



MENDIP DISTRICT COUNCIL

CORPORATE SERVICES

THE ASSET OF COMMUNITY VALUE (COMMUNITY RIGHT TO BID) GUIDANCE AND PROCEDURE

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INTRODUCTION

1. This policy seeks to provide the details of the requirements of the Assets of Community Value (ACV), which is also commonly known as Community Right to Bid and their implications for the Council.
2. The Assets of Community Value allows defined community groups, including Parish Councils, to ask the Council to list certain assets as being of “community value”. This is designed to give community groups more opportunities to take control of the assets and facilities important to them. If an asset is listed and then comes up for sale, the ACV will give community groups that want it a total of 6 months to put together a bid to buy it (including a 6-week cut-off for an initial proposal to be put forward).
There is, however, no obligation on the owner to sell the asset to the community group.
3. The relevant statutory provisions came into force on 21 September 2012 and are contained in Part 5, Chapter 3, Sections 87 to 108 of the Localism Act 2011.
4. These provisions are supported by regulations, and also by statutory guidance issued by the Department of Communities and Local Government in May 2012.
5. Under Section 102, if different parts of any land are in different local authority areas, the Council will co-operate with the other authority or authorities in carrying out its functions in relation to assets of community value under the 2011 Act
6. Applying Section 101, the Council will enforce these provisions in such manner as is prescribed in the regulations introduced by the Secretary of State

The Council’s statutory duty

7. The Council is a local authority for the purposes of Section 106 of the 2011 Act. Its obligations include:
 - a) The establishment and maintenance of a list of assets of community value
 - b) Publicising notices of disposal of assets
 - c) Acting as an intermediary between owners and community bidders
 - d) Enforcing the provisions in the Act
 - e) Compensating landowners
8. For the purposes of this duty:

- 8.1 The Council will fulfil its obligations under Section 87(1) with reference to the definition of “land of community value” provided in Section 88(1), which extends to buildings and/or land:
- a) Which in the Council’s opinion have an actual or current main use which furthers the social wellbeing or social interests of the local community; and
 - b) Where the Council has a realistic view that a main use which furthers the social wellbeing or social interests of the local community can continue
- 8.2 The Council will apply Section 89(1) of the 2011 Act to the establishment and maintenance of its list of assets of community value. Accordingly land will only be included in the list in response to a community nomination or where otherwise permitted by regulations issued by the Secretary of State.

Mendip District Council’s responsibilities

9. This Council’s basic duty will entail a range of responsibilities and functions. These are considered under the following headings:
- a) Apply the definition of nominating bodies
 - b) Apply the definition of asset of community value
 - c) Register of Assets of Community Value
 - d) Relevant Disposal
 - e) Moratorium – “Window of Opportunity”
 - f) Listing Review and Compensation.
 - g) Enforcement
 - h) Receiving and Assessing a Nomination for asset of Community Value

SECTION 1 – NOMINATING BODIES

- 1.1 Local authorities cannot list land on their own initiative - it must be nominated. For a local group to be able to nominate land it will have to demonstrate that its activities are wholly or partly concerned with the local authority area where the asset sits or with a neighbouring authority (an authority which shares a boundary with the authority in which the asset is located).
- 1.2 The voluntary or community bodies which may make community nominations are set out below:

Parish and Town Councils.

- 1.3 There will generally be no dispute about the definition of a parish or town council.
 - 1.3.1 For clarification, **parish or town councils** are regarded as excluded from the definition of local authority. Accordingly, parish and town council shall have no duty under ACV Act, and they are free to submit nominations.
 - 1.3.2 This may be for an asset in its own area, or in the neighbouring parish council.
 - 1.3.3 **Neighbouring Parish Councils.** If the parish council borders an unparished area, then they may nominate an asset within that neighbouring local authority.

Unincorporated groups.

- 1.4 Nominations can be accepted from any unincorporated group with membership of at least 21 local people who appear on the electoral roll within the local authority, or a neighbouring local authority. This will for instance enable nomination by a local group formed to try to save an asset, but which has not yet reached the stage of acquiring a formal charitable or corporate structure.

Neighbourhood forums.

- 1.5 The procedure for becoming a neighbourhood forum is set out in section 61F of the Town and Country Planning Act 1990, added by the Localism Act 2011. There can only be one neighbourhood forum for an area. Existing community groups, civic societies and others can put themselves forward to be a 'neighbourhood forum'. Prospective neighbourhood forums need to ensure they meet the conditions for designation set out in the legislation, for example a forum should have an open membership policy and seek to draw its membership from across the neighbourhood area and from different sections of the local community.

Community interest groups with a local connection.

- 1.6 These must have one or more of the following structures:
- a) A charity
 - b) A community interest company¹
 - c) A company limited by guarantee that is non profit distributing
 - d) An industrial and provident society that is non- profit distributing (these groups will be renamed as community benefit societies by the Co-operative and Community Benefit Societies and Credit Unions Act 2010 when it comes into force)
- 1.6.1 In this context, non-profit distributing means that any surplus is not distributed to its members but is wholly or partly applied to the local authority area where the asset is based or to a neighbouring authority area.

¹ A community interest company is a company which satisfies the requirements of Part 2 of the Companies (Audit, Investigations and Community Enterprise Act 2004 (c.27). See in particular sections 26, 35 and 36A. There have been amendments to section 26 and a substitution of section 36A which are not significant for these Regulations.

