



GUIDANCE FOR NOMINATIONS FOR LISTING ASSETS OF COMMUNITY VALUE

Please read these guidance notes before making a nomination to list property or land as a community asset. If you have any queries, please contact acvplanning@rbkc.gov.uk

Completed forms should be submitted by e-mail to acvplanning@rbkc.gov.uk or by post to Assets of Community Value, Planning and Borough Development, Royal Borough of Kensington & Chelsea, Town Hall, Hornton Street, London, W8 7NX

Who may nominate an asset?

Assets may not be nominated by individuals. Nominations may be made by the following types of community group only:

- a) Amenity societies or community interest groups with a local connection that are either a charity, a community interest company, a company limited by guarantee that is non profit distributing¹ or an industrial or provident society that is non profit distributing.
- b) Unincorporated groups of at least 21 local people who appear either on the electoral roll within the local authority where the asset is situated, or within a neighbouring local authority. This would include residents' associations and amenity societies not defined by (a). These unincorporated bodies must not distribute any profits to its members;
- c) Neighbourhood Forums as set out in Section 61F of the Town and Country Planning Act 1990.
- d) Parish Councils may nominate an asset within their own parish area, or an asset in a neighbouring area that does not have its own Parish Council, or with which they have a shared border. At present there are no Parish Councils in Kensington and Chelsea.

What types of buildings / sites may be nominated?

Nominated assets may be owned by anybody, including the local authority, the Crown, businesses and private individuals. Nominated assets must meet the following criteria:-

- The current use (or use in the recent past) of the building or land furthers the social wellbeing or interests of the local community as its primary purpose

¹ Non profit distributing means that any surplus is not shared with members but wholly or partly applied to the local authority area where the asset is based, or a neighbouring area.

- Future use of the building could reasonably be expected to continue such use within the next five years

What information must we supply?

Please complete the form as fully as possible. We require information about the individual making the nomination on behalf of their group, details of the group itself and also detailed information about the asset being nominated (for instance, if you are nominating a public house is it just the building you are nominating, or is there also a car park which you wish to include? If you don't tell us, we won't know.) Where you are not able to supply certain information (for instance the name of the registered owner of the building or site) please say so rather than leave the section blank.

We also require that you submit a site plan with the outline of the asset you wish to nominate in red and a statement to support your application. You are also advised that submitting additional documents to support your application will help us to speed up our decision.

A list of the kind of evidence that would be useful:

- Supporting evidence of what groups and people use the nominated asset and what events take place there.
- Evidence demonstrating how the asset contributes to the cultural, recreational or sporting interests of the community.
- Any letters of support from groups or persons using the asset.
- A list of 21 names of local members (on electoral role in the relevant borough or neighbouring borough) if you represent an unincorporated community group.
- Why it is realistic to think that the asset could in the future support the social interests of the community.

How much does it cost?

There is no charge. The new service is free.

How long will it take?

Provided we have enough information to make a decision at the beginning, we will give you a decision on whether your nominated asset will be added to the List of Assets of Community Value within eight weeks of accepting your nomination as valid.

Who will you notify?

The owner of the nominated asset will be notified together with any tenants or leaseholders that the Council has received a nomination to register their property as an asset of community value.

Where will the new Register be held, and how will people know about it?

The Register will be published on the Royal Borough of Kensington & Chelsea's website.

Owners of registered assets

Owners of registered assets have a number of rights as well as obligations under this new duty. These are set out below.

What happens if the owner wishes to dispose of a registered asset?

Owners of registered assets must inform the local authority if they wish to sell the asset, and then wait for a period of six weeks to see whether any community groups wish to register an interest to bid. If no group registers a request within six weeks the owner may dispose of the asset immediately.

If a community group does register an interest, the owner must wait for a period of six months before selling the asset and must consider the community group's bid. However, **the owner is not obliged to sell the asset to the community group**, and may dispose of it to whomsoever they please at whatever price after the moratorium period has passed.

If a disposal occurs within one year after the moratorium period has ended the new owner can notify the Council of the sale. Under these circumstances the Council must remove the land or building from the borough's ACV register. This does not prevent a qualifying community group from seeking to re-designate building or land in the future.

Exemptions

A number of exemptions exist for disposals of land that do not trigger a moratorium period. A full list of exemptions is found in Section 95(5) of Localism Act.

Can I change the use of a pub registered as an Asset of Community Value without applying for planning permission?

No, once a pub has been successfully registered as an asset of community value the owner must apply for planning permission to change the pub's use or to demolish it.

Reviewing a decision to register an asset

Once an asset is registered, the owner may appeal against this decision and request an internal review. If the internal review finds in favour of the owner, the asset will be removed from the register.

If the outcome of an internal review is unsuccessful, the owner of the asset may make a final appeal to an independent tribunal by emailing

GRC.CommunityRights@hmcts.gsi.gov.uk

or by writing to:

The Tribunal Clerk
Community Right to Bid Appeals
HM Courts and Tribunals
First Tier Tribunal (General Regulatory Chamber)
P O Box 9300
Leicester
LE1 8DJ

Compensation

Owners may feel that they have suffered loss or additional expense through their asset being listed. This may include a loss arising from a delay in entering into an agreement to sell due to the moratorium periods, or for legal expenses incurred in a successful appeal.

Claims for compensation must be made before the end of thirteen weeks after the loss or expense was incurred or (as the case may be) finishing being incurred. Claims must be made in writing to the local authority stating the amount being claimed and must provide proof of loss. The local authority will consider the claim for compensation, and must explain its decision about whether the claim is valid in writing. There is no time limit for this. An owner may ask for an internal review of the compensation claim. If still unsatisfied at the conclusion of this process, the owner can appeal to the First Tier Tribunal.

Enforcing the new rules

There is a clear penalty for non compliance with the new rules by owners.

All new registrations on the Register of Assets of Community Value will also be recorded on the Local Land Charges Register. Therefore, when the asset changes hands, a search of the register will reveal the asset's status.

When an asset is registered, the local authority will apply for a restriction on the land register.

Where a sale is found to have taken place which does not comply with the Localism Act 2011, that sale will be void.