as is agreed with the owner in writing. If requested in writing by the owner, an oral hearing will be held. The owner will be notified in writing of the decision of the review, the reasons for the decision and the owners right of appeal. During this time the Asset of Community Value will remain listed.

If the listing review<sup>14</sup> finds that the land concerned should not have been listed on 'the List of Assets of Community Value', the entry will be removed from the list and a letter sent detailing the reasons for the removal to the person who made the original nomination.

### **6. Appealing Against a Listing Review Decision**

An owner of a listed Asset of Community Value may appeal<sup>15</sup> to the First-Tier Tribunal against ECDC's decision on a listing review in respect of the land. The owner may be the owner who requested the listing review or a subsequent owner of part or all of the land.

The deadline for appealing is specified in the procedural rules of that Chamber as 28 days from the date on which notice of the decision appealed against was sent to the owner. Appeals may be both on points of law and on findings of fact. The property will remain listed during the appeal process.

## **PART 2 – SELLING AN ASSET**

### **7. Conditions for selling an Asset of Community Value**

The owner of a building or other land that is on the list of 'Assets of Community Value' must notify ECDC in writing of their wish to enter into a relevant disposal<sup>16</sup> of the land. The other conditions<sup>17</sup> listed below that are triggered as a result of notifying ECDC of their intentions must also be met:

- a)The interim moratorium period has ended without ECDC having received during that period a written request for the group to be treated as a potential bidder in relation to the land,
- b)The full moratorium has ended, or
- c)The protected period has not ended.

If these conditions are not complied with a relevant disposal of listed land contravenes Section 95(1) of the LA 2011 and is therefore ineffective unless the

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<sup>14</sup> s92(4)(a) LA 2011

<sup>15</sup> Regulation 11

<sup>16</sup> 'Relevant disposal' is defined in Section 96 of the LA 2011. It means a transfer of the freehold or grant or assignment of a qualifying leasehold estate which gives vacant possession of the buildings and other land in question. Qualifying leasehold estate means when the lease was granted it had at least 25 years to run

<sup>17</sup> Regulation 13

## **APPENDIX A**

owner has made all reasonable efforts to find out if the land is listed, and was unaware of it at the time of disposal.

### **8. The interim moratorium period**

The process that ECDC will follow when it receives notification from an owner of their intention to enter into a relevant disposal is attached at Appendix C. Upon written notification from an owner of their intention to enter into a relevant disposal of the land, ECDC will update the list of 'Assets of Community Value' detailing that notice under Section 95 (2) of the LA 2011 has been received, the date on which ECDC received the notice and the end dates for the interim moratorium period, the full moratorium period and protection period. ECDC will also notify in writing the person who made the nomination and publicise all of these details in the area where the land is situated<sup>18</sup>.

The date of receipt of notification from an owner triggers an interim moratorium period of 6 weeks. In this time the owner cannot sell the asset (unless it falls within one of the exemptions or the sale is to a community interest group).

During the interim moratorium period a community interest group (CIG) may request in writing to be treated as a potential bidder for the asset<sup>19</sup>. If this occurs the full moratorium period comes into force. The CIG does not have to provide any evidence of intention or financial resources to make such a bid. A CIG must have one or more of the following structures:

- a) A Parish Council
- b) A charity
- c) A community interest company
- d) A company limited by guarantee that is non-profit distributing
- e) An industrial and provident society/community benefit society that is non-profit distributing.

ECDC will pass on the details of any written request received from a CIG to the asset owner<sup>20</sup>.

If no request from a CIG is received, ECDC will notify the owner to that effect, whereupon the owner is free to dispose of the asset on the open market. No further moratorium will apply for the remainder of a protected period lasting 18 months running from the same start date of when the owner notified the local authority of wishing to sell.

### **9. The full moratorium period**

Upon receipt of written request from a CIG to be treated as a potential bidder, the full moratorium period of six months applies, starting from the date ECDC receives notification from the land owner of their intention to enter into a relevant disposal. The owner may not dispose of their asset during the full moratorium period (except as permitted in the LA 2011 and Regulations).

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<sup>18</sup> s97(3) and (4) LA 2011

<sup>19</sup> s98(1) LA 2011

<sup>20</sup> s98(2) LA 2011

## APPENDIX A

The owner may only sell the asset during the full moratorium period to a CIG that either did or would have been eligible to trigger the full moratorium<sup>21</sup>.

