

## Appendix B

### Community Right to Bid - Frequently Asked Question (FAQs)

<http://www.southsomerset.gov.uk/communities/ssdc-and-the-localism-act/community-right-to-bid/>

#### What is the Community Right to Bid?

The Community Right to Bid came into effect on 21st September 2012 as part of the Localism Act 2011. It gives community organisations the right to identify assets they believe are of value to their community, and nominate them to be listed on the Council's Register of Assets of Community Value.

If the asset then comes up for sale, the community group will be given time to make a bid to buy it on the open market.

#### Does this guarantee that the asset will be owned by the community?

The legislation does not restrict who the owner can sell their property to, or at what price. It does not guarantee that the community will be able to take ownership of assets; it simply gives them some time to raise the funds and prepare a bid.

#### How does it work?

- Community interest groups have the right to identify a building or other land that they believe to be of importance to their community's social well being, and nominate it to be listed on the Council's Register of Assets of Community Value.
- If the nominated asset meets the definition of an asset of community value, the local authority must list it; notify the owner and the Land Registry. The owner will have a right to a review by the council and an appeal to an independent tribunal.
- Nothing further will happen until the owner decides to dispose of the asset, either through freehold sale or the grant of a lease for at least twenty- five years. At this point, they must notify the local authority of their intention to sell;
- The owner will only be able to dispose of the asset after a specified window has expired:
  - The first part of this window (6 weeks) will allow community interest groups to express a written intention to bid. If none do so in this period, the owner is free to sell their asset.
  - If a community group does express an intention to bid during this period, then the full window comes into operation (6 months), allowing the community time to develop their bid. After that, the owner is again free to sell to whomever they choose, and no further window can be triggered for a protected period (18 months).

#### What is an 'Asset of Community Value'?

Buildings or other land within the South Somerset area where

Its current use (or use in the 'recent past' i.e. the past 5 years) furthers the social wellbeing and interests of the local community and the continued use (or in the next 5 years) furthers the social wellbeing and interests of the local community

Assets of community value cannot be:

- Residential properties and associated land
- Land licensed for use as a caravan site
- Operational land used for transport, and other infrastructures.

### **What is a 'community interest group'?**

The Community Right to Bid can be used by any 'community interest group.' The CLG definition of this includes:

- Parish Council
- Unincorporated group with at least 21 members who are on the electoral roll within South Somerset and does not distribute any surplus it makes to its members
- Neighbourhood Forum
- Charities
- Companies limited by guarantee that do not distribute any surplus to members
- Industrial and provident societies that do not distribute any surplus to members
- Community interest companies

NB. detailed definitions of these are set out in regulations.

The group must not carry out their activities primarily for profit, and must partly or wholly re-invest any surplus in the South Somerset area or in a neighbouring authority area. District/County Councils may not make nominations

### **What is a 'local connection'?**

- The group must demonstrate that its activities are wholly or partly concerned with the South Somerset area or with a neighbouring authority (which shares a boundary) and
- Any surplus it makes must be wholly or partly applied for the benefit of the South Somerset area or a neighbouring authority's area.

### **When can a nomination be submitted?**

At SSDC we will consider nominations at any time during the year.

### **How do we submit a nomination?**

Nominations have to be in writing, and must include certain pieces of information, as specified in the Regulations. Please contact us for a copy of our Nomination Form. If you do not submit all the necessary information we may be unable to consider your application.

### **How long will it take?**

We will acknowledge receipt of your nomination within 5 working days. During or after this time we will contact you for further information and discuss your nomination. Under legislation we are obliged to make a decision on whether or not to list the asset within 8 weeks of receiving your nomination. All nominations will be considered by SSDC's District Executive, which meets monthly. We will notify you of the date of the meeting, and notify you of any decisions made within 10 working days of the meeting.

### **What happens if my nomination is accepted?**

If your nomination is accepted, the Council is then bound by law to list the asset on our Register of Assets of Community Value, notify the owner of the asset and notify the land registry.

### **What happens if my nomination is rejected?**

We will notify you if your nomination is not eligible and enter it onto a Register of Unsuccessful Nominations.

Both Registers will be published on the SSDC website, and we are obliged to provide a paper copy free of charge on request.

### **Can the owner request a review of the Council's decision?**

Yes, owners can request a review and the Council will undertake this. If this results in a change in the listing we will notify the owner and the nominating body, including the reasons for the decision. If the asset remains on the list after the review, the owner can appeal to an independent tribunal.

### **How long does an asset remain on the Register?**

All accepted nominations remain on the Register for 5 years. However if the asset is sold during this time, or if the asset no longer meets the definition of 'community value' (eg. in the event of change of use to residential), the Local Authority can remove the asset from the Register. After 5 years, the asset is removed from the Register. If the community want it to go back on the registered they must nominate it again using the same process above.

### **What happens if the owner decides to sell the asset while it is on the Register?**

The owner must give written notification to SSDC if they intend to sell the asset (sale of the asset means either the sale of the property or the granting of a lease of at least 25 years). The Council must then update the register to say that notice has been received and notify the group who originally nominated the asset. The Council must also publicise the forthcoming sale in the local area.

At this point there is an initial moratorium period. The owner is unable to sell the asset for 6 weeks (from the date the Council receives the written notification to sell), to allow time for the community to express written intention (to the Council) to bid.

This initial expression of interest must be made in writing to SSDC and can be in any format but must express that you 'wish to be treated as a potential bidder for the (named) asset.

If any written intentions are received, the Council must pass on the request to the owner at which point the full moratorium period of 6 months (from the original receipt of intention to sell) comes into force. If no written intention(s) to bid are received, the owner is free to sell the asset.

During this time the owner is able to consider any bids received. If these are received by the Local Authority, SSDC must pass these on to the owner as soon as possible. After 6 months, they can sell the asset on the open market, and no further window can be triggered for a protected period (18 months).

## **What type of groups are able to Express an Interest in bidding?**

Only a 'community interest group' can trigger a full moratorium, unlike a nomination which can be made by a wider range of community groups. This means only the following:

- a Parish Council in whose area the asset lies
- an incorporated community group which meets these definitions:
- it has a local connection, meaning that its activities partly or wholly occur in the local planning authority area
- it is a charity, a company limited by guarantee, a Community Interest Company or and Industrial and Provident Society or Community Benefit Society

This means there is a difference between which groups can nominate an asset and which groups can trigger a moratorium. They may be completely different groups.

## **Is the owner obliged to sell the asset to the community group expressing an interest, or give them a discount?**

No, the owner is still able to sell the asset to whoever they choose, at whatever price.

## **Are any types of sale exempt from the process?**

Some types of disposal are exempt from the moratorium process even if the asset is listed, these are set out in the Act:

- disposal through the gift of an asset
- assets hosting businesses sold as a 'going concern'
- disposal within a family or trustees of a trust
- execution of a Will
- parts of larger estates
- others including NHS, Church of England etc as detailed in the Act

## **What about compensation?**

Private property owners who believe they have incurred costs as a result of complying with these procedures can apply for compensation from the Council. Details are set out in SSDC's Procedures for Compensation for Community Right to Bid.

## **Further advice and support**

For organisations wishing to take advantage of the new Community Rights listed in the Localism Act, the Government has established a range of support including funds for communities to develop their proposals. Pre-feasibility and feasibility grants are available, as well as a dedicated advice telephone line where support and information will be available. For more information visit <http://mycommunityrights.org.uk/community-right-to-bid/grants/>

For further information on the Community Rights please refer to the weblink: <http://mycommunityrights.org.uk>

We strongly recommend that you visit the website above and then contact us before you consider submitting a nomination.