

ASSETS OF COMMUNITY VALUE

Localism Act 2011 and the Assets of Community Value (England) Regulations 2012

REQUIREMENTS FOR LISTING A NOMINATED PROPERTY
CHECKLIST

[NAME OF THE ASSET UNDER CONSIDERATION]

IMPORTANT: This checklist is intended to assist the relevant parties. However the parties are strongly advised to seek their own independent legal advice as the Council are not able to give legal assistance or advice in the nomination of an asset of community value

Abbreviations used:

LPA: Local Planning Authority

2011 Act: Localism Act 2011

2012 Regulations: Assets of Community Value (England) Regulations 2012

<u>STATUTORY REQUIREMENT</u>	<u>ARE THE STATUTORY CRITERIA FULFILLED?</u> <u>(Forms of Evidence that would be required or criteria that must be fulfilled)</u>		
PRELIMINARY TESTS			
SECTION 1. NOMINEE- Voluntary or Community Body Regulation 5 of the 2012 Regulations – The Nominee must produce evidence to satisfy one category only			
<u>EVIDENCE SUBMITTED</u>	Yes	No	Please tick where appropriate
a) A body designated as a neighbourhood forum under section 61F of the Town and Country Planning act 1990			<input type="checkbox"/> A copy of the agreed designation under section 61F of the Town and Country Planning Act 1990 from the LPA (Note- If no such designation has been accepted by the LPA then the nomination cannot be made under this category) <input type="checkbox"/> Details of any person authorised to act/make nominations under the terms of reference of the body

b) A Parish or Town Council			<ul style="list-style-type: none"> <input type="checkbox"/> Letter from the Clerk with the relevant minutes of the Parish Council or Town Council meeting attached <input type="checkbox"/> Information provided to and taken into consideration by the Parish Council before the decision to nominate was made. <input type="checkbox"/> Evidence that the nomination reflects the Parish Council decision or that the matter was delegated to the Clerk to complete and submit the nomination
c) An unincorporated body- i) whose members include at least 21 local individuals; AND ii) which does not distribute any surplus it makes to its members			<ul style="list-style-type: none"> <input type="checkbox"/> Names and addresses of at least 21 members are provided. At least 21 members should be local members, i.e. registered as a local government elector in Chelmsford or a neighbouring authority's area. <input type="checkbox"/> Details of the purpose for which the body was formed and on which the members have signed up, together with any founding documents <input type="checkbox"/> Details of the terms and conditions under which the body will operate that must specifically confirm that surpluses are not distributed to its members. Any surplus is wholly or partly applied for the benefit of the local authority's area or for the benefit of a neighbouring authority's area <input type="checkbox"/> Details of any person authorised to act/make nominations on behalf of the unincorporated body <input type="checkbox"/> Evidence of 'local connection' i.e. that the body's activities are wholly or partly concerned with the local authority's area or with a neighbouring authority's area
d) A Charity			<ul style="list-style-type: none"> <input type="checkbox"/> Copy of registration details or certificate of registration from the Charity Commission <input type="checkbox"/> Purpose of the charity <input type="checkbox"/> Details of any person authorised to act/make nominations on behalf of the charity under the terms of reference of the Charity

<p>e) A Company Limited by Guarantee which does not distribute any surplus it makes to its members</p>			<ul style="list-style-type: none"> <input type="checkbox"/> Copy of the company's registration details or certificate of incorporation <input type="checkbox"/> Purpose of the Company <input type="checkbox"/> Articles of Association and Memorandum of Association <input type="checkbox"/> Details of the terms and conditions under which the company will operate that must specifically confirm that surpluses are not distributed to its members <input type="checkbox"/> Any surplus is wholly or partly applied for the benefit of the local authority's area or for the benefit of a neighbouring authority's area <input type="checkbox"/> Details of any person authorised to act/make nominations on behalf of the company
<p>f) An industrial or provident society / Co-operative or Community Benefit Society which does not distribute any surplus it makes to its members</p>			<ul style="list-style-type: none"> <input type="checkbox"/> Copy of the society's registration details or certificate of registration under the Co-operative and Community Benefit Societies Act 2014 or, before August 1st 2014, details of registration / certificate of registration under the Industrial and Provident Societies Act 1965 <input type="checkbox"/> Purposes of the Society <input type="checkbox"/> Details of the terms and conditions under which the society will operate that must specifically confirm that surpluses are not distributed to its members <input type="checkbox"/> Any surplus is wholly or partly applied for the benefit of the local authority's area or for the benefit of a neighbouring authority's area <input type="checkbox"/> Details of any person authorised to act/make nominations on behalf of the society
<p>g) A Community Interest Company</p>			<ul style="list-style-type: none"> <input type="checkbox"/> Details that prove the company satisfies the requirements of Part 2 of the Companies (Audit, Investigations and Community Enterprise) Act 2004, in particular sections 26, 35 and 36A of that Act. <input type="checkbox"/> Purposes of the Company <input type="checkbox"/> Evidence that the terms and conditions under which the Community Interest Company will operate that must specifically confirm that surpluses are not distributed to its members <input type="checkbox"/> Details of any person authorised to act/make nominations on behalf of the Community Interest Company

Does the Nominee fall into one of the above categories

YES NO

Comments:

Does the Nominee fulfil the requirements of that category to the satisfaction of the Council?