If no bids are received from a CIG within the 6 month moratorium the owner may sell the asset on the open market. No further moratorium period can be triggered until 18 months after receipt from owner notice of the intention to dispose of the asset.

Upon sale of the asset the new owner must provide ECDC with their details. ECDC will then update the list of 'Assets of Community Value' accordingly.

### 10. **Exemptions from the moratorium requirements**

Some types of relevant disposal are exempt from the requirements set out at 8 and 9 above. The exemptions are set out partly in the LA 2011<sup>22</sup> and partly in the Regulations. A full combined list of exemptions is attached at Appendix D<sup>23</sup> and includes:

- a gift of the asset;
- transmission of the asset under the terms of a will or intestacy; or to raise money to satisfy other entitlement under the will or intestacy, or to pay the deceased person's debts, taxes, or costs of administering the estate;
- transfer between family members<sup>24</sup>, defined for these purposes as spouses or civil partners, or persons descended from the same grandparents (including relationships by marriage);
- a disposal with other land;
- a person joining or leaving a partnership;
- under the terms of a trust.

Even if a transfer falls within one of the exceptions, the new owner is requested to notify ECDC that the transfer has taken place, giving their name and address. An owner must also notify the Council if he or she applies for first registration of unregistered land that is on the Council's list.

### 11. **Compensation**

The process that ECDC will follow when it receives a written request for compensation from an owner is attached at Appendix E. Private owners may claim compensation<sup>25</sup> for loss and expense incurred through the asset being listed or previously listed. The Regulations specifically provide that this includes a claim arising from a period of delay in entering into a binding agreement to sell that is wholly caused by the interim or full moratorium period; or for legal expenses incurred in a successful appeal to the First Tier Tribunal.

A claim must be made in writing to ECDC by the end of thirteen weeks after the loss or expense was incurred, or finished being incurred. The owner should state the

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<sup>21</sup> Para 9.6 p17 of DCLG Advice Note

<sup>22</sup> s95(5) LA 2011 and Schedule 3 of Regulations

<sup>23</sup> As listed in the DCLG Advice Note

<sup>24</sup> s95(7) LA 2011

<sup>25</sup> Regulation 14

## APPENDIX A

amount of compensation sought, and include supporting evidence. The burden of proving the claim falls on the owner.

Claims should be sent:-

- by email to: [avc@eastcambs.gov.uk](mailto:avc@eastcambs.gov.uk); or
- by post to: Community Development and Engagement Officer, ECDC, The Grange, Nutholt Lane, Ely, Cambs, CB7 4EE.

The Council will consider the claim and give written reasons<sup>26</sup> for its decision.

### **12. Review of compensation decision**

The owner may ask ECDC to review<sup>27</sup> either or both of its decisions made in response to that claim as to –

- a) Whether compensation should be paid to that person
- b) If compensation is to be paid, the amount of that compensation.

In accordance with Paragraph 2 of Schedule 2 of the Regulations, the owner must request the compensation review in writing before the end of the period of eight weeks beginning with the day on which written notice of the decision made on compensation was given by ECDC, giving appropriate evidence to support the submission.

Upon a written request for a review, ECDC will notify the owner of the procedure for the review. This will confirm that the review will be carried out in accordance with Schedule 2<sup>28</sup> of the Regulations and will be undertaken by a senior officer that had no involvement in the original compensation decision. The owner may appoint any representative to act on his or her behalf both in writing or orally or both. The owner should inform the Council if a representative is appointed whereupon the Council will correspond with the representative and is not obliged to supply copies of documents to the owner.

ECDC will complete the review by the end of the period of eight weeks<sup>29</sup> beginning with the date that it receives the written request for the review, or such longer period as is agreed with the owner in writing. If requested in writing by the owner, an oral hearing will be held. The owner will be notified in writing of the decision of the review, the reasons for the decision and the owners right of appeal<sup>30</sup>.

### **13. Appeal against Compensation Review Decision**<sup>31</sup>

Where ECDC has carried out a compensation review, the person who requested the review may appeal to the First-Tier Tribunal against any decision of the authority on the review. The deadline for appealing is specified in the procedural rules of that Chamber as 28 days from the date on which notice of the decision appealed against was sent to the owner.