SECTION 2 – ASSET OF COMMUNITY VALUE

- 2.1 The definition of an asset of community value as set out in section 88 of the Act. A building or other land in a local authority's area is land of community value if in the opinion of the local authority —
- a) an actual current use of the building or other land that is not an ancillary use furthers the social wellbeing or social interests of the local community, and;
 - b) it is realistic to think that there can continue to be non-ancillary use of the building or other land which will further (whether or not in the same way) the social wellbeing or social interests of the local community. (Section 88(1) Localism Act 2011)
 - c) Section 88(2) of the Act extends this definition to land which has furthered the social wellbeing or social interests of the local community in the recent past, and which it is realistic to consider will do so again during the next five years.
 - d) The Act also defines land which is not of community value and therefore may not be listed; these are:
 - e) Residence together with land connected with that residence. Land is connected with a residence if—
 - i. the land, and the residence, are owned by a single owner; and
 - ii. every part of the land can be reached from the residence without having to cross land which is not owned by that single owner.
 - iii. above, is satisfied where a part of the land cannot be reached from the residence by reason only of intervening land in other ownership on which there is a road, railway, river or canal. It is reasonable to think that this would be satisfied if the intervening land were to be removed leaving no gap.
- 2.2. Land which falls within 2.1 e) may be listed if—
- (a) the residence is a building that is only partly used as a residence; and
 - (b) but for that residential use of the building, the land would be eligible for listing.
- 2.3 For the purposes of this section
- (a) “residence” means a building used or partly used as a residence;
 - (b) a building is a residence if—
 - (i) it is normally used or partly used as a residence, but for any reason so much of it as is normally used as a residence is temporarily unoccupied;
 - (ii) it is let or partly let for use as a holiday dwelling;
 - (iii) it, or part of it, is a hotel or is otherwise principally used for letting or licensing accommodation to paying occupants; or
 - (iv) it is a house in multiple occupation as defined in section 77 of the Housing Act 2004; and

- (c) a building or other land is not a residence if—
- (i) it is land on which currently there are no residences but for which planning permission or development consent has been granted for the construction of residences;
 - (ii) it is a building undergoing construction where there is planning permission or development consent for the completed building to be used as a residence, but construction is not yet complete; or
 - (iii) it was previously used as a residence but is in future to be used for a different purpose and planning permission or development consent for a change of use to that purpose has been granted.

2.4.1 Land in respect of which a site licence is required under Part 1 of the Caravan Sites and Control of Development Act 1960.

2.5.1 Operational land as defined in section 263 of the Town and Country Planning Act 1990.

SECTION 3 – REGISTER OF ASSETS OF COMMUNITY VALUE

- 3.1 The local authority is required to publish and maintain a Register of Assets of Community Value.
- 3.2 In addition to the list of assets, the local authority is required to maintain a list of assets nominated unsuccessfully by community nomination. The local authority may remove land from this second list whenever it considers would be appropriate.
- 3.3 The Council will publish both lists on a dedicated section of its website.
- 3.4 The Register of Assets of Community Value will also include the list of unsuccessful nominations and will be available for free inspection by any person.
- 3.5 The Council will provide a free copy of the register of Assets of Community Value to anyone who asks for it (but are not required to provide more than one free copy of each).
- 3.6 The list of unsuccessful nominations must include reasons for the land not being listed.
- 3.7 It is up to local authorities to decide on the detailed contents and layout of the lists and when to modify them, except for the following requirements:
 - 3.7.1 Local authorities are required to add to the list of assets, as soon as practicable:
 - a) that a notification by the owner of intention to dispose of the land has been received by the local authority and the date this was received
 - b) in all cases under (a), the end dates of the interim and full moratorium periods and the protected period
 - c) where relevant, that the full moratorium has been triggered
 - d) where (c) applies, the identity of the community interest group that triggered the full moratorium
- 3.8 Local authorities are required to remove an asset from the List, as soon as practicable:
 - a) after a relevant disposal (other than an exempt disposal)
 - b) when an appeal against a listing has been successful
 - c) when they form the opinion that the land or building is no longer of community value
 - d) or no later than 5 years from the date of entry on the list.
- 3.9 A copy of the Register of Assets of Community Value and the register of unsuccessful nominations can be viewed at APPENDIX A

SECTION 4 – RELEVANT DISPOSAL

- 4.1 “Relevant Disposal” is defined as the sale or transfer of the freehold or grant or assignment of a qualifying lease, of 25 years or more, which gives vacant possession of the buildings and other land in question.
- 4.2 “Relevant Disposals” trigger the moratorium requirements as set out in the Act. The moratorium provisions apply only to disposals, so for example if a building listed as an asset of community value is to be demolished without being sold, the moratorium rules in section 95 do not apply.
- 4.3 However, the moratorium will not apply to all relevant disposals, as some types of relevant disposal are exempt. These exemptions are partly in the Act and partly in the Regulations; and are set out below:
- 4.3.1 The first is in a different category to the remainder, in that the moratorium rules will have been triggered by notification from the owner, but the sale will be able to take place during the moratorium. Categories (b) to (j) are in section 95(5) of the Act, and (k) to (y) are in Schedule 3 to the Regulations. Item (f) – part-listed land – is partly defined in the Act, and partly in the Regulations.
- a) disposal to a local community interest group, which can be made during a moratorium period (interim or full) – see regulation 13(1)
 - b) disposals which are gifts (including transfer for no payment to trustees by way of settlement upon trusts)
 - c) disposals by personal representatives in accordance with the will of the deceased owner or under intestacy rules
 - d) disposal by personal representatives of the deceased owner in order to raise money for matters connected with administration of the estate
 - e) disposals between family members (“family member” is defined in section 95(7) of the Act as the owner’s spouse or partner and descendants of grandparents – which includes the owner’s own parents, but not the grandparents)
 - f) part-listed land – i.e. sale of a site only part of which has been listed – where it meets the requirements set out in the Regulations (see concluding paragraph for details)
 - g) sale of land on which a business is carried on, together with sale of that business as a going concern (in such circumstances there would normally be payment separately for the business as a going concern, e.g. the value of equipment, stock and goodwill)
 - h) disposals occasioned by somebody becoming or ceasing to be a trustee
 - i) disposal by trustees in connection with the trust, as specified
 - j) a disposal occasioned by a person becoming or ceasing to be a partner in a partnership
 - k) transfers made in pursuance of a court order
 - l) transfers (not in pursuance of a court order) as part of a separation agreement between spouses or civil partners (or ex ditto) including agreements for care of dependent children

