

Nottingham City Council's Assets of Community Value:

Background and Process

THE INTRODUCTION

The Localism Act 2011 introduces 'Assets of Community Value' (also known as Community Right to Bid). The legislation enables local groups to nominate a building or piece of land that is important for the social well-being of the area for inclusion on the local authority's 'List of Assets of Community Value' and bid for it if it comes up for sale. This document outlines the process that will be followed in Nottingham for qualifying voluntary and community bodies to exercise the 'Community Right to Bid' and the process that the owner must go through if they choose to sell the asset, which is listed on the City Council's list of Assets of Community Value.

WHAT IS AN ASSET OF COMMUNITY VALUE?

This right means communities can ask the council to list certain assets as being of value to the community.

Certain local community groups can nominate both privately and publicly owned assets which meet the definition of community value.

The LA 2011 describes an asset of community value as a building or other land in a local authority's area is land of community value if in the opinion of the 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.

Assets of Community Value policy allows local community organisations to ask the Council to register certain assets as being of 'community value'. Assets could include public (including Council) and private buildings and land.

If an asset is listed and then comes up for sale, the new right will give communities that want it six months to put together a bid to buy it (including an initial 6 week period for communities to express they wish to bid). This gives communities an increased chance to save locally valued shops, pubs or other local facilities. Owners of listed assets cannot dispose of them without:

- Letting the local authority know that they intend to sell the asset or grant a lease of more than 25 years.

- Waiting until the end of a six-week 'interim moratorium' period if the local authority does not receive a request from a community interest group to be treated as a potential bidder.
- Waiting until the end of a six-month 'full moratorium' period if the local authority does receive a request from a community interest group to be treated as a potential bidder.

It is important to note that the provisions do not:

- **Confer any right of first refusal to an eligible community group**
- **Restrict who an owner of a listed asset can sell their property to or at what price.**

A building or land in the local authority's area will, subject to the Act and Regulations, be listed as an asset of community value if it is successful in the nomination process.

PUBS AND THE WITHDRAWAL OF PERMITTED DEVELOPMENT RIGHTS

Where a pub is listed as an ACV, a planning application would be required for the change of use or demolition of a pub.

Where a pub is listed as an ACV the following permitted development rights are withdrawn:

- Change of use to Class A1 (shops) Class A2 (financial and professional services) Class A3 (restaurants and cafés);
- Change of use to flexible use Class A1 (shops), Class A2 (financial and professional services), Class A3 (restaurants and cafés), and Class B1 (business), for a period of two years;
- Change of use to a state funded school for one academic year; and
- Demolition of the building

WHAT SORT OF THINGS CAN BE LISTED AS AN ASSET OF COMMUNITY VALUE?

Assets of community value might include any land or building where the main purpose is as below - although this is not meant as an exhaustive or definitive list.

- Nurseries and children's centres
- Health centres, surgeries and hospitals
- Parks and open green spaces
- Sports grounds
- Theatres and cinemas
- Swimming pools and lidos
- Community centres
- Youth centres
- Public Houses
- Libraries

THE PROCESS

The community right to bid advice note published by the government (here) provides detailed information on:

- The bodies that can make nominations (such as local neighbouring parish councils and groups with a local connection).
- The steps that the Council has to take when considering to list land as an asset of community value and upon listing that land (such as notifying relevant parties).
- Arrangements for owners to make appeals on decisions to list or award compensation on any losses incurred as a result of being listed (including internal reviews and external tribunals).
- Exemptions to the 6 month moratorium being applied when land is put up for sale or long term lease (which includes sales for continuing education and health use, for example).

The following pages of this document contain additional guidance on the Assets of Community Value legislation and set out how Nottingham City Council will administer the scheme.

CAN I NOMINATE AN ASSET TO BE CONSIDERED AS ONE OF COMMUNITY VALUE?