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<sup>26</sup> Regulation 14(6)

<sup>27</sup> Regulation 16

<sup>28</sup> Schedule 2 of the Regulations paragraph 5(1) and (2)

<sup>29</sup> Schedule 2 of the Regulations paragraph 9

<sup>30</sup> Regulation 16(3)

<sup>31</sup> Regulation 17



EAST CAMBRIDGESHIRE  
DISTRICT COUNCIL

## Assets of Community Value (ACV) Nomination form

### Section 1 - About the property to be nominated

* Name of property:		
* Address of property:		
Postcode:		

Property owners name:		
Address		
Postcode		Tel: <input type="text"/>

Current Occupiers name		
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### Section 2 - About your community organisation

* Organisations Name:		
Title of applicant:		
Surname:		
Position in organisation:		
Email address:		
Address of individual/organisation:		
Postcode:		Tel: <input type="text"/>

Organisation type; (please tick)		
Constituted Community / Voluntary group	Parish Council	
Community interest Company	Neighbourhood Forum	
Un-constituted community group	Industrial & provident society (Community Benefit Societies)	
Company Limited by guarantee Number:	Charity: Number	

If you are an un-constituted community group do you have more than 21 members?

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### **Section 3 – Local connection**

If you are not a Parish Council please explain your local connection to the asset:

### **Section 4 – \* Supporting information**

Why do you feel the property/land is an asset of community value? Ensure that you demonstrate that the asset is or has recently been used for the social interest/s of the local community.

### **Section 5 – Boundary of property**

What do you consider to be the boundary of the property? Please give as much detail as possible and if possible include a plan.

\* As per Section 93-94, Part 5, Chapter 3, of the Localism Act 2011, this information will be publicly available.

NB: The ACV Assessment Panel will be using a scoring sheet to assess the nomination. If the majority of the Panel do not feel that the nomination is of community/social value the application will be unsuccessful.

## Section 5 - Attachment checklist

Supporting documents required				
Supporting documents	Organisations			
	Parish Council	Un-constituted group		Constituted Community / Voluntary group
		Industrial & provident society		Community interest Company
		Company Limited by guarantee		Neighbourhood Forum
			Charity	
Group Constitution				√
List of 21 local members			√	
Site Boundary plan	√		√	√
Charity Number				√
Company Limited by guarantee number			√	√
Surplus for the community benefit			√	
Location of organisations activities	√		√	√
Evidence of local connection	√		√	√
Evidence of agreed nomination through group meeting minutes	√		√	√

