



East
Northamptonshire
Council

Community Right to Bid Policy



July 2017

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Version 4.0	19/9/14	Update section 4.10
Version 3.0	27/02/2014	Section 4.10 updated to address potential conflicts of interest in decision-making
Version 2.0	18/04/2013	Section 4.29 updated to include Community Right to Bid Compensation Scheme

NB: Draft versions 0.1 - final published versions 1.0

Consultees

Internal	External
e.g. Individual(s) / Group / Section	e.g. Stakeholders / Partners / Organisation(s)
CMT, Finance Manager, Land Charges Project Manager, Development Control Manager, GIS Technician	

Distribution List

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Links to other documents

Document	Link
Community Right to Bid: Non-statutory advice note for local authorities	http://webarchive.nationalarchives.gov.uk/20120919132719/www.communities.gov.uk/documents/communities/pdf/2229703.pdf

Additional Comments to note

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1.0 Introduction

- 1.1 This policy sets out the procedure the Council will follow when dealing with the Community Right to Bid (CRtB).

2.0 Scope

- 2.1 The policy covers buildings and land (assets) that meet the definition of section 88 of the Localism Act 2011 (the Act).
- 2.2 The Council will consider nominations of eligible assets from parish and town councils and community interest groups that meet the definition of sections 89 and 95, and regulations 5 and 12 of the Act.
- 2.3 The policy will apply to all listed assets that come up for disposal unless an exemption applies, as set out in section 95 of the Act and in Schedule 3 to the regulations.
- 2.4 The Glossary sets out a full list of definitions.
- 2.5 Further information about the scope of the CRtB and other Community Rights established under the Localism Act is available from <http://mycommunityrights.org.uk/>

3.0 Policy outcomes

- 3.1 The outcomes to be delivered by this policy are:

Community Right to Bid Policy outcomes	Links to corporate outcomes
<ul style="list-style-type: none">• The Council meets its duties under the Localism Act 2011• Community groups are aware of the process to follow when they would like to see an asset listed• Asset owners are aware of the Right and understand what the process means for them if their asset is listed• The Council's processes are transparent	<ul style="list-style-type: none">• Effective partnership working• Effective management

4.0 Community Right to Bid Policy

4.1 The Community Right to Bid (CRtB) gives people the chance to bid to buy and take over the running of assets that are of value to the local community. Local groups are given the right to nominate a building or land for listing by East Northamptonshire Council as an asset of community value. When a listed asset is to be sold, local community groups will have a six month period to raise finance, develop a business plan and to make a bid to buy the asset on the open market.

4.2 East Northamptonshire Council, as the local planning authority, administers the list and ensures that the CRtB process is followed where applicable.

4.3 Who can nominate an asset to be included in the list?

4.4 The CRtB can be used by:

- Parish and town councils – for an asset in their own area or in the neighbouring parish
- Unincorporated groups – the group must have a membership of at least 21 local people who appear on the electoral roll within East Northamptonshire, or a neighbouring local authority
- Neighbourhood forums – 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
- Community interest groups with a local connection – these must have one or more of the following structures:
 - A charity
 - A community interest company
 - A company limited by guarantee that is non-profit distributing
 - An industrial and provident society that is non-profit distributing

4.5 What is the definition of an asset of community value?

4.6 A building or land in the local authority's area is of community value if, in the Council's opinion:

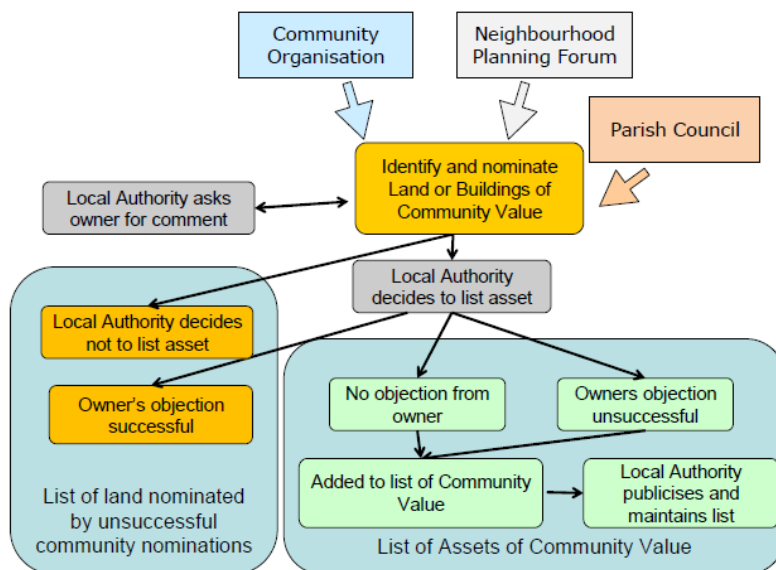
- The main (i.e. 'non-ancillary') use furthers the social wellbeing or social interests of the local community, or has recently done so, and is likely to do so in the future (during the next five years)

The asset may be owned by anybody, including the local authority and the Crown.

