

Assets of community value

What is an Asset of Community Value?

Assets of Community Value (ACVs) were introduced by the Localism Act 2011 to empower and encourage communities to be involved in local regeneration through community asset ownership, giving a community the right to bid for and buy local land considered to have community value, e.g. pubs, libraries, playing fields or even public conveniences.

Designation of an ACV

Usually designation occurs in response to a community nomination. However, it is possible, if regulations are made by the Secretary of State (in England) or the Welsh Minister (in Wales), for designation to occur where a nomination is made by someone other than a community body.

The local authority (**LA**) must consider the land in question to have community value by furthering the social well-being or social interest of the local community and that the land can continue to be used to further the social well-being or social interest of that community. Alternatively, the land must have had such purposes in the “recent past” and it is realistic to think it will be used for the same purposes within the next 5 years. It should be noted that a building exclusively used as a residence cannot be designated as an ACV.

The LA must consider the nomination, inform the owner of the land of the nomination, and make a decision whether or not to list the nominated land within 8 weeks of receipt of the original nomination. The land is either accepted as an ACV by the LA and entered on its list, or rejected in which

case reasons are given to the nominator and the land is added to the LA list of unsuccessfully nominated land.

The owner of nominated land has a right of appeal.

The LA has a duty to maintain a list of ACVs in its area. An entry on the list will be removed after 5 years, although the Secretary of State has the power to amend this 5 year period.

Disposal of an ACV

The owner of an ACV may not enter into a “relevant disposal” of the land unless the following three conditions are met:

1 Notification

The owner of the ACV has notified the LA in writing that it wants to make a relevant disposal.

The LA then notes the date of receipt of the notice on the ACV list and the date that the moratorium period preventing a disposal will end; informs the nominator of the ACV if the listing resulted from a community nomination; and publicises the information in the area where the ACV is situated.

2 Interim moratorium period ends

The interim moratorium period has ended without the LA receiving a written request from a community interest group (CIG) that it wishes to be treated as a potential bidder.

The interim moratorium is a period of 6 weeks from receipt of notification by the LA of proposed relevant disposal. During this period the owner of the ACV can only dispose of the land to a CIG which has

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notified the LA of its wish to be a potential bidder. If the LA does not receive a notification from a CIG during the interim moratorium period, the owner can dispose of the land at the end of the 6 week period to its chosen buyer. However, if a CIG does make a written request to be treated as a bidder during the interim moratorium period, the LA must tell the owner of the ACV of the request and a full 6 month moratorium period will then apply.

3 Full moratorium period has ended

If a CIG has requested to be a bidder, the full moratorium period must have ended.

The full moratorium period is a 6 month period that allows a CIG time to assemble a sensible bid. During this period the owner can continue to market the land but cannot exchange contracts other than with a CIG. At the end of the full moratorium period the owner can dispose of the land to whoever they wish. Even if the CIG has made a bid, the owner is not obliged to accept the CIG's offer.

Protection Period

This lasts for 18 months from the date of receipt of notification of a proposed disposal and means that, during the protection period, further moratorium periods cannot be triggered by a CIG if the owner fails to sell the ACV after the initial moratorium period has started to run.

Exempt Disposals

Certain disposals are exempt from the restrictions introduced by Localism Act 2011, including gifts and sale of a business operating from the ACV.

Importantly, sales by a mortgagee in possession are exempt disposals so the conveyancer acting for the mortgagee in possession will be able to give the necessary certificate to the Land Registry to enable the purchaser's title to be registered.

Compensation

In certain circumstances certain owners of ACVs can claim compensation.

Buying an ACV

If you are seeking to buy an ACV it is essential to find out the date of notification to the LA and to be aware that a full 6 months from that date may have to pass before you can exchange contracts.

If you have exchanged contracts before an application to list the land as an ACV is made, this would amount to an exempt disposal and you could go on to complete without any moratorium period applying. However, the sale or acquisition would not prevent the listing of the property as an ACV if the LA accepts the nomination.

Further information

This information sheet has been prepared to highlight some of the key issues surrounding ACVs. It is based on our understanding of the Localism Act 2011 as at March 2019 and may be affected by subsequent changes to the legislation. For further information, please contact Penny Edgar on 01892 510000 or email at:

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