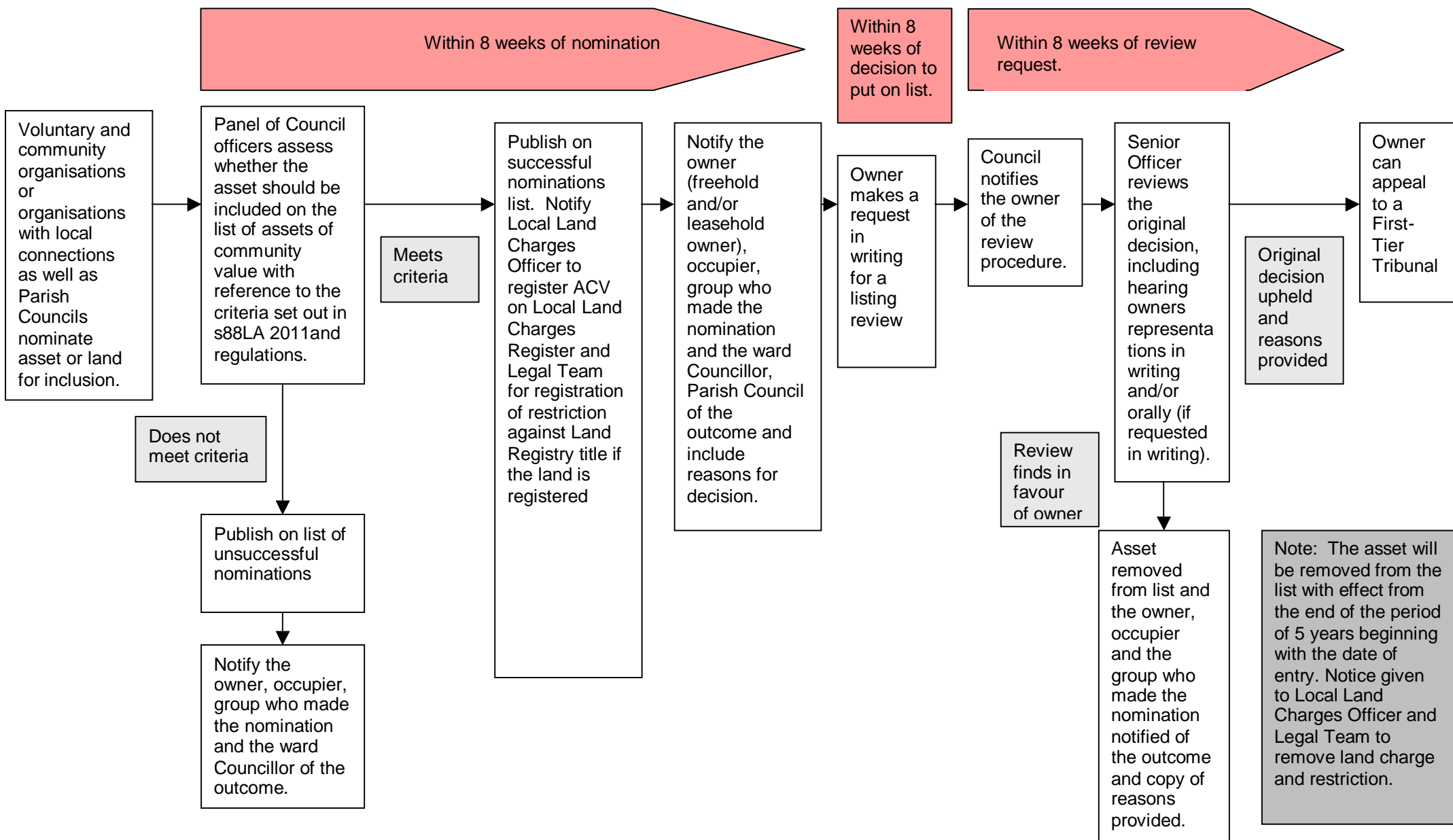
## Section 4 - Declaration

I can confirm to the best of my knowledge that the information contained in this application is complete and accurate				
Signed:		Date:		

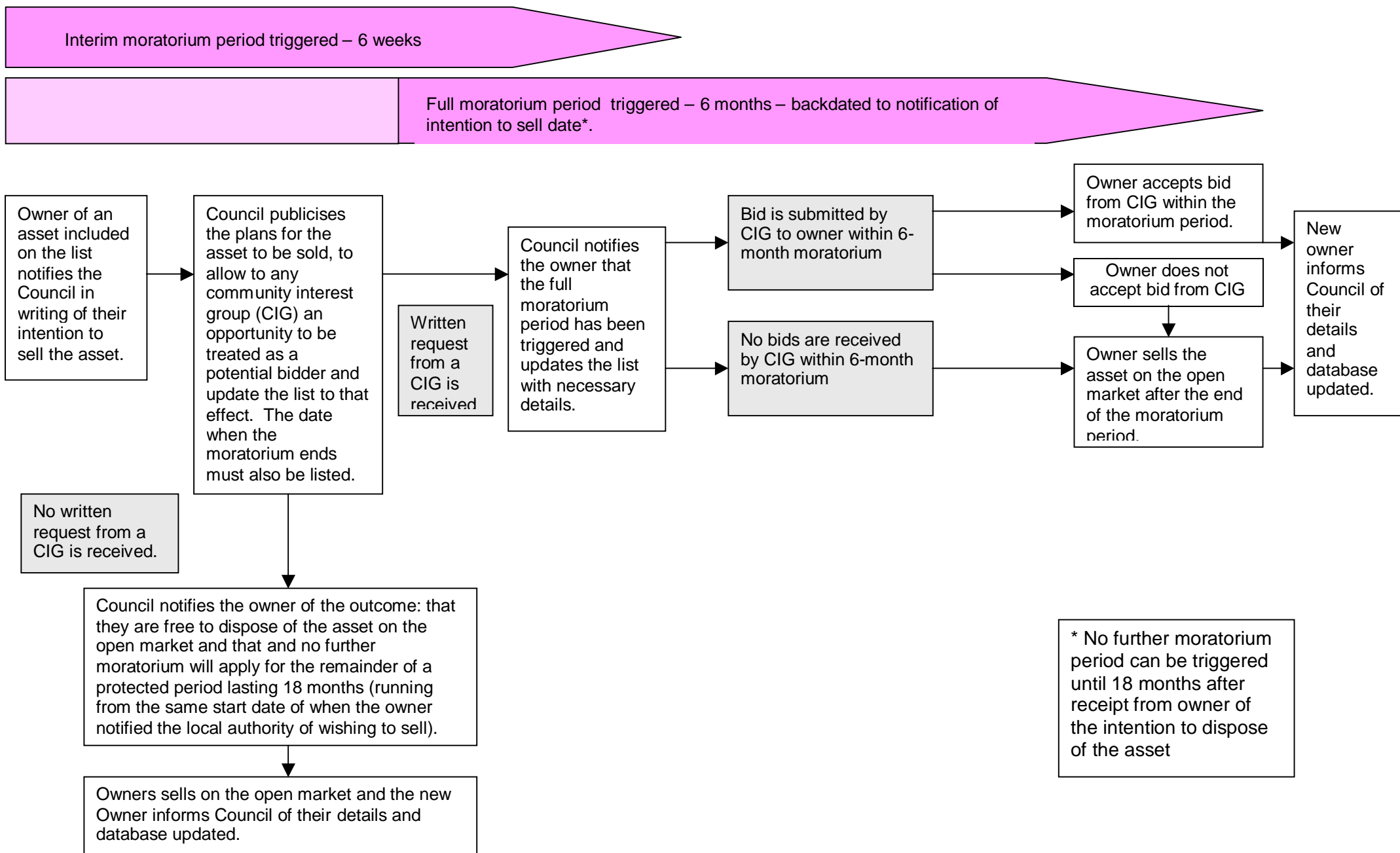
Please send your application form to (insert name and role) via  
**ACV@eastcambs.gov.uk** or;  
**East Cambs District Council, The Grange,**  
**Nutholt Lane, Ely, Cambs, CB74EE**



