

LOCALISM ACT 2011

ASSETS OF COMMUNITY VALUE

LISTING REVIEW GUIDANCE NOTE

1. The Legislation

The concept of “Assets of Community Value” was introduced by the Localism Act 2011 (“the Act”) and the Assets of Community Value (England) Regulations 2012 (“the Regulations”). The relevant parts of the Act, and the Regulations came into force on 21 September 2012.

2. The Listing Process

The listing process is described in detail in the Council’s guidance note. In summary the panel will convene in response to a nomination and will decide whether that nomination has come from a valid body, and whether the property concerned is an asset of community value, using the tests set out in s88 of the Act.

3. The statutory basis for listing review

After an asset has been listed in the list of assets of community value the owner of the property will be notified and informed that they may ask for the decision to list it to be reviewed (s92 (1) of the Act). A request to review a decision must be made in writing within eight weeks of the date when written notice was given by the authority of inclusion in the list (Regulations, Schedule 2, para 1(1)).

The review is to be carried out by an officer of the authority of “appropriate seniority” who did not take part in the original decision making (Regulations, Schedule 2 para 4). The review must be carried out within eight weeks of the date of the written request for a review (Regulations Schedule 2 para 9).

If the property owner requests it in writing, an oral hearing must be held (Regulations Sch 2 para 7 (1)) but if an oral hearing is not requested, the authority can decide whether or not to include an oral hearing in the review process (para 8).

Following the review the authority must notify the person who asked for the review of the decision of the review and the reasons for the decision (s92 (3) of the Act).

The decision of the listing review can be appealed to the First Tier Tribunal (general regulatory chamber) by either the owner of the property or a subsequent owner of part or the whole of the land. If this appeal is successful the owner can claim reasonable legal expenses.

If a review or an appeal is successful the property details must be removed from the list of assets (s92 (4)) and included in the list of land nominated by unsuccessful community nominations (s93(1)). The group which nominated it must be notified (s 91).

4. The Council's Listing Review Process

- 4.1 On receipt of a request for a listing review an officer of the authority of "appropriate seniority" who did not take part in the original decision making will be selected to carry out the review. This will usually be a senior officer at Director or Strategic Director level. They will be selected on the basis that there is no real or apparent conflict of interest between their Council role and the nature of the asset. They will be assisted in the carrying out of the review by a member of the Council's legal team, but not one who has been involved in the original decision making.
- 4.2 Unless the request for a listing review specifically requests an oral hearing, the Council's review process will be carried out and recorded in writing.
- 4.3 The reviewer will receive :
 - 4.3.1 A copy of the original nomination
 - 4.3.2 Copies of any correspondence sent or received by the Council in connection with the nomination
 - 4.3.3 A copy of the Act and the Regulations
 - 4.3.4 A copy of the Council's guidance notes on the Act
 - 4.3.5 A copy of the minutes of the meeting convened to determine whether or not the asset should be listed
 - 4.3.6 A copy of the request for a listing review and any other correspondence pertaining to that review including any representations made by the owner of the property either before or after the date of the request for the listing review
- 4.4 The party requesting the review will be notified in writing by way of acknowledgment of their request for a review, and informed of the name and job title of the reviewer and their contact details.
- 4.5 The party requesting the review or their legal representative may, pursuant to Schedule 2 of the Regulations, make representations in writing or orally to the reviewer, or both.
- 4.6 The reviewer must complete their review within eight weeks of the date of receipt of the request for a review. The party requesting the review will be notified of the decision and the reasons for it, in writing at or before the end of the eight week period.

- 4.7 If the party requesting the review asks for an oral hearing, this will be held at the Council's offices at a time to be agreed between the parties. The Council will not be obliged to set aside more than half a day for such hearing, which will not be a public hearing.
- 4.8 The hearing will not take place until the reviewer has had a reasonable period of time to consider any written representations, and the information listed in paragraph 4.3.
- 4.9 The party requesting the review must, prior to the oral hearing, provide the reviewer with a list of the names and qualifications of all parties proposing to attend the oral hearing. The reviewer will be accompanied at such hearing by a legal officer of the Council, but not one who was involved in the original decision making.
- 4.10 The reviewer is, pursuant to s92 of the Act, obliged to review the Council's decision to include the land in the Council's list of assets of community value. The listing review shall not be concerned with any other matters.
- 4.11 Following the conclusion of the review if the decision is that the asset should not have been included in the list, the reviewer will inform the relevant council officers to ensure that the asset is removed from the list and included in the list of land nominated by unsuccessful community nominations. The party who made the original nomination will also be notified. The Council will remove any entries made in the Local Land Charges Register and at the Land Registry pursuant to the Act.

Listing review checklist:

Name of owner :

Address of asset :

Date listed :

Date review requested	Date review to be completed (8 weeks)	Reviewer appointed (name and role)	Legal advisor appointed (name)	Oral hearing requested ? Y/N	Date of Oral hearing

Decision :

Date owner notified of decision and reasons :