

GUIDANCE NOTE 3 ASSETS OF COMMUNITY VALUE: PROCEDURE WHERE THE OWNER WANTS TO SELL

If the owner of an asset listed as an asset of community value wants to sell it they must notify the Council in writing of their wish to dispose of the land/buildings.

The owners notice to the council triggers the 'moratorium' period during which the asset cannot be sold (see note about exemptions to this rule below).

The moratorium period will operate as follows:

1. The first part of moratorium will be an interim period lasting for 6 weeks, from the date at which the Council was notified of the wish to dispose.
2. Where the council is notified of an owner's intention to sell their asset, the nominating community group must be informed. The council must also publicise this in the neighbourhood of the asset in question. Notice of the intention to dispose and the date the authority received the notice should also be added to the public list of assets of community value. This should include information regarding timelines for how the moratorium period will operate.
3. During the interim period a community interest group may request (in writing) to be considered as a potential bidder, bringing the full moratorium period into force. The community interest group does not have to provide any evidence of intention or financial resources to make such a bid.
4. The owner may not sell the asset in this period unless the sale is exempted or it is to a community interest group.
5. Details of any community interest group that wishes to be treated as a potential buyer of an asset must be added to the council's list of assets of community value. The owner of the asset must also be informed of the request by the Council.
6. If no community interest group advises the Council that it wishes to be treated as a potential bidder during the interim period of six weeks, the owner is free to sell their asset.
7. If a community interest group does declare their intention to bid then a full 6 month moratorium period will be triggered. This moratorium period will operate from the date at which the owner originally notified the council of their decision to sell; notification of the full moratorium period must be added to the public list of assets of community value, and must include the identity of the community interest group that triggered the full moratorium period.
8. Where the full moratorium period is triggered, the owner must be informed. In the moratorium period the owner may not sell the listed land unless the sale is exempt or it is to a community interest group.
9. After the 6 month period the owner is free to sell the asset to whomever they choose at the price they consider appropriate. A bid from a community interest group will receive no preference.

Notice of intention to sell by an owner also introduces a 'protected period', which is 18 months from the date of notification. Once the interim or full moratorium period had ended, the owner can sell during the protected period without having to comply with the requirements for notification again.

Section 95(5) of the Localism Act and Schedule 3 of the Assets of Community Value (England) Regulations 2012 sets out details of where disposal of listed land will not be a disposal that triggers a moratorium; including where the disposal is a gift; is by personal representatives of a deceased owner; if the building is demolished or is to another family member (see the relevant legislation for the full list).

Compensation

Owners or former owners of listed land or formerly listed land may be entitled to compensation for loss and expense incurred which may not have been incurred if the land had not been listed or previously listed.

A claim for compensation must be made by the owner in writing within 13 weeks of the loss or expense being incurred. The claim must include the amount of compensation sought and supporting evidence. The council must consider the claim and provide a written response, outlining reasons for its decision.

The following types of claim for compensation may be made:

Claims for loss/expense for any period of delay in entering a binding agreement to sell the land, which is wholly caused by a prohibition on sale as a result of the interim or full moratorium period.

Claims for reasonable legal expenses incurred in a successful appeal to the First Tier Tribunal against the council's decision to list the land, refuse to pay compensation or in relation to the amount of compensation paid or offered.

Requesting a Compensation Review

A person who has made a claim for compensation has a right to request an internal review of the decision by the council. This request must be made in writing within 8 weeks of receiving notification of the determination of the claim. The request may ask the council to review:

- Whether the compensation should be paid to that person, and
- If compensation is to be paid, the amount of that compensation

The council must review its decision and following the compensation review the council must notify the person requesting it of the decision and the reasons for it, including raising their awareness to their right of appeal to the First Tier Tribunal.