

Community Right to Bid for Assets of Community Value (ACV) – FAQs

Contents:

- [1. What are ACV's and the 'Community Right to Bid' all about?](#)
- [2. What is an ACV \(definition\)?](#)
- [3. What types of assets can be defined as having community value?](#)
- [4. What is the ACV list?](#)
- [5. What effect does the ACV listing have?](#)
- [6. Who is eligible to nominate an asset for inclusion on the ACV list?](#)
- [7. How do I nominate an asset to be listed as an ACV?](#)
- [8. What happens if the owner of the asset is dissatisfied with the outcome of the listing decision?](#)
- [9. What happens if the nominating community group is dissatisfied with the listing decision?](#)
- [10. What do ACV owners need to do if they wish to sell their asset?](#)
- [11. What does a community group need to do if they wish to bid for an ACV up for sale?](#)
- [12. When can a nominating community group reapply to get an asset relisted?](#)
- [13. Does it matter who owns the land/building?](#)
- [14. What non-ancillary use\(s\) would be valid for a public house ACV nomination?](#)
- [15. If the owner lives in a public house and/or has letting rooms, can it still be listed as an ACV?](#)

1. What are ACV's and the Community Right to Bid all about?

From local pubs and shops to village halls and community centres, the past decade has seen many communities lose local amenities and buildings that are of great importance to them. As a result, they find themselves lacking the community assets that can help to contribute to the development of vibrant and active communities.

The **Localism Act 2011** (Part 5, Chapter 3) and the **Assets of Community Value (England) Regulations 2012**, which together deliver the Community Right to Bid, aim to encourage more community-focused, locally-led action by providing an important tool to help communities looking to take over and run local assets.

The scheme gives communities the opportunity to identify assets of community value and nominate them to be listed as an ACV. When the listed ACV is put up for sale, an eligible community group can make a bid to buy it on the open market. However, the owner is under no obligation to sell the asset to the community group or any other person.

2. When can the council consider an asset as an ACV?

According to section 88 of the Localism Act, '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.
- (2) For the purposes of this Chapter but subject to regulations under subsection (3), a building or other land in a local authority's area that is not land of community value as a result of subsection (1) is land of community value if in the opinion of the local authority—
- (a) there is a time in the **recent past** when an actual use of the building or other land that was not an ancillary use furthered the social wellbeing or interests of the local community, and
 - (b) it is realistic to think that there is a time in the next five years when there could be non-ancillary use of the building or other land that would further (whether or not in the same way as before) the social wellbeing or social interests of the local community.'

The asset:

- must be a piece of land or a building that has furthered the social well-being, or 'social interests' of the local community either currently, or in the recent past
- must be able to provide either social wellbeing or social interests in the future
- the use of the asset must be one of the main uses of the site and not 'ancillary' or only a minor use



- it must be reasonably expected that the main use can continue into the future, although other uses which deliver local benefit may also be developed

'Social Interests' defined within the Localism Act are cultural, recreational or sporting activities.

3. What types of building or land can be defined as having community value?

- Education, health and wellbeing or community safety - nurseries and schools, children's centres, health centres, surgeries and hospitals, day care centres, residential care homes
- Sport, recreation and culture - parks and open green spaces, sports and leisure centres, libraries, theatres, museums or heritage sites, cinemas, swimming pools/lidos
- Community services - community centres, youth centres, public toilets
- Local democracy - town, civic and guild halls
- Any economic use which also provides an important local social benefit which would no longer be easily available if that service should cease - village shops, pubs, markets

The building or land may be of any size, may be owned by anybody, including the local authority, the Crown, businesses and private individuals and may be divided between different owners or different local authority areas.

There are certain buildings or land that cannot be nominated, for example:

- a residence together with land connected with that residence (although the 2012 Regulations set out certain exceptions for shops and pubs)
- "residence" means a building used or partly used as a residence
- Land in respect of which a site licence is required under Part 1 of the Caravan Sites and Control of Development Act 1960(2)
- Operational land as defined in section 263 of the Town and Country Planning Act 1990(3)
- Land or property where community use is not the main function.

The 2012 Regulations must be referred to for the full list of exemptions and related definitions.

4. What is an ACV list?

ACV legislation requires local authorities to keep a list of successful and unsuccessful ACV nominations. Successful ACV nominations will remain on this list for five years. All unsuccessful nominations include the reasons for not listing.

The South Oxfordshire and Vale of White Horse ACV list can be viewed on our website:

www.southoxon.gov.uk

www.whitehorsedc.gov.uk

5. What effect does the listing have?

Where an asset is included in the council's ACV list, the owner is required to notify the council in writing of their intention to sell the asset.