## Assets of Community Value: Nominations Process Chart



### Assets of Community Value: Selling an Asset Process Chart



## Exemptions from the Moratorium Requirements

The full list of exemptions is as follows. The first is in a different category to the remainder, in that the moratorium rules will have been triggered by notification from the owner, but the sale will be able to take place during the moratorium. Categories (b) to (j) are in section 95(5) of the Act, and (k) to (y) are in Schedule 3 to the Regulations. Item (f) – part-listed land – is partly defined in the Act, and partly in the Regulations.

- a. disposal to a local community interest group, which can be made during a moratorium period (interim or full) – see regulation 13(1)
- b. disposals which are gifts (including transfer for no payment to trustees by way of settlement upon trusts)
- c. disposals by personal representatives in accordance with the will of the deceased owner or under intestacy rules
- d. disposal by personal representatives of the deceased owner in order to raise money for matters connected with administration of the estate
- e. disposals between family members (“family member” is defined in section 95(7) of the Act as the owner’s spouse or partner and descendants of grandparents – which includes the owner’s own parents, but not the grandparents)
- f. part-listed land – i.e. sale of a site only part of which has been listed – where it meets the requirements set out in the Regulations (see concluding paragraph for details)
- g. sale of land on which a business is carried on, together with sale of that business as a going concern (in such circumstances there would normally be payment separately for the business as a going concern, e.g. the value of equipment, stock and goodwill)
- h. disposals occasioned by somebody becoming or ceasing to be a trustee
- i. disposal by trustees in connection with the trust, as specified
- j. a disposal occasioned by a person becoming or ceasing to be a partner in a partnership
- k. transfers made in pursuance of a court order
- l. transfers (not in pursuance of a court order) as part of a separation agreement between spouses or civil partners (or ex ditto) including agreements for care of dependent children
- m. a transfer (not in pursuance of a court order) for the purposes of any enactment relating to incapacity, with “incapacity” being widely defined to include physical and mental impairment and any interference with capacity to deal with financial and property matters
- n. a disposal made in pursuance of a legally enforceable requirement that it should be made to a specific person, including disposals required under planning obligation agreements; and in the case of an option to buy, nomination right, pre-emption right or right of first refusal only if the agreement was entered into before the land was listed (and in this context it should be noted that an option etc entered into *after* the land is listed would count as a relevant disposal under section 96(4) of the Act)
- o. disposals of a description which brings them within the Crichton Down rules (where the land was acquired by compulsory purchase but is no longer needed, and the disposal is by way of return to the original owner or their descendants) – see DCLG Circular 06/04 “Compulsory Purchase and the Crichton Down Rules”:  
<http://www.communities.gov.uk/documents/planningandbuilding/pdf/1918885.pdf>
- p. sale by a lender under a power of sale (i.e. where the land was security for a loan)