YES NO

Comments:

If either boxes are "No", the Nomination of the asset is unsuccessful.

SECTION 2. LAND WHICH IS NOT OF COMMUNITY VALUE

Regulation 3 and Schedule 1 of the 2012 Regulations

Does the Nominated Asset fall into any of the categories in Section 2?

If the land falls into any of these categories it cannot be listed by the Council as an Asset of Community Value

EVIDENCE SUBMITTED	YES	NO	
a) A residence and any land connected with a residence			
Land is connected with a residence if: - The land and the residence are in single ownership, AND - every part of the land can be reached from the residence without having to cross land which is not owned by that single owner			<input type="checkbox"/> Title deeds demonstrate that the land and residence are in single ownership <input type="checkbox"/> Current Land Registry Official Copies.

OR			
<p>- Land is connected with a residence where that 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</p> <p>AND</p> <p>It is reasonable to think that it would be land connected with a residence if the intervening land were to be removed leaving no gap (see paragraphs 1(3) and (4) of schedule 1 to the regulations)</p>			
EXCEPTION			
- the residence is a building that is only partly used as a residence and but for that			

residential use of the building, the land would be eligible for listing			
<p>b) Land in respect of which a site licence is required under Part 1 of the Caravan Sites and Control of Development Act 1960 , (CSCDA 1960) or would be so required if paragraphs 1, 4, 5 and 10 to 11A of Schedule 1 to that Act were omitted.</p> <p>YES <input type="checkbox"/> NO <input type="checkbox"/></p>	<p>Please refer to; http://www.legislation.gov.uk/ukpga/Eliz2/8-9/62/contents (the Council is not responsible for the content of external sites)</p>		
<p>Operational land as defined in section 263 of the Town and Country Planning Act 1990</p> <p>YES <input type="checkbox"/> NO <input type="checkbox"/></p>	<p>Please refer to http://www.legislation.gov.uk/ukpga/1990/8/section/263 for the definition (the Council is not responsible for the content of external sites)</p>		
<p>Does the Nominee fall into one of the above categories?</p> <p>YES <input type="checkbox"/> NO <input type="checkbox"/></p> <p>Comments:</p> <p>If 'No', proceed to Section 3 below</p> <p>If "Yes", and the Exception does not apply, the nomination of the asset is unsuccessful. <input type="checkbox"/></p> <p>If "Yes" and the Exception does apply, proceed to Section 3 below. <input type="checkbox"/></p>			

SECTION 3. DOES THE BUILDING OR LAND HAVE COMMUNITY VALUE? – Section 88(1) Localism Act 2011			
EVIDENCE SUBMITTED	YES	NO	
If in the opinion of the authority			Comments
A)			
An actual current use of the building or other land			
that is not an ancillary use,			This is a matter of fact and degree.
that furthers the social, wellbeing or social interests of the local community			<p>Social interests is defined under section 88(6) LA 2011 as: “social interests” includes (in particular) each of the following— (a) cultural interests; (b) recreational interests; (c) sporting interests;”</p> <p>Social wellbeing is not defined by the LA 2011.</p>
AND B)			
it is realistic to think that there can continue to be non-ancillary use of the building or other land			This is a question of whether it is one of a number of possibilities for the continued non-ancillary use of the asset.
which will further (whether or not in the same way) the social, wellbeing or social interests of the local community			

Does the Nominated Asset fall within categories A and B?

YES NO

If "No" refer to Section 4 below.

If "Yes" but Section 1 is "No", the nomination of the asset is unsuccessful.

If "Yes" and Section 1 is "Yes", the nomination of the asset is successful.

SECTION 4. IF THE BUILDING OR LAND DOES NOT FALL WITHIN (A) AND (B) ABOVE, IT MAY BE LAND OF COMMUNITY VALUE IF IT FALLS WITHIN THE FOLLOWING CATEGORIES (section 88(2) LA 2011)

A)		
there is a time in the recent past when an actual use of the building or other land that was not an ancillary use furthered the social wellbeing or interests of the local community,		<p>'Recent past' is not defined by the LA 2011. The Council will judge on a case by case basis as to whether this requirement is fulfilled from the information provided with the nomination.</p> <p>The amount of the 'actual use' of the asset by the local community is a consideration for the Council in deciding whether the asset should be listed however it is not a determinative factor.</p>
AND B)		
it is realistic to think that there is a time in the next five years when there could be non-ancillary use of the building or other land that would further (whether or not in the same way as before) the social wellbeing or social interests of the local community.		<p>For example, where a public house is under consideration to be listed as an Asset of Community Value, recent poor trading is a relevant consideration however it is not a determinative factor.</p>

Does the Nominated Asset fall within categories A and B?

YES NO

If "No", the nomination of the asset is unsuccessful.

If "Yes" and Section 1 is "No", the asset is unsuccessful.

If "Yes" and Section 1 is "Yes", the nomination of the asset is successful.