Paragraph 5 of the Assets of Community Value (England) Regulations 2012 sets out the type of organisation that are eligible to make a nomination.

These are:

- a body designated as a neighbourhood forum pursuant to section 61F of the Town and Country Planning Act 1990
- a parish council
- an unincorporated body-
 - (i) whose members include at least 21 individuals on the electoral roll of the local authority or neighbouring local authority, (as qualified by Regulations 4(1)(c) & 4(3) of the Assets of Community Value Regulations 2012), and
 - (ii) which does not distribute any surplus it makes to its members;
- a charity
- a company limited by guarantee which does not distribute any surplus it makes to its members;
- an industrial and provident society which does not distribute any surplus it makes to its members;
- a community interest company

HOW CAN I NOMINATE AN ASSET OF COMMUNITY VALUE?

Please see separate Nomination Guidance Note and Nomination Form and Nominations Process Chart.

A nomination must include the following information for the Council to consider:

- a) A description of the nominated land including its proposed boundaries (please also provide a plan showing the boundary).
- b) The names of the current occupants of the land
- c) The names and current or last-known addresses of all those holding a freehold or leasehold estate in the land
- d) The reasons for nominating the asset, explaining why the nominator believes the asset is of community value.
- e) Evidence of the nominator's eligibility to make the nomination.

Community nominations may be made at any time, including after an asset has been put onto the market. However no restrictions on sale arise from a nomination - it is only successful listing as an asset of community value which brings the statutory provisions into play.

In order to ensure that you comply with the requirements, we have produced a nomination form with explanatory guidance notes that detail the information that will be considered during the assessment of the nomination. Please read the guidance notes prior to completing the form.

When submitting a nomination please attach any additional information or supporting evidence with the nomination form.

WHAT DOES THE COUNCIL DO ONCE A NOMINATION IS RECEIVED?

We have to decide whether or not to list the asset, within eight weeks following the nomination. We will check the technical issues such as eligibility of the organisation making the nomination, completeness of the information supplied, and confirm that the asset is not in an excluded category.

If either the organisation or nominating group are ineligible, or the asset is in an excluded category, the nomination is included on the "unsuccessful nomination" list.

If the nomination meets the above criteria, the community value of the asset is considered. The determination as to whether the asset is of community value will be made by the relevant Portfolio Holder.

The organisation that nominated the asset for listing will be notified of the outcome, together with the reasons if the application is unsuccessful.

There is no right of review for a community interest group against a decision not to include an asset on the list.

THE REGISTER OF ASSETS OF COMMUNITY VALUE

The register of assets of community value and the register of unsuccessful nominations are available to view on the Council's website.

INFORMATION FOR OWNERS

The Localism Act 2011 defines the "**Owner**" as 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.

OWNING A LISTED ASSET

If a building, property or other land that you own is added to the list of Assets of Community Value, the listing will be added to the local Land Charges register and an application will be made to the Land Registry to apply for a restriction on the land register.

The listing may also be a material consideration if you apply for Planning Permission affecting the asset. Apart from this, nothing will happen until you want to dispose of one of the following interests in it:-

- the freehold interest, with vacant possession
- a leasehold interest with vacant possession, whether by grant or assignment of a lease, where the original term is or was at least 25 years.

In the above cases you must notify us that you wish to dispose of the asset:-

By e-mail to development.management@nottinghamcity.gov.uk

By post to Nottingham City Council, Development Management, Box LH5, Loxley House, Station Street, Nottingham, NG2 3NG

We will consider the claim and give written reasons for the decision.

We will then notify the group which originally nominated it for inclusion on the list, as well as publicising within the area the asset is located the fact that the Council has received notice of the intended disposal of a listed asset. This triggers the **Moratorium** process.

A non-compliant disposal of an asset subject to a listing will be void.