- 4.7 Some categories of assets are excluded from listing (see Schedule 1 of the Regulations for further details):
- Residential property
 - Land licensed for use as a residential caravan site
 - Operational land of statutory undertakers as defined in section 263 of the Town and Country Planning Act 1990
- 4.8 Nominations submitted by eligible groups will be considered against the definition as outlined above.
- 4.9 Who considers the nominations?**
- 4.10 Responsibility for deciding whether to list a nomination as an asset of community value has been delegated to the Executive Director, (or Head of Resources and Organisational Development if the Executive Director has a conflict of interest). The decision will be taken after consultation with the Chairman of the Policy & Resources Committee and the ward member(s) for the location of the asset. To avoid potential conflicts of interest, the following procedure will be followed if any of those members have an interest in the nomination:
- If the Chairman of the Policy & Resources Committee has an interest in the nomination, the Vice Chair of the Policy & Resources Committee will be consulted in their place
 - If there is only one ward member to be consulted and they have an interest in the nomination (or if all ward members have an interest), the Leader of the Council will be consulted in their place
 - If a conflict of interest still occurs, the Deputy Leader will be consulted on the matter
- 4.11 This must be done within 8 weeks of receiving the nomination. A nomination form is available on the Council's website¹, or in paper format upon request, and is included at Appendix A to this policy.
- 4.12 If the Executive Director, in consultation with the relevant members, decides that the building or land meets the definition of an asset of community value, it will be listed as such on the Council's website. The Council will give written notice to the group that made the nomination, the owner, any lawful occupier and the relevant parish council. The Council must also enter on the local land charges register the fact that an asset has been listed.
- 4.13 If the Executive Director, in consultation with the relevant members, decides that the building or land does not meet the definition, it will be placed on a list of assets nominated but not listed.
- 4.14 If the asset is listed by the Council and the owner contests the listing, he or she can ask the Council to review the decision. Responsibility for reviewing a listing has been delegated to the Chief Executive (or the Executive Director or Head of Resources and Organisational Development as appropriate if there is a conflict of interest).

¹ All information relating to the Community Right to Bid can be found on the Council's website at www.east-northamptonshire.gov.uk/communityrighttobid

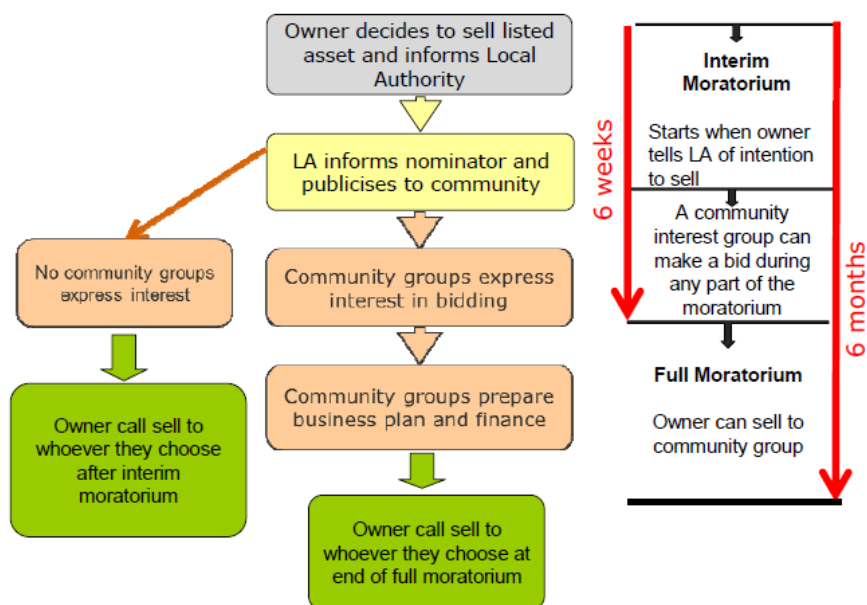
- 4.15 The owner can request either a Written Review or an Oral Hearing to review the listing. Procedures for Oral Hearings are detailed in Appendix C of this document. If the decision to list is overturned, the asset will appear on the list of unsuccessful nominations on the Council's website.
- 4.16 If the decision is upheld, the owner can contest the decision further by appealing to the First-Tier Tribunal. The property will remain listed during the appeal process.
- 4.17 Appendix B contains contact details for the nomination, review and appeal processes.
- 4.18 Lists of successful and unsuccessful nominations will be available on the Council's website. Paper copies of the lists will be available upon request.
- 4.19 Assets will remain on either list for five years. Assets will be removed from the list after a relevant disposal, when an appeal against a listing has been successful, when the Council forms the opinion that the land or building is no longer of community value, or after being on the list for five years.
- 4.20 Once an asset has been listed, nothing further will happen for five years unless and until the owner decides to dispose of it.
- 4.21 The diagram below shows the listing process.