- m) a transfer (not in pursuance of a court order) for the purposes of any enactment relating to incapacity, with “incapacity” being widely defined to include physical and mental impairment and any interference with capacity to deal with financial and property matters
- n) a disposal made in pursuance of a legally enforceable requirement that it should be made to a specific person, including disposals required under planning obligation agreements; and in the case of an option to buy, nomination right, pre-emption right or right of first refusal only if the agreement was entered into before the land was listed (and in this context it should be noted that an option etc entered into *after* the land is listed would count as a relevant disposal under section 96(4) of the Act)
- o) disposals of a description which brings them within the Crichton Down rules (where the land was acquired by compulsory purchase but is no longer needed, and the disposal is by way of return to the original owner or their descendants) – see DCLG Circular 06/04 “Compulsory Purchase and the Crichton Down Rules”: <http://www.communities.gov.uk/documents/planningandbuilding/pdf/1918885.pdf>
- p) sale by a lender under a power of sale (i.e. where the land was security for a loan)
- q) disposal of land under bankruptcy or other insolvency proceedings – the wording is “insolvency proceedings as defined by Rule 13.7 of the Insolvency Rules 1986”, which gives a very wide definition of insolvency proceedings
- r) compulsory purchase disposals (see the wide definition of “statutory compulsory purchase” in regulation 1, which includes disposals by a purchaser deemed to acquire the land compulsorily under a statutory blight notice, and also disposals by agreement where a compulsory power could be used)
- s) the grant of a agricultural tenancy to a successor on the death or retirement of the current tenant pursuant to Part 4 of the Agricultural Holdings Act 1986
- t) transfers between connected companies in a group of companies (using the definition of “group undertaking” in section 1161(5) of the Companies Act 2006, modified to restrict “undertaking” to a body corporate)
- u) disposals of part-listed land – this is the second part of the definition, the other part being in the Act – section 95(5)(e)⁵. See final paragraph below for details.
- v) disposals of closed Church of England churches under Part 6 of the Mission and Pastoral Measure 2011: the lengthy process in Part 6 of the Measure involves public consultation, and at the end of it the building will either be sold or leased for an agreed purpose, or demolished, or transferred to the Churches Conservation Trust for preservation – following which outcomes it will once more be possible to list the building and land if appropriate.
- w) disposals by any owner for the purpose of continuing health service provision on the land (in accordance with section 1(1) of the National Health Service Act 2006)
- x) a disposal of land to be held for the purpose of a school (excluding independent schools), further education institution or 16 to 19 Academy
- y) disposal of land subject to a statutory requirement regarding the making of the disposal, where that requirement could not be observed if the Assets moratorium rules were complied with.

SECTION 5 – MORATORIUM – “WINDOW OF OPPORTUNITY”

5.1 The Moratorium or ‘Window of Opportunity’ is triggered by the Owner’s notification in writing to the local authority of intention to trigger a ‘Relevant Disposal’.

5.2 Notification should be submitted;

by e-mail to:

lan.Munday@mendip.gov.uk

or by post to:

Ian Munday
Property Transformation Officer
Mendip District Council
Cannards Grave Road
Shepton Mallet
Somerset
BA4 5BT

5.3 Once the local authority has been notified of the intent to dispose, they are required to update the list to show the owner’s intention to dispose and to give the interim and full moratorium end dates, and the end date of the protected period. The nominating community group must be informed. The local authority must also publicise all of these matters in the neighbourhood of the asset in question. It is for the local authority to determine how they do this.

5.4 The moratorium has 3 parts to it:

- a) The **interim moratorium period** shall mean the period of six weeks beginning with the date on which the Council receives notification in relation to the disposal
- b) The **full moratorium period** shall mean the period of six months beginning with the date on which the local authority receives notification in relation to the disposal
- c) The **protected period** shall mean the period of eighteen months beginning with the date on which the Council receives notification in relation to the disposal

5.5 During the **interim moratorium** period a community interest group may request in writing to be treated as a potential bidder for the asset; this will bring 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. A community interest group must have one or more of the following structures:

- a) A charity
- b) A community interest company
- c) A company limited by guarantee that is non profit distributing
- d) An industrial and provident society that is non-profit distributing (these groups will be renamed as community benefit societies by the Co-operative and Community Benefit Societies and Credit Unions Act 2010 when the relevant provisions come into force)

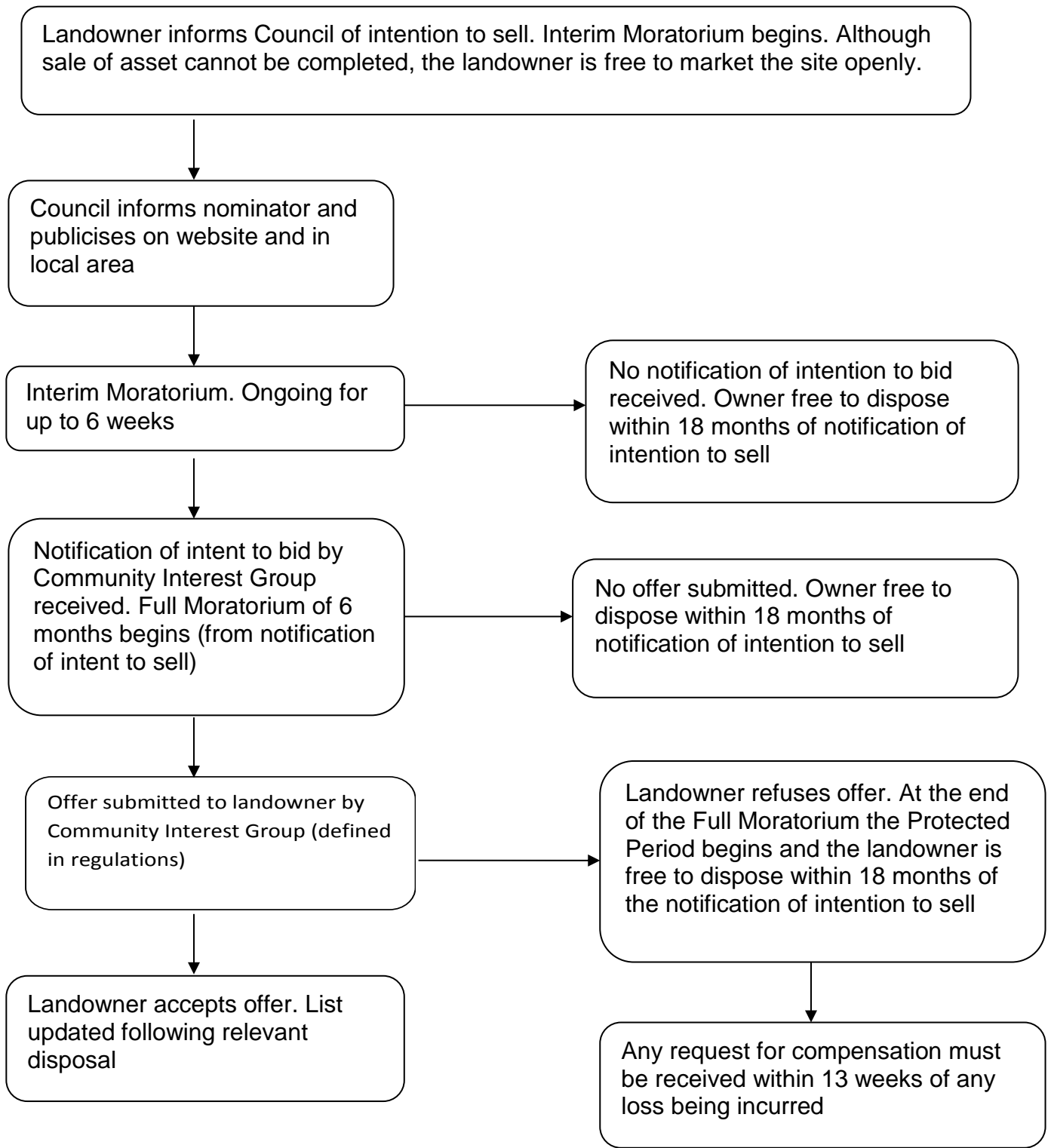
5.5.1 If none do so in this period, the owner is free to sell their asset.