MORATORIUM PROCESS

Once an asset is listed and you have informed the Council that you intend to dispose of it, you will not be able to do so without:

a) waiting until the end of a six week 'interim moratorium' period - if the local authority does not receive a request from a local community interest group to be treated as a potential bidder, the sale can proceed.

b) waiting until the end of a six month 'full moratorium' period if the local authority receives a request from a local community group to be treated as a potential bidder. The six week period in (a) is included within the six month full moratorium period.

It is important to note that you do not have to sell the asset to the community interest group. You are able to dispose of the asset within the six month moratorium period if this is to a community interest group.

Where the sale of an asset has been announced but not yet concluded, it is still possible for a group to nominate to list it. This circumstance may arise if a much-used local asset is suddenly put up for sale. If a sale is agreed before the asset appears on the list, i.e. prior to a decision on the nomination, this is a legal sale and there would be no opportunity for a group to put in a bid; but if the asset is listed before a sale is agreed, the moratorium provisions apply.

After the moratorium period has come to an end, the Regulations make provision for a 'protected period' (18 months from the time you notified the Council of your intention to dispose of the asset). During this time there can be no further moratoriums on disposal and you would be free to dispose of the property as you saw fit

ASSETS OF COMMUNITY VALUE COMPENSATION PROVISIONS

Please see Compensation flowchart.

An owner may be entitled to claim compensation for loss or expense incurred as a result of the listing. A claim must be made in writing to us by the end of thirteen weeks after the loss or expense was incurred, or finished being incurred. The owner should state the amount of compensation sought, and include supporting evidence.

Claims should be sent:

By e-mail to development.management@nottinghamcity.gov.uk

By post to Nottingham City Council, Development Management, Box LH5, Loxley House, Station Street, Nottingham, NG2 3NG

We will consider the claim and give written reasons for the decision.

ASSETS OF COMMUNITY VALUE REVIEW PROVISIONS

Community Interest Groups

There is no right of review for a community interest group against a decision not to include an asset on the list.

Owners

There are two situations in which an owner can ask for a review of our decision:-

- a "listing review", that is a review of the decision to include an asset on the list;
- a "compensation review", that is a review of a decision not to pay compensation, or the amount of compensation.

In either case there is a time limit of eight weeks following the date we gave written notice of our decision. We have discretion to allow a longer period with the agreement of the owner.

Reviews have to be carried out by a senior Council Officer who did not take any part in the original decision.

A request for a review should be sent:-

By e-mail to development.management@nottinghamcity.gov.uk

By post to Nottingham City Council, Development Management, Box LH5, Loxley House, Station Street, Nottingham, NG2 3NG

We will consider the claim and give written reasons for the decision.

If the owner has appointed any representative to act on his or her behalf in connection with the review, then we should be informed of this and we will supply the representative with the relevant documentation.

We will supply details of the procedure for conducting the review. The review will be completed within eight weeks of receipt of the request, unless the owner agrees to a longer period in writing.

An oral hearing will be held if the owner or we require one, otherwise the review will be conducted in writing. In either case both the owner and their representative may make representations to the Council officer conducting the review.

The owner will be notified in writing of the decision on the review, together with reasons.

Any further owner's appeal against a local authority listing or compensation 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 being 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

Owners should send the appeal in writing to the First-Tier Tribunal at:

Tribunal Clerk,
Community Right to Bid Appeals
HM Courts & Tribunals
First-tier Tribunal (General Regulatory Chamber)
P.O. Box 9300
Leicester, LE1 8DJ

Owners may also send an appeal to the First-Tier Tribunal by email at:
GRC.CommunityRights@hmcts.gsi.gov.uk