4.22 What happens when the asset is to be sold?

- 4.23 The owner of a listed asset must inform the Council if they wish to dispose of the asset. Once this happens, the Council will publicise this by amending the published list to show that the asset is up for sale, notifying the interested group in writing and publicising the matter locally, within 10 working days. This will be by site notice and on the Council's website.
- 4.24 Any community interest group has six weeks to decide if it wants to put in an expression of interest (EOI) to the Council to be treated as a potential bidder.

- 4.25 If no EOI is received, the owner is free to dispose of the asset how they choose.
- 4.26 If an EOI is received, the Council will write to the owner within 10 working days and provide information on the EOI and the group that submitted it.
- 4.27 A moratorium of six months begins to give the interested group the opportunity to prepare and submit a bid to buy the asset. The owner may continue to market the asset and negotiate sales but may not exchange contracts or enter into a binding contract to do so later unless it is to a community interest group. If the owner disposes of a listed asset without going through this process, the sale is void.
- 4.28 At the end of the moratorium period, the owner is free to consider bids received from the community interest group and any other interested party. These provisions do not restrict in any way who the owner of a listed asset can sell their property to, or at what price. They also do not confer a right of first refusal to community interest groups.
- 4.29 The provisions do not place any restriction on what an owner can do with their property, once listed, so long as it remains in their ownership. However, East Northamptonshire Council, as the local planning authority, must decide whether listing as an asset of community value is a material consideration if an application for change of use is submitted, considering all the circumstances of the case.
- 4.30 The diagram below shows the process when a listed asset is due to be sold.



4.31 Compensation Scheme

- 4.32 In developing the CRtB policy, the Government recognises that these provisions may have some financial impact on owners and provides a compensation scheme for private property owners. East Northamptonshire Council will be responsible for administering the scheme, including assessing and determining compensation awards.

- 4.33 This section of the policy sets out the procedure the Council will follow when dealing with the CRtB compensation claims.
- 4.34 Property owners may be entitled to claim compensation for loss or expense incurred as a direct result of complying with the CRtB from East Northamptonshire Council.
- 4.35 The regulations should be consulted for details of bodies which are not entitled to compensation, which includes other public sector bodies.

4.36 Stage One

- 4.37 Claims should be made in writing and be made within thirteen weeks after the loss or expense was incurred or finished being incurred. Claims must state the amount of compensation being claimed for each part of the claim and be accompanied by supporting evidence.
- 4.38 Claims should be submitted to:
Email: corpsupport@east-northamptonshire.gov.uk
- Post: Corporate Support Team
East Northamptonshire Council
Cedar Drive
Thrapston
Northants
NN14 4LZ
- 4.39 The Council will acknowledge receipt of the request. The review will be undertaken by the Chief Finance Officer and the Chair of Finance Sub-Committee or Vice Chair if they are unavailable, these individuals will be independent of the original decision to list the asset as a community asset.
- 4.40 The owner may request an oral hearing and may appoint a representative to act on his or her behalf in connection with the review. The owner, or their representative, may make written and oral representation to the reviewer.
- 4.41 The Council will provide the claimant with written notification of their decision within eight weeks of receipt of the claim.

4.42 Stage Two

- 4.43 The claimant may ask for a review of the decision reached in relation to their claim. This must be made in writing within eight weeks of the date the Council advised of its reasons for the decision in relation to the compensation claim.
- 4.44 A review request should be submitted to the address set out in 4.36 above.
- 4.45 The Council will acknowledge receipt of the review request. The stage two review will be undertaken by a member of the Corporate Management Team (CMT) and a Councillor who has not previously been involved in the process. These individuals will be independent of both the original decision to list the asset and the stage one claim.

4.46 The Council will provide the claimant with written notification of the review outcome within eight weeks of receipt of the review request.