- 5.6 Once a local community interest group makes a written request to the local authority during the interim moratorium period to be treated as a potential bidder, the owner may not dispose of their asset during the **full moratorium**, 6 month period. The local authority must as soon as practicable let the owner know that this request has been received.
- 5.7 Should a bid from a local community interest group not be forthcoming or is unsuccessful the owner has a **protected period** (18 months from the date of the owners notification to sell) to sell the asset without further delay.*
- 5.8 If, after the full 18 months 'protected' period (18 months from the date of the owners notification to sell), the asset has not been sold then the owner will again be required to notify the council of the intention to enter into a relevant disposal and the moratoriums will again be available to the community.
- 5.9 There is one type of disposal that may be made during a moratorium. An owner may sell during the interim or full moratorium period to a local community interest group – i.e. one which either did, or would have been eligible to, trigger the full moratorium.

*The Asset of Community Value provisions do NOT:

- Restrict who the owner of a listed asset sells to; i.e. there is no obligation to sell to the community organisation
- Restrict the price the owner sells at
- Restrict what the owner can do with their property once listed

SUMMARY OF PROCESS FOR DISPOSAL OF LISTED ASSETS



SECTION 6 – LISTING REVIEW AND COMPENSATION

6.1 Listing Review

- 6.1.1 If an asset has been included on the Register of Assets of Community Value, an owner has the right to request the local authority to review its decision, under section 92 of the Act.
- 6.1.2 The deadline for the owner to request this review is 8 weeks from the date written notice of listing was given (or from the date that alternative steps were completed to bring listing to the owner's attention) or a longer period allowed by the authority in writing. The property will remain listed while the review is carried out.
- 6.1.3 The Review must be conducted by an officer of appropriate seniority, who did not take part in the decision to list. In Mendip District Council's case internal listing reviews will be conducted by the Group Manager - Corporate Services in consultation with a non-conflicted member of Cabinet.
- 6.1.4. The owner may appoint a representative and the local authority will be required to provide all relevant documents to the representative.
- 6.1.5 The owner and/or their representative may make representations to the reviewer orally and/or in writing. The authority must complete their review within 8 weeks, unless a longer period has been agreed in writing.
- 6.1.6 The owner and authority will bear their own costs of the review.
- 6.1.7 If the owner is not satisfied with the outcome of the internal review they have the right to appeal to the First-Tier Tribunal against the local authority's review decision. The written response following the internal review should inform the owner of their right to an independent appeal. The owner making the appeal can be either the same owner who requested the review, or - if the property has been sold in the meantime - the new owner.
- 6.1.8 Request for a Listing Review should be in writing to:

by e-mail to:

sara.skirton@mendip.gov.uk

or by post to:

Sara Skirton
Group Manager - Corporate Services
Mendip District Council
Cannards Grave Road
Shepton Mallet

Somerset, BA45BT

6.1.9 An owner's appeal against a local authority listing review must be made to the General Regulatory Chamber of the First-Tier Tribunal. The deadline for appealing is specified in the procedural rules of that Chamber as 28 days from the date on which notice of the decision appealed against was sent to the owner. Appeals may be both on points of law and on findings of fact. The property will remain listed during the appeal process.

6.2 Compensation

6.2.1 Private owners may claim compensation for loss and expense incurred through the asset being listed or previously listed. The Regulations specifically provide that this will include a claim arising from a period of delay in entering into a binding agreement to sell which is wholly caused by the interim or full moratorium period; or for legal expenses incurred in a successful appeal to the Tribunal.

6.2.2 The time limit for making a compensation claim is as whichever is earlier of 13 weeks from the end of the interim or full moratorium period (as appropriate) or from the date when the land ceases to be listed. The assumption is that most claims for compensation will arise from a moratorium period being applied; however the wording allows for claims for loss or expense arising simply as a result of the land being listed.

6.2.3 Claims must be made in writing, state the amount of compensation sought and provide supporting evidence. The burden of proving the claim falls on the owner.

All claims and appeals should be in writing to:

by e-mail to:

sara.skirton@mendip.gov.uk

or by post to:

Sara Skirton
Group Manager - Corporate Services
Mendip District Council
Cannards Grave Road
Shepton Mallet
Somerset

6.2.4 The local authority must consider the claim and is required to give written reasons for its decision. No time limit is specified for responding to the claim. The reason for this is that it may take the authority some time to assemble all the

necessary evidence; however once it has all the facts the authority should reach a decision as quickly as is practicable.

6.2.5 Claims and appeals will be considered by Officers of appropriate seniority and, where appropriate, Members depending upon the level of compensation being sought. This is set out below:

Claim for compensation - below £10,000	Property Surveyor, in consultation with the Portfolio Holder: Finance, Governance and Corporate Services and S.151 Officer.
Claim for compensation - above £10,000	Group Manager - Corporate Services in consultation with the Portfolio Holder: Finance, Governance and Corporate Services and S.151 Officer.
Compensation appeal - below £10,000	Group Manager - Corporate Services in consultation with Deputy Leader and S.151 Officer.
Compensation appeal - above £10,000	Cabinet.