q. disposal of land under bankruptcy or other insolvency proceedings – the wording is “insolvency proceedings as defined by Rule 13.7 of the Insolvency Rules 1986“, which gives a very wide definition of insolvency proceedings

r. compulsory purchase disposals (see the wide definition of “statutory compulsory purchase” in regulation 1, which includes disposals by a purchaser deemed to acquire the land compulsorily under a statutory blight notice, and also disposals by agreement where a compulsory power could be used)

s. the grant of a agricultural tenancy to a successor on the death or retirement of the current tenant pursuant to Part 4 of the Agricultural Holdings Act 1986

t. transfers between connected companies in a group of companies (using the definition of “group undertaking” in section 1161(5) of the Companies Act 2006, modified to restrict “undertaking” to a body corporate)

u. disposals of part-listed land.<sup>1</sup>

v. disposals of closed Church of England churches under Part 6 of the Mission and Pastoral Measure 2011: the lengthy process in Part 6 of the Measure involves public consultation, and at the end of it the building will either be sold or leased for an agreed purpose, or demolished, or transferred to the Churches Conservation Trust for preservation – following which outcomes it will once more be possible to list the building and land if appropriate.

w. disposals by any owner for the purpose of continuing health service provision on the land (in accordance with section 1(1) of the National Health Service Act 2006)

x. a disposal of land to be held for the purpose of a school (excluding independent schools), further education institution or 16 to 19 Academy

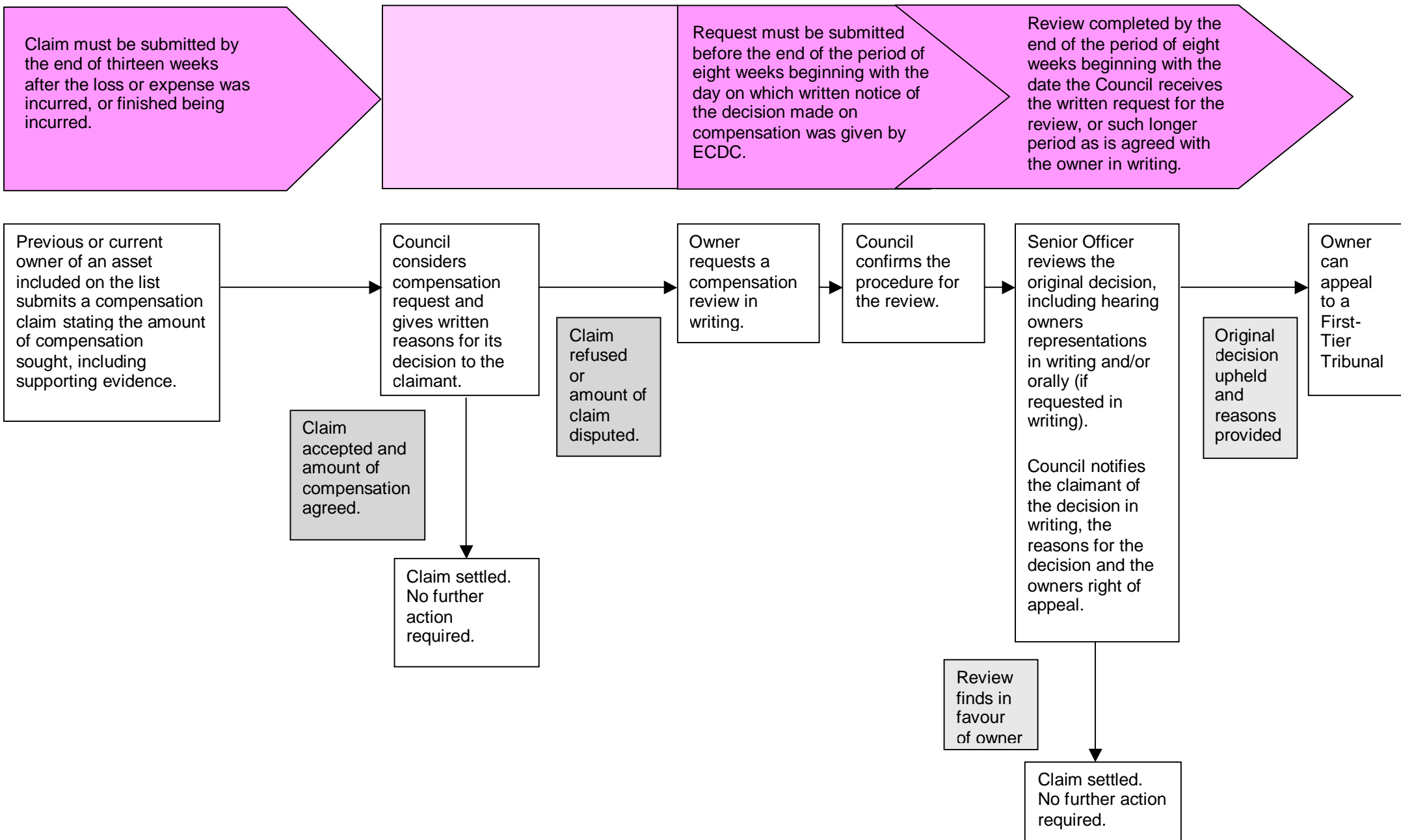
y. disposal of land subject to a statutory requirement regarding the making of the disposal, where that requirement could not be observed if the Assets moratorium rules were complied with.

