

Community Right to Bid – Assets of Community Value

Legislation Background

The Community Right to Bid came into force on 21st September 2012 and gives communities a right to identify a building or land that is believed to be of value to their social interests or social wellbeing and gives the community a fair chance to make a bid to buy the property on the open market should the owner decide to sell. Only eligible community groups, local parish councils or local neighbourhood planning forums and charities can nominate.

Asset of Community Value – Definition

A building or land is deemed to be an Asset of Community Value if, in the opinion of the Melton Borough Council:

- A current principal ('non ancillary') use of the building or land furthers the social interests or social wellbeing of the local community, **and** it is realistic to think that there can continue to be a principal use of the building or land which will further the social interests or social wellbeing of the local community, whether or not in the same way, **or**;
- A principal use of the building or land in the recent past furthered the social interests or social wellbeing of the local community and it is realistic to think that this could be the case within five years.

NOTES –

- 1) The Definition of Recent Past can be viewed differently in different circumstances. For example, if a building has been used for its principal purpose for 50+ years, such as a Public House, the definition will be viewed differently to another Public House which has been in use for just 5 years. Each Nomination will be viewed on a case by case basis.
- 2) The Nominated asset will be deemed to comprise of the entire boundary noted on the Land Registry Title plan submitted with the nomination form.

Making a nomination

Community Groups must be eligible to nominate, such groups should be able to answer yes to the two questions below:

- Do you have a local connection to the property you are wishing to nominate?
and;
- Are you an unincorporated community group with at least 21 members who are registered to vote in the District of Melton, a parish council, charity, industrial & provident society, local neighbourhood forum, company limited by guarantee or a community interest company?

Within the Nomination Melton Borough Council must be informed of the address of the property, details of the owner, the extent of the site and why it is an asset of community value. Evidence must be provided of the groups eligibility to nominate along with the Land Registry Title Plan for the nominated building or land.

To assist Melton Borough Council has provided a nomination form which can be accessed via the Website. Once completed, send the form to ACVnominations@melton.gov.uk. Alternatively, the nomination can be sent by post to:

Community Policy Officer, Melton Borough Council, Station Approach, Burton Street, Melton Mowbray, LE13 1GH

Decision making process/criteria

Once the completed form has been received Melton Borough Council will check the eligibility of the nomination and if it is considered the property fits the criteria it will be added to the 'list of assets of community value'. Nominations will be considered within eight weeks of receipt.

Assets will remain on the list for five years and a land charge will be registered against the property.

Melton Borough Council will inform the owner and nominating group if the property has been listed and the date when it will be removed (5 years from the date of the decision to list). There will be no further contact with Nominating Groups unless the property owner notifies of an intention to sell. When the five years have expired a new Nomination may be submitted.

If the Nomination is unsuccessful the nominating group and owner will be informed and an explanation will be provided as to why it was unsuccessful. In such circumstances the property will be noted on the list as 'Rejected', this will remain on the list for five years and there is no appeal or review process for unsuccessful nominations.

NOTE - Melton Borough Council will review further Nominations for previously rejected assets but only where NEW additional information is provided in support of the Nomination.

Requests to Review Decision from the Asset Owner

The owner of a building or land included in the list of Assets of Community Value may ask for a review of the decision. This request must be made in writing within eight weeks from the date written notification of our decision was received or longer where we have agreed to this in writing. The request should be sent to:

Senior Management Team, Melton Borough Council, Station Approach, Burton Street, Melton Mowbray LE13 1GH

Melton Borough Council will acknowledge receipt of the review request within 5 working days and advise of the procedure to be followed in connection with the review. The review will be undertaken by a Director within Melton Borough Council not involved in the original decision.

The owner may request an oral hearing and may appoint a representative to act on his or her behalf in connection with the review. Where no request for an oral hearing is made by the owner, Melton Borough Council will decide whether or not an oral hearing would be beneficial to the review process. The owner, or their representative, may make written and oral representation to the reviewer.