6.2.6 The compensation scheme does not extend to public authorities and bodies.

6.2.7 As with other costs incurred by local authorities in meeting the requirements placed on them, the Government has reflected the estimated costs of compensation within the new burdens funding. The compensation elements of new burdens funding are estimated on the basis of 40 successful claims for compensation across all administering local authorities over a year.

SECTION 7 – ENFORCEMENT

7.1 The Act provides for various mechanisms to encourage compliance by requiring local authorities to:

- a) Inform owners and other interested parties that an asset has been listed
- b) Enter on the local land charges register the fact that an asset has been listed; and
- c) in the case of registered land, apply for a restriction on the Land register.

7.2 Additionally, to give a strong incentive to owners to comply with the Act, non-compliant sales will be void (ineffective), meaning that the change of ownership has not taken place (regardless of whether it has erroneously been registered on the Land Register - which would have to be rectified once the fact that the sale was void was discovered).

- 7.3 However this penalty will not apply if the owner was unaware through no fault of their own that the land was listed when it was sold.

SECTION 8 – RECEIVING AND ASSESSING A NOMINATION FOR ASSET OF COMMUNITY VALUE

- 8.1 The Council as the ‘local authority’ defined within the Act is the body to receive any nominations in relation to assets within the district boundary of Mendip District Council.
- 8.2 The local authority is required to make a decision in response to a nomination within 8 weeks of receiving the nomination.
- 8.3 All nominations will be made on the prescribed nomination form, (see later) which will be available via the council’s dedicated website for ACV.
- 8.4 The local authority must take all practicable steps to inform the following if an asset has been nominated:
- a) a parish council (if any) in which the land lies (or partly lies),
 - b) the owner as defined in section 107 of the Localism Act. This definition ensures that only one level of legal proprietary rights will qualify as ownership for the Act. In summary this is the freeholder or, if the asset is leased, the leaseholder with the lease most distant from the freehold which when granted had at least 25 years to run. So if there are a number of leases the leaseholder with a qualifying lease or sub-lease most distant from the freeholder is the owner for the purposes of these provisions.
 - c) all others with a legal estate, i.e. if the owner is not the freeholder then the holder of the freehold estate, and any other leaseholder apart from the owner; and
 - d) any lawful occupant (which could include a licensee).
- 8.5 The Council will also inform the relevant local Mendip District Council ward member(s) of a nomination within their ward.
- 8.6 The nomination will be assessed based on the information submitted. To assist nominators and to promote a consistency in the Council’s approach a template has been developed which matches the nomination criteria and relevant evidence required to assess a particular criteria. This is available via the

Council's dedicated ACV website. (A copy of this is shown below, after the nomination form).

8.8 Nominations will be considered by the Property Surveyor, in consultation with:-

- a) Portfolio Holder: Finance, Governance and Corporate Services.
- b) Ward member.
- c) Any other MDC team deemed appropriate.

Final Nomination decisions to be made by the Assets of Community Value Panel (ACVP). The ACVP comprises:

- The Portfolio and Shadow Portfolio Holder, Finance, Governance and Corporate Services
- The Portfolio Holder, Transformation
- The Deputy Leader

8.9 When an asset is added to or removed from the list, the local authority must inform the owner, the occupier of the land if not the owner, and the successful community nominator of the asset.

8.10 Local authorities must also inform any freeholders and leaseholders of the asset who are not the owners, together with the parish council the land lies in (or partly lies in), that an asset has been added to, or removed from, the list.

8.11 A local authority which is not able to give notice to any of these people in the usual way – for instance due to lack of names or addresses – can take reasonable alternative steps to bring the notice to a person's attention. This could include, for instance, a notice attached to the property.

Nominations should be submitted;

by e-mail to:

Ian.Munday@mendip.gov.uk

or by post to:

Ian Munday
Senior Property Transformation Officer
Mendip District Council
Cannards Grave Road
Shepton Mallet
Somerset
BA4 5BT

The Council requires nominations for assets of community value to be submitted using the following form:

Section 1 - CONTACT DETAILS

(Criteria: A1, A2)

1a. Organisation Name and Address

Organisation Name:

Address:

1b. Please provide contact details for the person we should contact to discuss the nomination.

Name:

Address:

Tel Number:

Mobile Number:

Email Address:

1c. Please specify which of the following categories your organisation relates to and *provide the evidence to support this.*

Category of Organisation	√
Voluntary body	
Community body	
Charitable Organisation	
Parish/Town Council	

Section 2 - DESCRIPTION OF THE ASSET YOU WISH TO NOMINATE

(Criteria: A3, A4)

2a. What is the Asset?

E.g. Shop, Pub, community facility

--

2b. Please provide the location/address and postcode of the nominated land or building

Address:

Postcode:

--

2c. What do you consider to be the boundary of the property? Give as much detail as possible and if possible, include a plan.

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2d. Please provide details of the current occupants of the land or building being nominated, including the names and current (or last known) addresses of all those holding a freehold or leasehold estate in the land.

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Section 3 - SUPPORTING INFORMATION FOR THE NOMINATION

(Criteria: B1, C1, C2, C3, C4, D1, D2)

3. What are the reasons for nomination this land/building for consideration as an asset of community value? (i.e. has an actual or current main use which furthers the social wellbeing or social interests of the local community where there is a realistic prospect of such a use continuing)

Please provide as much information as possible, including: current usage how the asset might promote or improve the social, economic and environmental well-being of the area.

Please use and attach additional sheets of paper if you need to

I (name) in the position of
(position)confirm that I am authorised to
submit this nomination on behalf of (organisation)

Sign.....

Date.....

Thank you for your nomination
We will acknowledge receipt of your nomination and will also check through your form
and let you know if any further information is required.

