

# The Community Right to Bid (or Power to the People?)

## The Community Right to Bid

The Community Right to Bid is one aspect of the Localism Bill that has not received as much attention as it deserves. It is a fairly draconian measure - the need for which is debateable. The Community Right to Bid will give priority to local communities to buy assets when a sale is contemplated. It is aimed at securing local facilities by restricting an owner's freedom to dispose of assets on the open market. It forms one element of the various neighbourhood planning measures contained in the Bill which is now reaching the final stages of the parliamentary process.

The Right to Bid will be of particular interest to traditional estate owners whose estates include significant parts of villages, those who willingly provide facilities to local communities and those who, for social reasons, choose to let certain property and facilities at less than market value. Typically, such owners often do have close links with their local communities. Institutional estates may also own this type of property but often have less of a direct relationship with local communities.

Obvious examples of such community assets include playing fields, greens, village halls, shops, post offices and pubs but, until future regulations define 'asset of community value', one can speculate about other, less obvious 'assets'. The community view of what constitutes an asset may be quite different to that of its owner. Would a river, a tree or even private subsidised rental housing constitute a community asset? Many estate owners let houses to staff, retired staff or their dependants on a subsidised basis.

There are two parts to the Right to Bid process which are explained in the flow diagrams overleaf:

- 1) **The compilation of the list of community assets by the local planning authority.**  
Specified persons or the local authority may nominate an 'asset of community value' and the asset owner has a right to object to the local authority's published list. Once included within the list, an asset will remain on the list for five years; and
- 2) **The restrictions imposed on an asset if a 'disposal' is contemplated.**  
Note that a disposal includes freehold sale but also the grant, assignment or surrender of some leases. If an asset is listed then there is a moratorium period on its disposal to allow community groups to be treated as a potential bidder.

The Government's consultation paper suggested a 6 week period for the community to express an interest although a Lords amendment is seeking 2 weeks. Once there is an expression of interest the full moratorium period applies so a bid can be worked up - 3 or 6 months has been suggested. Following that, there is a protected period to allow an agreed bid to be completed - probably 18 months.

It is interesting to note recent amendments to Compulsory Purchase guidance (Circular 06/2004) which will apply whether or not the Localism Bill is enacted as drafted, and whether or not a particular asset is listed. The government clearly envisages cases where financial assistance could be provided, alongside compulsory purchase powers, to a community group wishing to acquire an asset during the moratorium period.

## What are the Potential Implications for Property owners?

We are aware of some potentially worrying cases. For example, an estate owner with a large barn, within the curtilage of the main house, is regularly used for village functions, Parish Council meetings, local functions and so forth. Whether this would be a qualifying 'asset' depends entirely on the subsequent regulations. Several country houses that we are aware of have private churches in their grounds, often close to the house and these are used by the local congregation - is that a 'community asset' that might be listed?

How might inclusion on the list affect an owner's ability to let a property, or its valuation or the ability to seek a compatible change of use? While owners may not wish to sell the freehold of such assets they may wish to transfer ownership to different parts of an estate or use as security for borrowings for example. The implications may be quite different for a resident estate owner compared with an institution which may not have such a close relationship with a local community. There may be serious implications for owners of small village shops and pubs.

There will therefore be a need to be aware of the Local Planning Authority's actions in compiling the list of community assets, to review the inclusion of any assets and to respond accordingly. Once an asset is included on the list the asset owner has a right to request an internal review of the decision to list but, if that fails, then the owner's only recourse is to judicial review. This has parallels with other designations such as listed buildings, conservation areas or SSSIs. Depending on local circumstances there may be merit in close dialogue with the local community about such matters. For many owners the preference will be to avoid the listing of assets in the first instance given the subsequent implications.

It remains to be seen how this measure will be debated in the House of Lords which, traditionally, has taken a close interest in property rights. What is uncertain is why this has been included in the Localism Bill as the need for such measures seems questionable and could be counter-productive. There may also be an overlap between the list of community assets and DEFRA's recent 'Green Areas Designation' included in its June White Paper.