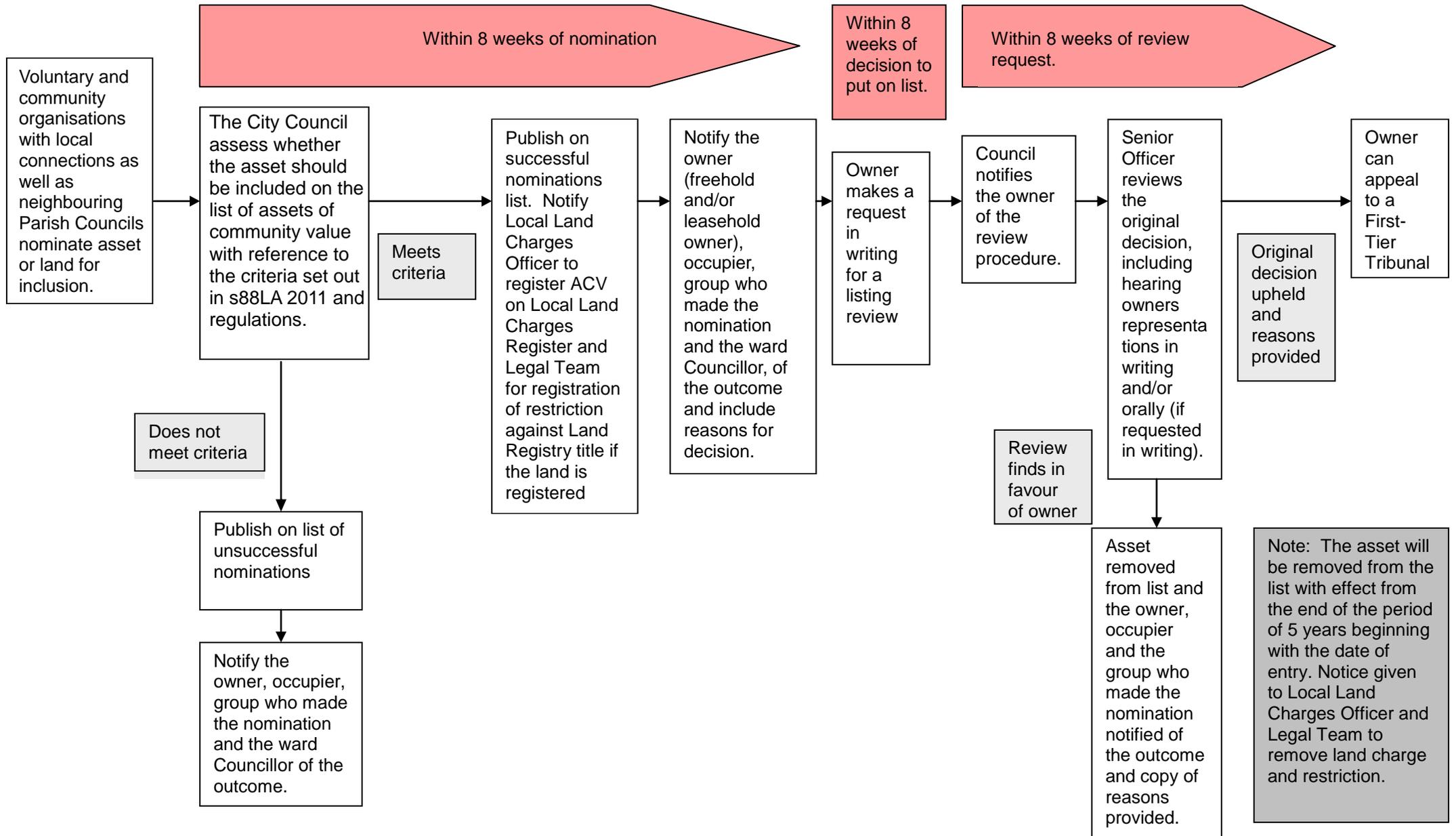
FURTHER INFORMATION

For further information about the Assets of Community Value policy, please see:

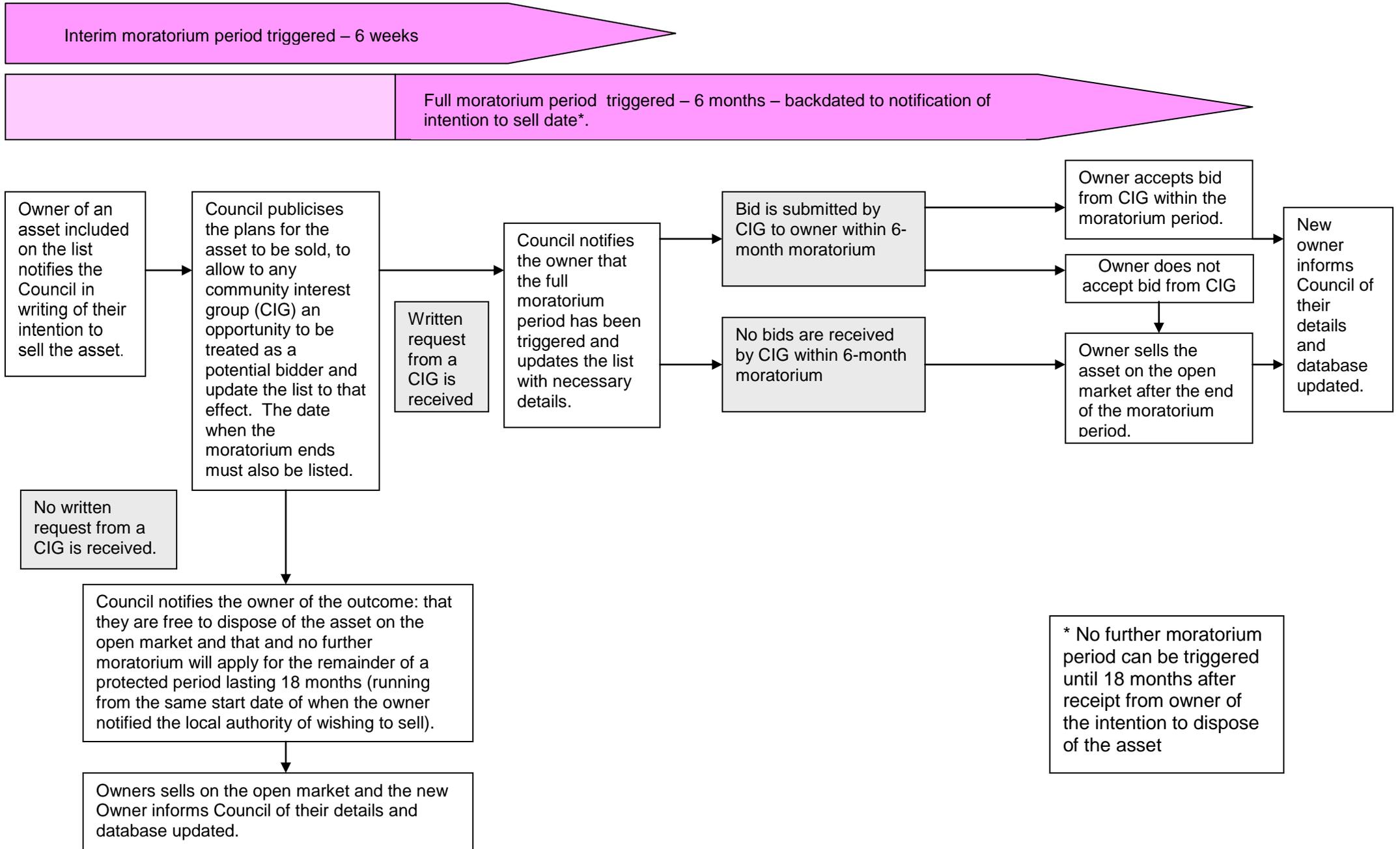
[Localism Act 2011](#)

[Assets of Community Value \(England\) Regulations 2012](#)

Assets of Community Value: Nominations Process Chart



Assets of Community Value: Selling an Asset Process Chart



Assets of Community Value: Compensation Flowchart