For any further information or advice in filling in the form check our website:
www.mendip.gov.uk/acv
Or contact: Ian Munday

Email – ian.munday@mendip.gov.uk

Office Use Only

Ref:

Date received:

Date Panel Consider:

Decision:

Recorded on Register:

Date Nominee Informed:

Date Land Owner Informed:

Date Land Registry Informed:

Land Owner Appeal

Date Appeal Received:

Date Appeal Panel Consider:

Decision:

Date Land Owner Informed:

Date Nominee Informed:

Recorded on Register:

Guidance for determining applications for nomination for inclusion on the Mendip District Council List of Assets of Community Value under the Localism Act 2011

STEP A APPLY NONDISCRETIONARY CRITERIA derived from the Act and regulations	RELEVANT EVIDENCE FOR THIS CRITERIA
<p>A1. Is the nominating organisation an eligible body to nominate? The types of organisations eligible for making a nomination are currently defined in Regulation 5 of the Assets of Community Value (England) Regulations 2012 as below: (a) a body designated as a neighbourhood forum pursuant to section 61F of the Town and Country Planning Act 1990(b); (b) a parish council; (c) an unincorporated body— (i) whose members include at least 21 individuals, and (ii) which does not distribute any surplus it makes to its members; (d) a charity; (e) a company limited by guarantee which does not distribute any surplus it makes to its members; (f) an industrial and provident society which does not distribute any surplus it makes to its members; or (g) a community interest company</p>	<p>Evidence that the nominator is eligible to make a community nomination could include Articles of Association, Constitutions, Terms of Reference, etc., relevant to the type of body, formal resolution / Board minutes.</p>
<p>A2. Does the nominating body have a local connection to the asset nominated? “Local Connection” is defined in detail in Regulation 4 of the Assets of Community Value(England) regulations 2012</p>	<p>Evidence for this could include relevant documents and maps At least 21 persons registered to vote in Mendip District</p>

<p>A3. Does the nomination include the required information about the asset? This is set out in Regulation 6 of the Assets of Community Value (England) Regulations 2012 as follows (a) a description of the nominated land including its proposed boundaries; (b) a statement of all the information which the nominator has with regard to— (i) the names of current occupants of the land, and (ii) the names and current or last known addresses of all those holding a freehold or leasehold estate in the land;</p>	<p>The nomination will be checked to ensure the required data is supplied</p>
<p>A4 Is the nominated asset outside of one of the categories that cannot be assets of community value as set out in Schedule 1 of the assets of Community Value (England) Regulations 2012, as summarised below?: 1. A residence together with land connected with that residence 2. Land in respect of which a site licence is required under Part 1 of the Caravan Sites and Control of Development Act 1960 3. Operational land as defined in section 263 of the Town and Country Planning Act 1990(c).</p>	<p>Evidence of current and recent usage of the asset will be checked against known information including Planning history</p>
<p>IF “YES” TO ALL OF PART A MOVE TO STEP B IF “NO” TO ONE OR MORE OF PART A, INFORM NOMINATOR THAT NOMINATION IS INELIGIBLE</p>	
<p>STEP B ESTABLISHING THE NON-ANCILLARY USE THAT THE APPLICATION IS BASED ON</p>	
<p>B1. Is the current or recent usage which is the subject of the nomination an actual and non-ancillary usage?</p>	<p>Evidence of actual/recent usage; e.g. numbers of people making use of the facility; session rotas for local groups, calendars, usage history etc. NOTE 1: A working definition of “recent past” is “within the past three years” NOTE 2. A working definition of “non-ancillary” is that the usage is not providing necessary support (e.g. cleaning) to the primary activities carried out in the asset, but is itself a primary, additional or complementary use</p>

<p>If the current or recent usage that is the subject of the nomination is actual and non-ancillary, go to STEP C If not, PLACE ON LIST OF UNSUCCESSFUL NOMINATIONS</p>	
<p>STEP C – Determining whether the usage furthers social wellbeing or social interests</p>	<p>Note: nominations for “recent uses”, evidence will need to relate to the working definition set out above.</p>
<p>Criteria</p>	<p>Evidence</p>
<p>C1. Who benefits from the use? Does it meet the social interests of the community as a whole and not simply the users/customers of the specific service? Who will lose if the usage ceases?</p>	<ul style="list-style-type: none"> • Policies/approach of organisation using the asset • Numbers of users/members/customers • Testimonials of service provided/outcomes • Accessibility of asset (e.g. DDA compliance) • Equalities impact • Number of volunteer hours drawn in by the facility • Positive impacts on health and wellbeing • Positive impact on local natural environment and wildlife • Positive impact on cultural, sporting or recreational activities • Involvement in the community in running/managing it
<p><i>C2. What aspect of the usage delivers a social outcome and influence, where appropriate, the Council’s current strategies?</i></p>	<ul style="list-style-type: none"> • What services has the asset delivered to the community? • Are these services referred to in the following? <ul style="list-style-type: none"> o Sustainable Community Strategy o Corporate Plan o Local Development Framework o Local Transport Plan o Joint Strategic Needs Assessment o Plans relating to cultural, sporting and recreational interests o Other plans/policies