There are certain exemptions – [see question 10 regarding exemptions.](#)

This notification will trigger a moratorium period (a period of delay) during which the asset owner may not sell the asset (other than where the disposal is exempt under the 2012 Regulations). There is nothing to prevent the owner actively marketing the asset during the moratorium period - the restriction refers only to exchange of contracts on the sale of the asset.

This interim moratorium is for a period of six weeks from the date we receive written notification of the owner's intention to dispose of the asset. During this six week period, suitably constituted community interest groups that can demonstrate a local connection may submit an intention to bid. When this is received, the full six month moratorium period (starting from the date on which we receive written notification of the owner's intention to dispose of the asset) is triggered, during which time no disposal may take place except to a qualifying community interest group by negotiation.

This six month period is intended to enable the community interest group to prepare a bid (to the owner) to purchase the asset. Any subsequent sale takes place under normal market conditions. There is no obligation for the community interest group to make a bid and the group has no rights of purchase over other potential buyers. The owner is under no obligation to sell the asset to the community interest group or any other person. If the owner decides to sell to the community interest group, they may do so within the six month moratorium period.

If after the six month moratorium period, the community interest group has not successfully bought the asset, a further **12 month protection period** is triggered (the total eighteen month period commencing on the day upon we receive written notification of the owner's intention to dispose of the asset). During this protection period, the asset may be sold by the owner on the open market, without the risk of any further moratorium period being triggered.

6. Who is eligible to nominate an asset for inclusion on the ACV list?

Only the following community groups are eligible to make a nomination:

- a parish or town council
- a neighbourhood forum
- an unincorporated body (a group of people) - with at least 21 members who are registered to vote in South Oxfordshire or Vale of White Horse and/or neighbouring local authorities
- a charity
- a company limited by guarantee
- a community interest company (former industrial and provident society)

Eligible nominating groups must meet the following criteria:

- must not be run primarily for profit,
- surplus funds must be used to benefit the locality,
- the community group must have a genuine local connection to the nominated building and/or land

This does not apply to town or parish councils making an ACV nomination.

7. How do I nominate an asset to be listed as an ACV?

You must submit an online ACV nomination form to the council who will make a decision on whether to list the nominated asset. The success of your nomination depends on the information and evidence you have provided in your nomination form.

Eligible community interest groups must complete the online ACV nomination form on the council website:

www.southoxon.gov.uk

www.whitehorsedc.gov.uk

You will need to have the following information ready before completing the form - please see the ACV nomination form guidance notes for more details.

- information about you and your organisation
- a clear description of the nominated building or land, including a map, showing its proposed boundaries clearly edged in red
- current or last known names and addresses of occupiers and all those holding a freehold or leasehold estate in the land
- evidence to support your claims of community value

Once your ACV nomination has been submitted, the council will:

- notify the owner/s (freeholder and leaseholder), any lawful occupants, the relevant town or parish council and ward councillor
- establish if you and your organisation are eligible to make a nomination
- check that you have provided all the information and evidence as requested in the nomination form
- consider if the nominated building and land satisfies EITHER
 - a) the present and future test in s88 (1) of the Act OR
 - b) the past and future test in s88 (2) of the Act
 See question two of this document
- inform you and all interested parties of our decision on whether to list the nominated asset within eight weeks

8. What happens if the owner of the asset is dissatisfied with the listing decision?

If an asset has been included on the ACV list, an owner has the right to request the council to review its decision. The deadline for the owner to request this review is eight weeks from the date written notice of listing was given. The property will remain listed while the review is carried out.

The review will be undertaken by a senior officer independent of the original decision making process.



The owner may request an oral hearing and may appoint a representative to act on his/her behalf in connection with the review. The owner, or their representative, may make written and oral representations to the reviewer.

We will complete the review process within eight weeks of receipt of the written request for the review, or a longer period where this has been agreed with the owner.

The owner will bear his/her own costs of the review.

If, as a result of the review, the council decides that the asset should not have been included in the list of assets of community value, this will be communicated in writing to the owner/s (freeholder and leaseholder), the nominating group, any lawful occupants, the relevant town or parish council and ward councillor.

The letter will include reasons for the decision. The asset will be removed from the list of assets of community value.

