

## **Community Right to Bid – Background Information.**

This Briefing Note provides a summary of the regulations relating to the Community Right to Bid.

It is intended as general guidance and not as a statement of law. The information in this Briefing Paper is subject to amendment due to any future changing statutory provisions.

### **1. Background**

- 1.1 The Community Right to Bid was introduced under Part 5, Chapter 3 of the Localism Act 2011.
- 1.2 The “Right to Bid” provisions came into force on the 21st September 2012 with the introduction of “The Assets of Community Value (England) Regulations 2012”.
- 1.3 The Community Right to Bid Regulations aim to address the loss of buildings and amenities that play a vital role in the local community by giving qualifying community groups an opportunity to bid for them when they come up for sale.

### **2. Properties Included Within the Regulations**

- 2.1 A building or other land counts as land of community value, if in the opinion of the Local Authority:
  - Its actual current main use ‘furthers the social wellbeing or social interest of the local community’, and it is realistic to think that such use (whether or not in the same way) can continue.
  - Buildings or other land that ‘in the recent past’ had a use that furthered the social wellbeing or social interest of the local community will also qualify, if it is realistic to think that this kind of use could be resumed in the next five years.
- 2.2 Relevant property types include: village shops, local pubs, community centres, old town halls, libraries, swimming pools, markets and open spaces.

### **3. Excluded Property Types**

- 3.1 The following main types of property are excluded from listing as an Asset of Community Value:
  - Residential property (including land attached to a property)
  - Caravan Sites
  - Operational land of statutory undertakers.
- 3.2 Exclusions from the Regulations may also apply to certain types of property disposal. These include: options for sale, nominations rights, mortgagee sales, insolvency, debt security, compulsory purchase, certain agricultural tenancies, certain disposals of churches and other statutory provisions.

#### **4. Qualifying Community Groups**

- 4.1 Nominations of property to be included on the list may only be made to the Council by a voluntary or community body with local connections or a Parish Council.
- 4.2 Examples of community groups include a: Parish Council Neighbourhood Forum, Industrial & Provident Society, Charity, Unincorporated Community Group (of at least 21 members) Community Interest Company and a Company Limited by Guarantee. In addition such groups should not distribute any surplus they make to its members),
- 4.3 Nominations may not be made by individuals. Other than Parish Councils a public or local authority may not be a voluntary or community body.
- 4.4 To demonstrate local connections a community group's activities should wholly or partly be concerned with a local authority's area or a neighbouring authority's area.
- 4.5 For an unincorporated body, a company limited by guarantee or an Industrial and Provident society listed in 4.2 above, any surplus they make should wholly or partly be applied to benefit the local authority's area or a neighbouring authority's area.
- 4.6 For a qualifying unincorporated body with at least 21 individuals, a minimum of 21 members should be local members i.e. a person who is registered as a local government elector at an address in the local authority's area or a neighbouring authority's area.

#### **5. Community Nominations**

- 5.1 A qualifying community group may make an application for a property asset to be considered for inclusion on the List of Assets of Community Value.
- 5.2 The regulations require the nominating community group to provide sufficient information to enable a Local Authority to decide if a property should be included on the List of Assets of Community Value.
- 5.3 Redbridge has produced a Nomination Form for community groups to complete and submit their application.

#### **6. Redbridge's Responsibilities & Operation of the Regulations**

- 6.1 Cabinet has delegated to the Chief Property Services Officer the responsibility to maintain the list of Assets of Community Value and to comply with and exercise and perform powers and duties relating to the Regulations.
- 6.2 For any valid nomination of a property Redbridge will determine the nomination within an 8 week period and advise the Community Group advised whether the asset has been included on the List of Assets Of Community Value or not. If a property is not included on the List the nominating community group will be advised why the property was not so listed.
- 6.3 Redbridge will also notify the landowner, property occupier and the community nominee of the inclusion or removal of a property asset from the List of Assets of Community Value.

6.4 Property Services will maintain lists of property assets that have been included on the List of Assets of Community Value or, if they are not considered to be eligible they will be included on a List of Unsuccessful Nominations.

6.5 Both Lists will be maintained, published and made available to interested parties. The lists will be available on Redbridge i from early 2013. Once a property is included on the List of Assets of Community Value it will remain on List for five years.

## **7. Rights of Appeal**

7.1 The owner can ask the Council to review its decision to list the property. If the owner is not satisfied with the outcome of the internal review they have the right to an independent appeal.

## **8. Compensation**

8.1 Private property owners may claim compensation for loss and expense incurred through the asset being listed or previously listed. The compensation scheme does not extend to public authorities and bodies.

8.2 The Regulations also provide, that an owner who is not satisfied with the local authority's response to the compensation claim, may request a review by the local authority of its compensation decisions.

## **9. Moratorium Exclusions**

9.1 Certain types of property disposal are exempt from the Moratorium provisions. These include:

- If the disposal is a gift.
- If the disposal is made between members of the same family.
- If the land or building being disposed of is part of a bigger estate.
- If the disposal is of a building or piece of land on which a going-concern business is operating, provided that the sale is to a new owner to continue the same business. For example if an owner of the village shop wishes to sell the village shop to a new owner, who also wishes to run a village shop.

## **10. Affects of Inclusion on the List of Assets of Community Value**

10.1 Once listed the owner cannot dispose of the property unless they tells the Council of their intention to sell the property.

10.2 The Council then gives a six week "interim moratorium" for a community interest group to express interest in acquiring the listed property asset.

10.3 If a qualifying community group confirms its interested in acquiring the property this imposes a six month "full moratorium" from the owner's notification of his intention to dispose of the property.

10.4 This six month time period is to enable a community group to make a bid for the property and to raise funds for the purchase of the property.

- 10.5 During this six month period the owner may only sell to a community interest group.
- 10.6 If no bid is received or terms agreed the owner then has a twelve month “protected period” from the end of the full moratorium period (i.e. eighteen months from the notification of sale) to dispose of the property. After the end of the “protected period” the moratorium provisions reapply.

## **11. What the Regulations Do Not Do**

11.1 The Regulations do not:

- Provide community groups with a right of first refusal to buy the property;
- Place any restriction on what an owner can do with their property, once listed, so long as it remains in their ownership.

11.2 The owner may also market the property and negotiate with purchasers other than a community group during the moratorium period.

## **12. Consequences of Non Compliance**

12.1 Unless an owner making a disposal can show they had made all reasonable efforts to find out whether a property asset was on the List of Assets of Community Value, then any disposal that does not meet the moratorium requirements will be ineffective.

## **13. Further Information**

13.1 Further information from Central Government on the Community Right to Bid may be obtained from:

[www.legislation.gov.uk/uksi/2012/2421/made](http://www.legislation.gov.uk/uksi/2012/2421/made)

13.2 Further information on the application of the Regulations within Redbridge may be obtained from the Estates and Asset Management Team by e-mail at [community.righttobid@redbridge.gov.uk](mailto:community.righttobid@redbridge.gov.uk)