<p>C3. Why is the usage seen as having social value in the context of the community on whose behalf the application is being made?</p>	<ul style="list-style-type: none"> • Impacts on community pride, cohesion and sense of place - e.g. hosting communitywide events • Contribution of the usage to the specific community e.g. to helping accessibility of services in that community • Positive impact on sustainable living • Positive impact on specific local communities and areas of need • Rural/urban differential impacts
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<p>C4. How strongly does the local community feel about the usage as furthering their social interests?</p>	<ul style="list-style-type: none"> • Evidence supplied by local stakeholders to support the nomination request; - e.g. surveys, petitions etc • Evidence of soundness of process for gathering community feedback and views. • Reference to and evidence from Parish Plan and/ or other local document as to the importance of this asset locally • Evidence from Mendip District Council local ward members
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<p>STEP D – Realism of future usage</p>	
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<p>D. Is it realistic to think (for “current” uses) there will continue to be social use of the building or other land or (for “recent” uses) that it is realistic to think that there will be community use again within the next five years?</p>	
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<p>D1. Has the building/land/space/legal requirement for this usage changed significantly since its initial use so that the asset is not fit for purpose?</p>	<p>Evidence could include changes to service requirements as shown in national trends as well as market testing and planning history</p>
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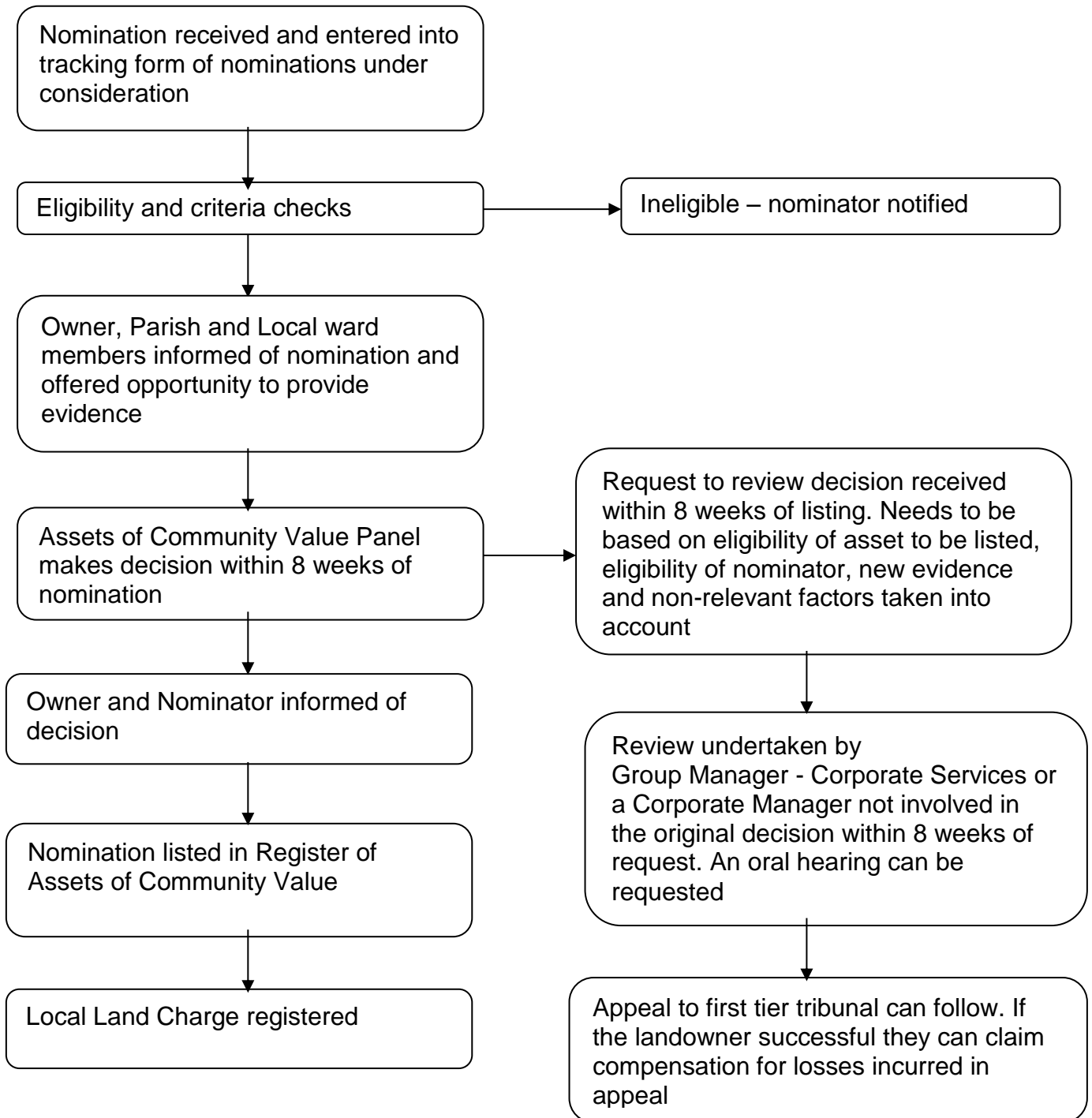
<p>IF NO to D1 above, PLACE ON LIST OF ASSETS OF COMMUNITY VALUE</p>	
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<p>IF YES to D1 above, go to D2</p>	
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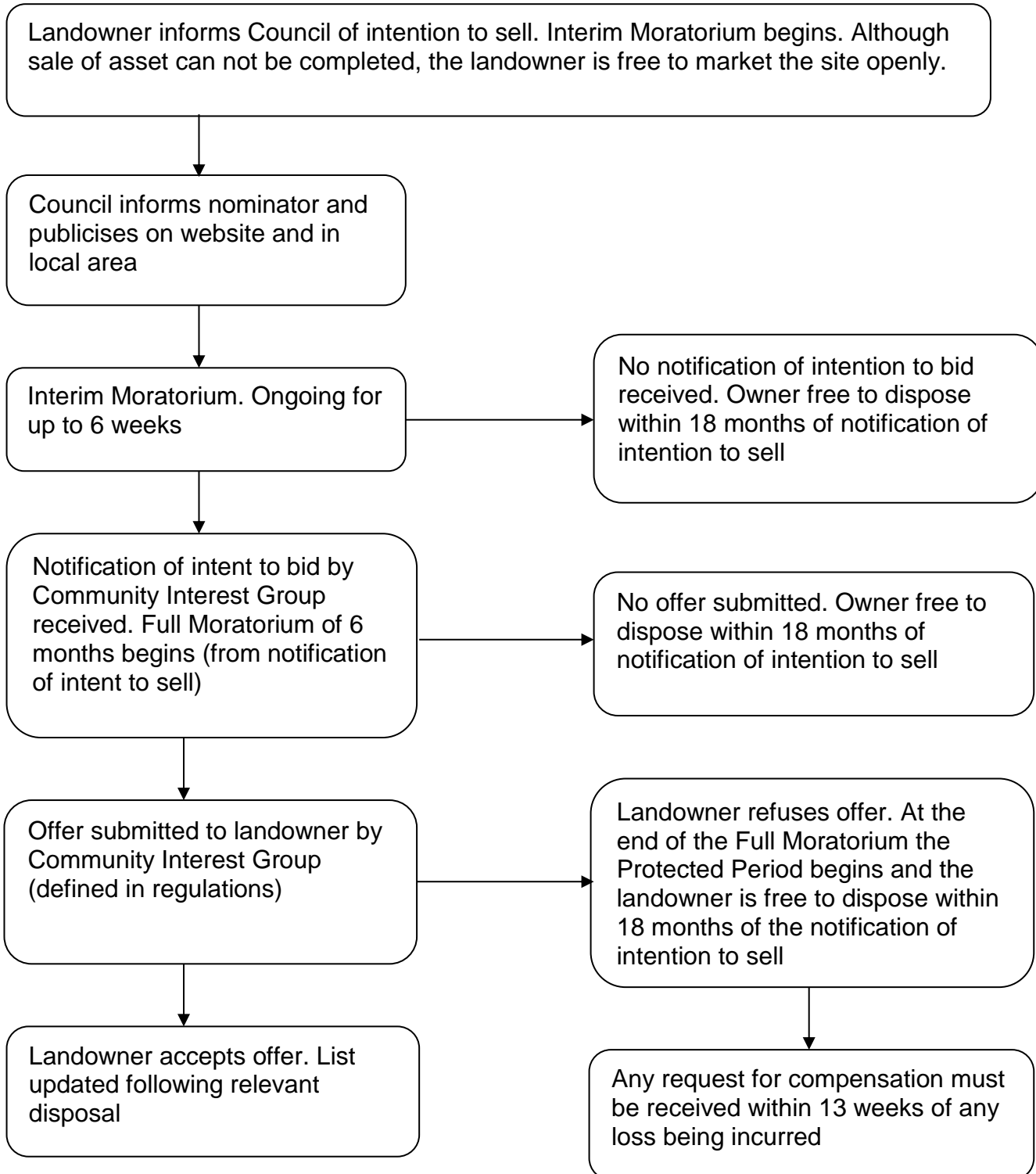
<p>D2. Could the asset be made fit for purpose practically and within reasonable resource requirements and within timescales?</p>	<p>Outline Business Plans, survey reports, advice from Property Services, market intelligence; status and progress of proposals for taking over/managing the asset in future;</p>
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IF YES to D2 above, PLACE ON LIST OF ASSETS OF COMMUNITY VALUE	
IF NO to D2 above, PLACE ON LIST OF UNSUCCESSFUL NOMINATIONS	
Decision made by responsible officer	
Date decision made	
Date entered onto Decision Register	