4.47 Stage Three

4.48 Where the claimant remains dissatisfied with the outcome of the review, they may appeal to the general regulatory chamber of the First Tier Tribunal against the Council's decisions on the compensation review. This appeal must be made in writing within 28 days of receiving the Council's decision on the compensation review.

4.49 Appeals should be sent to:

Email: GRC.CommunityRights@hmcts.gsi.gov.uk

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

4.50 When are assets removed from the register?

4.51 An Asset of Community Value is removed from the register:

- After a relevant disposal
- When an appeal against a listing has been successful
- When the council forms the opinion that the land or building is no longer of community value
- No later than 5 years from the date of entry on the list

4.52 In the situation where the asset has been on the register for 5 years and must be removed, the council will write to the owner and the original nominating community group prior to the expiry date being reached. The council will inform the parties of the process and the requirement to re-nominate the asset as being of community value. The evaluation and decision making process begins anew (section 4.3 of this policy). There is no guarantee that land/property previously listed will be accepted as an Asset of Community Value again.

4.53 Monitoring of this policy

4.54 This policy will be reviewed in three years or sooner if there are legislative changes.

5.0 Glossary of terms

Term	Definition
Local connection	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 be in or share a border (i.e. be a in a neighbouring parish) with the relevant area in which the asset lies.
First-Tier Tribunal	A Panel which forms part of Her Majesty's Courts and Tribunals Service. In this case, its role is to review the decision made by the local authority regarding the listing of an asset which had been considered to be of community value.
Relevant disposal	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.
Exempt disposal	<p>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:</p> <ul style="list-style-type: none"> • 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; • 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
Moratorium period	<p>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):</p> <ul style="list-style-type: none"> • The interim moratorium – 6 weeks; • The full moratorium – 6 months
Protected period	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.

Compensation review	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.
Conveyancer	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.
Restriction on the Land Register	<p>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:</p> <p>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.</p>

Appendix A – Nomination form



East
Northamptonshire
Council

Nomination for listing as an Asset of Community Value

Please provide as much detail as possible when completing this nomination form. The information provided here forms the basis of your application but will also be used as evidence in any review/appeal requested by the owner of the property.

About the property or land to be nominated

Name of property	
Type of property (e.g. shop, pub, community facility)	
Property owner's name	
Property owner's address	
Current occupier's name	
Land Registry title number(s) <i>(please include a copy of the land registry entry where possible)</i>	<i>(tick here if this is included in your application)</i> <input type="checkbox"/>
What do you consider to be the boundary of the property? <i>Please include a sketch or printed plan and give as much detail/be as descriptive as possible</i>	
Is the nominated property or 'land parcel' part of a larger building/plot, a portion of which is not being	Yes/No <i>(please delete as applicable)</i>

nominated?	
<p>Is this property or any part of the property, used in any of the following ways?</p> <p>As an hotel-type residence As a holiday let/holiday dwelling As a 'House of Multiple Occupancy'</p> <p>If you answered 'yes' to any of the above, please supply as much relevant detail as possible (e.g. number of rooms, location within property, size of apartments, where applicable).</p>	<p>Yes/No (<i>please delete as applicable</i>)</p> <p>Details:</p>

About your community organisation

Name of organisation	
Your name	
Your position in the organisation	
Address of your community organisation	
Telephone number for your community organisation	
Email address for your community organisation	

Organisation (<i>please delete as appropriate</i>)	Parish/Town Council
	Unincorporated Group
	Neighbourhood Forum
	Charity
	Community interest company
	Company limited by guarantee that is non profit distributing
	Industrial and provident society that is non profit distributing
If you are an Unincorporated Group please provide the names and addresses of at least 21 members who appear on the electoral roll within East Northamptonshire or a neighbouring authority. <i>(Please indicate if you have attached this separately)</i>	
If not obvious from your organisation's name, please explain your local connection	
Please provide an assurance that any surplus monies generated from the use of this community asset will be used for local benefit and not redistributed to any individual members of the named Community Organisation. <i>If this assurance is provided by the group's constitution, please ensure a copy of the constitution is included with your nomination.</i>	

Supporting information for your nomination

<p>Does the property further the social wellbeing or social interests of the local community currently, or has it done so in the recent past? If so, how?</p>	
<p>Please provide specific details of how the property will be used to further the social wellbeing or social interests of the local community in the future.</p> <p>For those properties where a sale is considered imminent, please provide details of how the property would be managed and/or the business case for long term financial stability if known. <i>(We understand that plans may be confidential or at the early stages of development, but would benefit from as much information as possible to allow us to reach the correct decision regarding this nomination).</i></p>	