The Right to Bid is not a right to buy, nor does it force a sale but it will restrict owner's rights.

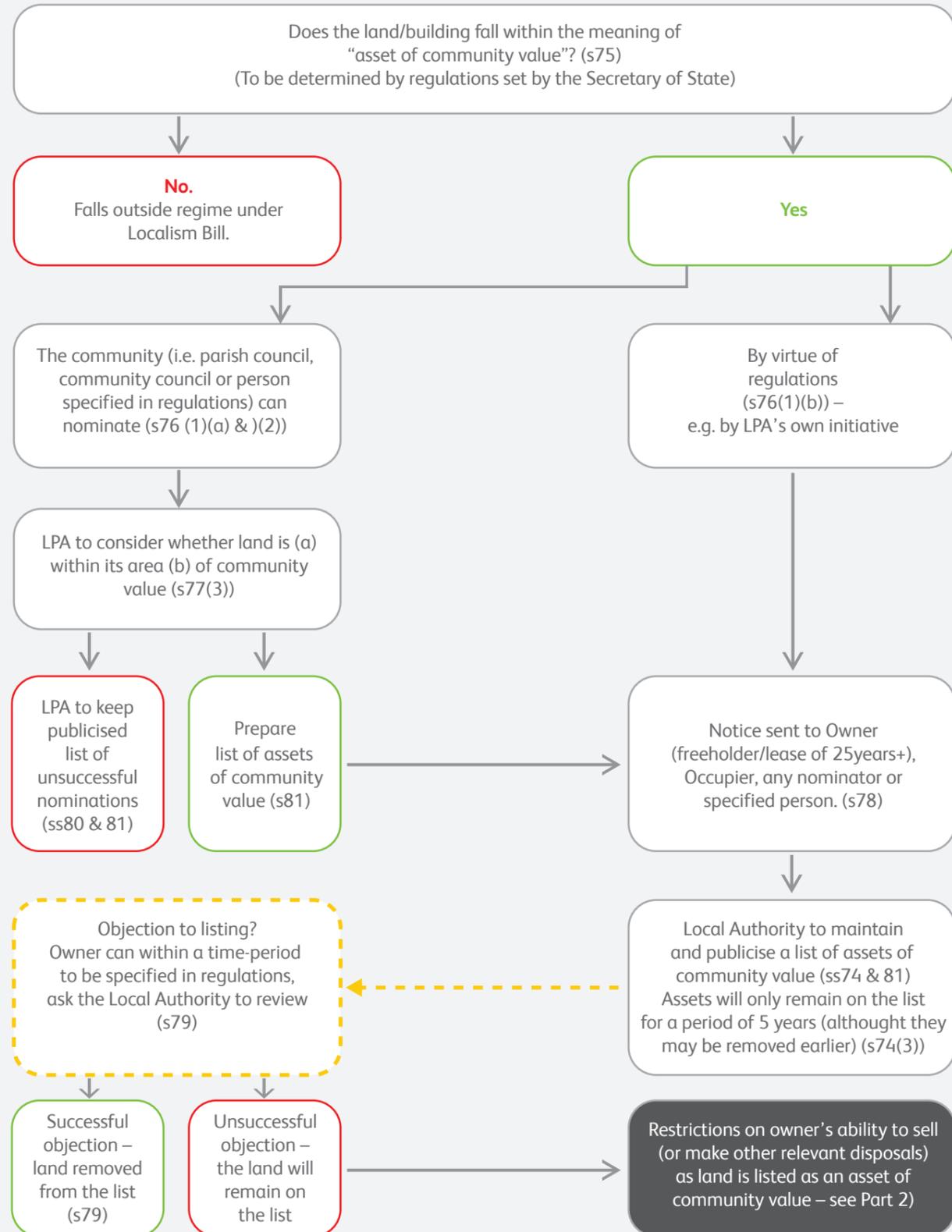


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# COMMUNITY RIGHT TO BID

## Part 1 - Securing the listing of community assets



## Part 2 - Selling assets of community value