SUMMARY OF PROCESS FOR ASSESSING NOMINATIONS AND REVIEW



SUMMARY OF PROCESS FOR DISPOSAL OF LISTED ASSETS



SECTION 9 – GLOSSARY

<i>Asset</i>	A building or other land
<i>The Community Right to Bid</i>	The name by which the Assets of Community Value scheme is commonly known.
<i>Land of community value</i>	Building or other land whose main (i.e. “non-ancillary”) use furthers the social wellbeing or social interests of the local community, or has recently done so, and is likely to do so in the future. See section 88 of the Act.
<i>List of assets of community value</i>	A list maintained by a local authority of land in its area of community value. See section 87 of the Act.
<i>Voluntary or community body</i>	A group which can nominate land, so long as it has a local connection with the land. See regulation 5.
<i>Local connection</i>	The requirement that a group’s activities and use of any profits (where relevant) must be concerned with the local authority area or a neighbouring authority area. In the case of a parish council, the requirement is that it must share a border with the relevant area in which the asset lies. See regulation 4.
<i>Relevant disposal</i>	The transfer of the freehold, or the grant or assignment of a lease originally granted for at least 25 years, giving vacant possession to the new owner. See section 96 of the Act.
<i>Exempt disposal</i>	A relevant disposal for which the land owner does not have to observe section 95(1) of the Act. There are two sorts of exempt disposal: <ul style="list-style-type: none"> o one where the owner does notify the local authority of intention to sell, so that the moratorium applies, but can sell during the moratorium to a community interest group; o fully exempt disposals where the owner can simply go ahead without notifying the local authority at all. These are set out in section 95(5) of the Act and Schedule 3 to the Regulations.
<i>Moratorium period</i>	A period of time during which the owner of listed land cannot make a non-exempt relevant disposal, other than to a voluntary or community body. There are two moratorium periods (see section 95(6) of the Act), both running from the same start date (when the owner notifies the local authority of an intention to sell): <ul style="list-style-type: none"> o the interim moratorium - 6 weeks; o the full moratorium - 6 months.

<i>Protected period</i>	A period of 18 months (running from the date the owner notified the local authority of an intention to sell). Once any moratorium period has finished, the same owner can sell during the remainder of the protected period without having to comply with the section 95 requirements again.
<i>Listing review</i>	A review by a local authority at the request of the owner of their decision to list a building or other land as an asset of community value. See section 92 of the Act, and for procedure on the review Schedule 2 to the Regulations.
<i>Compensation review</i>	A review by a local authority at the request of the owner of their decision in response to a claim for compensation for loss or expense caused by listing their building or other land as an asset of community value. See section 99 of the Act, regulation 16, and for procedure on the review Schedule 2 to the Regulations.
<i>Conveyancer</i>	The owner of listed, or formerly listed, land will in some circumstances have to provide a certificate by a conveyancer that a disposal has not contravened section 95(1) of the Act. "Conveyancer" in this context has the meaning given in rule 217A of the Land Registration Rules 2003, including a solicitor, a barrister, and a licensed conveyancer.
<i>The Act</i>	The Localism Act 2011
<i>Community interest group</i>	<p>A group which, for land with which it has a local connection, may –</p> <ul style="list-style-type: none"> o ask to be treated as a potential bidder for listed land which the owner wishes to sell, thus triggering the full moratorium of 6 months o buy listed land during the moratorium period o nominate land for listing (since the requirements for a voluntary or community body include the requirements for a community interest group). <p>It must be a charity or community interest company, or a non-profit distributing industrial and provident society or company limited by guarantee. See sections 89 and 95, and regulations 5 and 12.</p>
<i>Nomination</i>	A request to the relevant local authority that land be entered on its list of assets of community value, containing the information specified in regulation 6. See also section 89 of the Act.

(Note that although the Act allows for a possible distinction between community nominations and other nominations, the regulations provide only for community nominations – therefore all nominations will be community nominations.)

<i>Local authority</i>	In England, a district council, county council for an area with no district councils, London borough council, the Common Council of the City of London, or the Council of the Isles of Scilly. See section 106 of the Act.
<i>Restriction on the Land Register</i>	An entry on the register preventing dealing with the land until the requisite condition has been complied with – in this case set out in Form QQ to be added to Schedule 4 to the Land Registration Rules 2003: No transfer or lease is to be registered without a certificate signed by a conveyancer that the transfer or lease did not contravene section 95(1) of the Localism Act 2011.
<i>Ineffective transfer of land</i>	A purported disposal of land which in fact does not have any effect – ownership of the land remains with the original owner.