<p>Please include where applicable:</p>	
<p>A copy of your group constitution</p>	<p><i>(tick if included)</i> <input type="checkbox"/></p>
<p>Your company registration number</p>	
<p>Registered charities number</p>	
<p>Financial Services Authority registration number</p>	
<p>Site boundary plan</p>	<p><i>(tick if included)</i> <input type="checkbox"/></p>

Please send completed form to:

corpsupport@east-northamptonshire.gov.uk or post to

Corporate Support Team
East Northamptonshire Council
Cedar Drive
Thrapston
NN14 4LZ

Thank you for your nomination. We will acknowledge receipt of your nomination and will check through your form and let you know if any further information is required. You will be notified of the Council's decision within 8 weeks of the Council receiving your nomination.

Appendix B – useful contacts

To make a nomination or to discuss the process informally:

Email: corpsupport@east-northamptonshire.gov.uk
Telephone: 01832 742203
Post: Corporate Support Team
East Northamptonshire Council
Cedar Drive
Thrapston
Northants
NN14 4LZ

To request a review of the decision to list an asset:

Email: corpsupport@east-northamptonshire.gov.uk
Telephone: 01832 742203
Post: Corporate Support Team
East Northamptonshire Council
Cedar Drive
Thrapston
Northants
NN14 4LZ

To appeal against the listing review:

Email: GRC.CommunityRights@hmcts.gsi.gov.uk
Post: Tribunal Clerk
Community Right to Bid Appeals
HM Courts & Tribunals
First-Tier Tribunal (General Regulatory Chamber)
PO Box 9300
Leicester
LE1 8DJ

Appendix C – Oral Hearings: General arrangements

1. The Oral Hearing will be chaired by a Senior Officer of the Council in line with the provisions in section 4 of this policy. This will usually be the Chief Executive and will always be an officer who has not taken part in making the decision to be reviewed.
2. A legal adviser will be present to advise the Chair. Minutes will be taken by a member of Democratic Services.
3. All Oral Hearings will be held at the East Northamptonshire Council offices at Cedar Drive Thrapston, NN14 4LZ unless otherwise notified.
4. It is intended that the hearing will be an inquisitorial process rather than adversarial in nature, allowing the owner of the listed asset to present the information and answer questions as necessary.
5. The parties entitled to take part at the oral hearing are the owner and/or their representative and the original decision making officer and/or their representative].
6. The owner may appoint any representative (legally qualified or not) to act on his/her behalf in connection with the review. However, it should be noted that East Northamptonshire Council will not reimburse any costs, even if the review decision is to overturn the original decision to list the asset (as per paragraph 7.4 of [DCLG Guidance - Community Right to Bid: Non-statutory advice note for local authorities](#)).
7. Up to three members of the nominating community group may be present in an observational role in the interests of transparency. Details of those wishing to attend should be sent in advance to the Council. They will not be permitted to present information or question information provided by others at the oral hearing.
8. The owner will be invited to submit their written representation in advance of the hearing. Any such written representations must be provided at least 5 working days prior to the oral hearing date and will be posted to the Council's website.
9. The Chair will confirm that all parties have received copies of any relevant documentation to be considered as part of the review. New documentation will only be admitted where the Chair considers that it should be admitted in the interests of justice.
10. If the owner fails to attend or be represented at a hearing, the Chair may where s/he considers it to be necessary in the public interest either:
 - a) adjourn the hearing to a specified date or
 - b) decide the review on the written representations (if any) received.
- 11.. All parties will be consulted on special arrangements needed to ensure equality of access to the hearing.

12. At the start of hearing the Chair will introduce those present, and explain the procedure to be followed. This will include a description of the asset.
13. The Chair will invite the owner to present their representations as to why they do not agree with the listing. The Chair and/or the Council's legal advisor may then ask questions. If any supporting documents are to be considered, two copies must be provided at the time they are referred to, for the use of the Chair and legal advisor.
14. The original decision maker may then make any oral representation as to why they consider the listing should remain.
15. The owner will be given a final right of reply.
16. The Chair will then close the hearing after providing the date by which the decision will be notified to the owner and nominating group.

The Decision

17. The Chair will consider the information provided at the hearing and will make his decision,. The decision will be made within 10 working days of the hearing.
18. The decision, reasoning and the minutes of the hearing, will be communicated to the owner and nominating group as quickly as possible after the hearing, and placed on the council's website within 10 working days of being made.