If the council decides the asset should remain listed and the owner is dissatisfied with our review, they have the right to appeal to the First-tier Tribunal (General Regulatory Chamber) against the council's decision. A new owner who has bought the land following a request for a listing review, may appeal against the review decision. Appeals should be sent to:

Tribunal Clerk,
Community Right to Bid Appeals,
HM Courts and Tribunals,
First-tier Tribunal (General Regulatory Chamber),
PO Box 9300,
Leicester, LE1 8DJ

Owners may also send an appeal to the First-Tier Tribunal by email at:

GRC.CommunityRights@hmcts.gsi.gov.uk

9. What happens if the nominating community group is dissatisfied with the listing decision?

If the nomination is unsuccessful, we will notify the nominating community group, the owner/s (freeholder and leaseholder), any lawful occupants, the relevant town or parish council and ward councillor. The council will provide an explanation as to why it was unsuccessful and include it on the list of unsuccessful ACVs.

The ACV legislation does not give nominating community groups the right to request a review or appeal from a refusal to list. This means that if a nominator wishes to challenge such a decision, the only option is to pursue judicial review proceedings, or to submit a fresh ACV nomination.

10. What do ACV owners need to do if they wish to sell their asset?

The Localism Act 2011 and the Assets of Community Value (England) Regulations 2012 exempt certain types of disposal. Where an owner wishes to dispose of an asset which is included in the



council's list of assets of community value and it is not an exempt disposal, they must notify us in writing of their intention to do so.

The notification should be sent to:

Community Right to Bid
 Community Enablement Team
 South Oxfordshire and Vale of White Horse District Council
 135 Eastern Avenue
 Milton Park
 Milton, Abingdon
 OX14 4SB

Email: communityenablement@southandvale.gov.uk

We will acknowledge receipt of the notification within ten working days, confirming when the interim moratorium, full moratorium periods and the protected period takes effect and when these will end.

The list of assets of community value will be updated to show that we have received notice of an intention to sell the asset, together with the date of that notification and the resulting interim and full moratorium periods and the protected period.

We will notify the nominator, any lawful occupants, the relevant town or parish council and ward councillor in writing that we have received notice of an intention to sell. We will also ask the town or parish council to publicise this to their local community.

There are certain exceptions, where the local authority will not need to know if the disposal is taking place for example:

- disposals that are gifts
- disposal to a local community interest group where explicitly allowed
- 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, 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
- disposal of land under bankruptcy or other insolvency proceedings

There are various other exceptions in Schedule 3 to the Assets of Community Value (England) Regulations 2012.



Note however that even if a transfer falls within one of the exceptions, **the new owner must notify the council 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. Disposal of listed land in breach of the procedures will be ineffective, unless the owner made all reasonable efforts to find out if the land is listed and is unaware of it at the time of disposal.

11. What does a community group need to do if they wish to bid for an ACV that is up for sale?

An intention to bid may only be submitted by an eligible community interest group which can demonstrate a local connection. Unincorporated organisations and neighbourhood forums cannot bid for an asset, as they are unable to legally own property.

The group must send written notification to the council with evidence to support that they are a suitably constituted community interest group. The intention to bid should be sent to:

Community Enablement Team
 South Oxfordshire and Vale of White Horse District Council
 135 Eastern Avenue
 Milton Park
 Milton, Abingdon
 OX14 4SB

Email: communityenablement@southandvale.gov.uk

We must receive the intention to bid within six weeks of the owner's notice to dispose of the asset.

We will pass the intention to bid to the owner of the land, or inform them of the details, within 10 working days of receiving the intention to bid. This will then trigger the full six month moratorium period during which the asset cannot be sold by the owner.

12. When can a nominating community group reapply to get an asset relisted?

We will let the nominator know when the listing is due to expire four months before the end of the five-year listing. At this point or before, the nominator can reapply and if successful, the asset will remain on the list for another five years. The point at which a re-nomination is made is decided by the nominating group. Subject to a successful nomination, the new five-year listing would commence from the decision date. A new online nomination form needs to be completed and applicants are strongly encouraged to read the most up to date guidance on our website.

13. Does it matter who owns the land/building?

Providing the land/building is eligible for nomination (see question 3), it doesn't matter who owns the land/building, as long as the nominating group has a local connection and can provide sufficient evidence of its value to the social wellbeing and social interests of the community.



14. What non-ancillary use(s) would be valid for a public house ACV nomination?

The use of the pub needs to also further the social wellbeing and social interests of the community, beyond serving food and drink and for the financial benefit of the business. These 'events' need to happen with sufficient frequency and recency to suggest they are a main feature of the pub.

15. If the owner lives in a public house and/or has letting rooms, can it still be listed as an ACV?

Under the ACV legislation a building may be listed if only partially used as a residential property, if the rest of the building is eligible and intrinsically linked e.g. A pub where the landlord works and resides. If the building is used or partially used as a holiday letting (e.g. Hotels/B&Bs) then it is not eligible to be nominated as an ACV in accordance with the ACV regulations. (*Asset of Community Regulations 2012, Schedule 1, Paragraphs 1 and 2*)