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<sup>1</sup> the disposal is a part-listed disposal of a description specified in regulations made by the appropriate authority, and for this purpose “part-listed disposal” means a disposal of an estate in land –

(1) part of which is land included in a local authority’s list of assets of community value, and  
(2) part of which is land not included in any local authority’s list of assets of community value

### Assets of Community Value: Compensation Flowchart



## **Impact and Needs/Requirements Assessment (INRA)**

### **Initial Screening**

Initial screening needs to take place for all new/revised Council policies. 'Policy' needs to be understood broadly to include all Council policies, strategies, services, functions, activities and decisions. This stage must be completed at the earliest opportunity to determine whether it is necessary to undertake an INRA for this activity.

<b>Name of Policy:</b>	Assets of Community Value Protocol
<b>Lead Officer (responsible for assessment):</b>	Julie Cornwell, Partnerships Officer
<b>Department:</b>	Community Services
<b>Others Involved in the Assessment (i.e. peer review, external challenge):</b>	Sarah Burns, Legal Services
<b>Date Initial Screening Completed:</b>	24/09/12

- (a) **What is the policy trying to achieve?** i.e. What is the aim/purpose of the policy? Is it affected by external drivers for change? What outcomes do we want to achieve from the policy? How will the policy be put into practice?

The DCLG's 'Assets of Community Value – Policy Statement' sets out the reason for the introduction of the legislation:

“Over the past decade communities have been losing local amenities and buildings of great importance to them – the village or housing estate shop or pub or community centre or village hall. On average nearly 300 pubs and 400 village shops have closed each year. Over the same period community asset ownership has been growing, delivering real benefits for many communities. Over two hundred communities have bought their village shop, and a growing number are looking to take over their pub to prevent it closing. All too often community organisations find themselves without the time to prepare a bid before an asset is sold. We know that many communities, both urban and rural, have lost the use of buildings or land that were important to them because they were sold privately or without an interested community group having time to raise the necessary funds (themselves).

We want to give many more communities the opportunity to take control of assets and facilities in their neighbourhoods by levelling the playing field by providing the time for them to prepare a proposal”.

Under the 'Community Right to Bid' provisions (The Localism Act 2011) ECDC is required to:

- Set up a process to enable local community and voluntary groups to nominate assets of community value;
- To adjudicate in accordance with Government Regulations on whether the assets can be included in a list of assets of community value;
- Publish the list of assets of community value and also details of those assets that were nominated but unsuccessful, including the reason why the nomination was unsuccessful;
- Implement an internal review process should the owner of the nominated asset disagree with the Council's decision to list the asset on the asset of community value list;
- Set up and monitor a moratorium process so that when an Owner decides to sell an asset from the list, community groups have time to register their intent to bid and raise the necessary capital, the moratorium period prevents the owner from selling the asset ; and
- Operate a compensation scheme to compensate owners for loss or expense incurred as a result of listing and complying with any of the procedures required by the Community Right to Bid scheme.