The review process will be completed within eight weeks from receipt of the request for the review from the asset owner. A longer review period may be required in extenuating circumstances.

Melton Borough Council will notify the owner in writing of the outcome of the review and where the review concludes that a change to the listing is required; the following will also be notified:

- The nominator
- The occupier of the land (if not the owner)
- Where they are not the owner, the holder of the freehold estate and the holder of any leasehold estate
- The relevant town or parish council

The list of assets of community value will also be updated and the Land Registry will be advised accordingly.

If landowners are still unhappy with the outcome of the Review decision they may appeal to an independent body, called a First Tier Tribunal by contacting:

Tribunal Clerk, Community Right to Bid Appeals, HM Courts and Tribunals, First Tier Tribunal (General Regulatory Chamber), PO Box 9300, Leicester, LE1 8DJ or via email to: GRC.CommunityRights@hmcts.gsi.gov.uk

There is no appeal or review process for nominating groups.

Making a bid

Where a building or land is listed as an asset of community value the property owner must advise Melton Borough Council of their intention to sell the property and this intention will be publicised on the website as well as informing the nominator. The notification will trigger the 'interim moratorium' period of six weeks.

If a community group wishes to make a bid they must inform Melton Borough Council within six weeks from the date the owner notified their intention to sell. This will trigger the full moratorium period and a community group will have six months to put together the bid (this is also six months from the owner advising of their intention to sell). If there is more than one community group interested in purchasing the property we would encourage the groups to work together.

At any point before the end of the six months the community group may enter into negotiations with the property owner providing the owner is willing to do so. Melton Borough Council should be kept informed of developments throughout the negotiation period.

At the end of the moratorium period if the community group have successfully put a bid together the owner will have the option to either accept their bid or sell the property freely on the open market. There is no right of 'First Refusal' for community bids.

Sales outside of the Act

There are some circumstances where the property owner does not need to comply with the Act, these are:

- Disposing the property in the form of a gift.
- Disposal of a property containing a business which uses the property and it is a going concern.
- Disposal within a family or a partnership or between trustees or a trust or between companies in a group.
- Disposal in the execution of a will or arising from various legal proceedings.
- Disposal of a property that is part of a larger estate, part of which is not listed, but where the whole estate is owned by the same person and is a single lot of land.

Non-compliance from owner on sale of Land

In the event that the owner does not comply with the scheme, any sale will be void, meaning the sale has not taken place. This penalty will not apply if the owner was unaware through no fault of their own that the land was listed when it was sold.

It should be noted however that where land is listed it does not:

- 1) Restrict who the owner of the land can sell their property to or at what price
- 2) Give a right of first refusal to community interest group
- 3) Place any restriction on what an owner can do with their property – i.e. prevent development of the land. Planning policy 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 whether listing as an asset of community value is a material consideration if an application for change of use is submitted, considering all circumstances of particular cases.

Compensation Requests – Asset Owner

Private owners may claim compensation for loss and expenses incurred through the asset being listed or previously listed. The regulations specifically provide that this will include a claim arising from a period of delay in entering into a binding agreement to sell which is wholly caused by the interim or full moratorium period; or for legal expenses incurred in a successful appeal to the Tribunal.

The time limit for making a compensation claim is 13 weeks from the end of the interim or full moratorium period (as appropriate) or from the date when the Land ceases to be listed. The assumption is that most claims for compensation will arise from a moratorium period being applied; however the legislation wording allows for claims for loss or expense arising simply as a result of land being listed.

All Compensation claims must:

- 1) Be submitted in writing
- 2) State the amount of compensation sought
- 3) Provide supporting evidence for the claim and the amount sought

The obligation to prove loss lies with the owner.

Melton Borough Council will consider the claim and give written reasons for the decision. No time limit is set for responding to claims. The reason for this is that it may take some time to assemble the necessary evidence; however once all the facts are clear a decision will be made as quickly as is practicable.

All compensation claims should be sent to:

Legal Services, Melton Borough Council, Station Approach, Burton Street, Melton
Mowbray LE13 1GH