A Protocol is required to set out the procedures that ECDC will go through in order to meet the requirements set out in the Community Right to Bid provisions under the Localism Act. The Protocol will be approved by the District Council's Management Team and the Finance and Governance Committee. The Protocol and associated documentation will be made available on ECDC's website once approved.

**(b) Who are its main beneficiaries?** i.e. who will be affected by the policy?

The main beneficiaries are Voluntary and community organisations or organisations with local connections as well as Parish Councils as they can nominate assets or land for inclusion on an 'asset of community value' list that ECDC will maintain. Other persons who will be affected by the legislation are the owners (and occupier) of a nominated asset as they could potentially face time restrictions when they try to sell an asset that has been registered on the District Council's Asset of Community Value.

**(c) Is this assessment informed by any information or background data?** i.e. consultations, complaints, applications received, allocations/take-up, satisfaction rates, performance indicators, access audits, census data, benchmarking, workforce profile etc.

This assessment is informed by the DCLGs 'Assets of Community Value – Policy Statement', Sept 11; the draft 'Assets of Community value (England) Regulations 2012; Chapter 20, The Localism Act 2011; DCLGs 'Community Right to Bid – Impact Assessment, Localism Act 2011'; 'Assets of Community Value: new reforms under the Localism Act 2011', No5 Chambers paper.

**(d) Does this policy have the potential to cause an impact (positive, negative or neutral) on different groups in the community, on the grounds of (please tick all that apply):**

**Ethnicity**  
**Gender**  
**Disability**

<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>

**Age**  
**Religion and Belief**  
**Sexual Orientation**

<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>

**Please explain any impact identified (positive, negative or neutral):** i.e. What do you already know about equality impact or need? Is there any evidence that there is a higher or lower take-up by particular groups? Have there been any demographic changes or trends locally? Are there any barriers to accessing the policy or service?

The impact of Government Policy is an issue for central government. The DCLG has undertaken its own Impact Assessment on the impact of the introduction of the Assets of Community Value requirement and have taken the results into account when setting out the regulations.

The Specific impact assessment on the equalities impact (DCLG impact assessment) states at para 73 "There are no foreseeable adverse impacts on any single equality group. The policy change will provide greater opportunities for those affected by closure and disposal of private and public assets to obtain and run them. Mechanisms of support will be considered for those who require it, targeting those who lack the skills, expertise and knowledge to make a competitive bid for an asset"

It is unclear whether this government policy is likely to have a positive / neutral / negative impact on equalities within East Cambridgeshire as we don't know who is likely to try to use the Right to Bid. It is suggested that a further assessment a year after the introduction of the ACV Protocol is carried, out to enable the Council to ascertain its impact and make any alterations to its own scheme necessary and within the bounds of the legislation.

ECDC's Protocol for *implementing* the requirements of the Chapter 3, Assets of Community Value, Part 5, Localism Act 2011 and associated draft regulations should have no disproportionate impact, either positive or negative, on any particular community group.

Questions e) – i) have therefore been answered specifically in relation to how the Protocol will be implemented given that ECDC has a requirement to implement the areas listed at a) above, rather than considering the impact of the Government policy.

**(e) Does the policy affect service users or the wider community?**

**YES/NO/Na**

**(f) Does the policy have a significant effect on how services are delivered?**

**YES/NO/Na**

**(g) Will it have a significant effect on how other organisations operate?**

**YES/NO/Na**

**(h) Does it involve a significant commitment of resources?**

**YES/NO/Na**

**(i) Does it relate to an area where there are known inequalities, e.g. disabled people's access to public transport etc?**

**YES/NO/Na**

If you have answered **YES** to any of the questions above, then it is necessary to proceed with a full equality impact assessment. If the answer is **NO**, then this judgement and your response to the above questions will need to be countersigned by your Head of Service and then referred to the Council's Equal Opportunities Working Group (EOWG) for scrutiny and verification. Please forward completed and signed forms to Nicole Pema, Principal HR Officer.



**Signatures:**

**Completing Officer:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**Head of Service:** \_\_\_\_\_ **Date:** \_\_\_\_\_