

Briefing Note

Community Right to Buy FAQs

1.0 Background

The parish council has received a note from Cornwall Council advising us that it has received a request to St Mary's Church, Merrymeet, to be included in the council's List of Assets of Community Value. This briefing note will explain what the CRB is, what conditions apply and what duties or responsibilities it may have in the future regarding this application.

2.0 What is the CRB?

Under the Localism Act 2011, town and parish councils and local voluntary and community organisations can nominate local land or buildings to be included in a 'list of assets of community value.' If the owner of a listed asset subsequently wishes to sell the asset, there will be a period of time during which the asset cannot be sold. This is intended to allow community groups the time to develop a proposal and raise the required capital to bid for the asset when it comes onto the open market at the end of that period.

The Merrymeet Residents Association have made this application to Cornwall Council.

3.0 What does the Community Right to Bid aim to achieve?

The legislation aims to help communities faced with losing local amenities and buildings which are of importance to them. The Government recognises that over the past decade community asset ownership has been growing with over two hundred communities having bought their village shop and many looking to take over their local pub to prevent it closing. However, it is felt that in many cases communities have lost the use of buildings and land because they were sold privately or without a community group having the time to raise the necessary funds. The Community Right to Bid gives communities the opportunity to identify those assets which are of importance and to have time to prepare a proposal in the event that the asset comes up for sale.

4.0 Does the Community Right to Bid give community groups a right to buy assets within their community?

No, the legislation only stalls the selling process to give suitably constituted community groups a period of time to prepare a proposal and raise the funds required to put in an offer. The sale takes place under normal market conditions and the owner is under no obligation to sell to the group.

5.0 Who is eligible to nominate an asset for inclusion in the list of assets of community value?

Nominations may be submitted by the following:

- Town and Parish councils
- Unincorporated bodies with at least 21 individual members and which does not distribute any surplus it makes to its members
- Charities
- Company limited by guarantee which does not distribute any surplus it makes to its members
- Industrial and provident society which does not distribute any surplus it makes to its members
- Community interest companies
- A body designated as a neighbourhood forum under the Town and Country Planning Act
- The above groups will need to demonstrate a local connection:
- Activities wholly or partly concerned with local authority's area or neighbouring local authority area
- Any surplus made wholly or partly applied for benefit of local authority's area or neighbouring local authority area
- Unincorporated bodies must have at least 21 local members included on register of electors.

The applicant must decide for themselves if they are eligible to make the request to Cornwall Council

6.0 What types of asset are eligible for listing?

Land and buildings, either in public or private ownership which can demonstrate 'community value'. Included in the Regulations' definition of land and buildings is part of a building, part of any other structure and mines and minerals, whether or not held with the surface.

See note 10 below that applies to churches.

7.0 How is 'community value' defined?

Community Value is defined as follows:

- The principal use of the asset currently, or in the recent past furthers the social wellbeing or cultural, recreational or sporting interests of the local community and
- This use will continue to further the social wellbeing or interests of the local community
- Where the asset does not currently demonstrate 'community value' (as above), it may still be nominated where it is possible to demonstrate that the asset's main use did further the social wellbeing or cultural, recreational or sporting interests of the local community in the recent past and where it is realistic to think that it will do so again in the next five years.

8.0 What kinds of assets could be considered as having 'community value'?

The following examples give an indication of the types of assets which may be defined as having 'community value':

- Education, health and wellbeing or community safety. This could include:
 - Nurseries and schools
 - Children's centres
 - Health centres, surgeries and hospitals
 - Day care centres, residential care homes
- Sport, recreation and culture. This could include:
 - Parks and open green spaces
 - Sports and leisure centres
- Libraries
- Community services. This could include
 - Community centres
 - Youth centres
 - Public toilets
- Local democracy. This could include:
 - Town, civic and guild halls
- Any economic use (e.g. a business such as a shop) which also provides an important local social benefit which would no longer be easily available if that service should cease. This could include:
 - Village shops
 - Pubs
 - Markets

9.0 What kinds of assets would not normally be considered as having 'community value'?

- Administrative offices
- Land or property where community use is ancillary to its main purpose
- Land attached to residential property (although the regulations set out certain exceptions for shops and pubs)
- Land covered by Caravan Sites and Control of development Act 1960
- Land used by public utilities, defined as operational land in section 263 of the Town and Country planning Act 1990

10.0 Nominating Churches

Cornwall Council accept nominations of churches as long as the nomination form is completed fully and you can prove that the site meets the definition of a community asset. Each nomination will be reviewed on a case by case basis and if the nomination meets the requirements set out by the legislation we will accept the church on our list of community assets.

We feel it is important however to bring to your attention that if or when a church is put up for sale it is likely that it will be exempt from the sale moratoria applied under the legislation.

This is because the Church has its own separate and lengthy consultation process set out in legislation for the closure and sale of its property, as disposals of closed Church of England churches are covered under Part 6 of the Mission and Pastoral Measure 2011. The process in Part 6 of the Measure involves public consultation, and at the end of it the building will either be sold or leased for an agreed purpose, demolished, or transferred to the Churches Conservation Trust for preservation.

11.0 Role of the parish council

Cornwall Council have replied to these specific questions:

11.1 Does inclusion on the Assets List require the explicit support of the parish council? No

11.2 Can the group who have made the request (MRA) act independently of the parish council in their application? Yes

11.3 Does the council have to prove evidence of its support/not support for the listing? No

11.4 Should the council agree to support the application, does it also take on any subsequent responsibilities or duties? Either with Cornwall Council, the vendor (if there eventually is one) or the applicants? No, on both counts

12.0 Options

12.1 Councillors may wish to support the application. A simple vote and a resolution to write a letter of endorsement is sufficient. There is no need to provide evidence of community value.

12.2 Councillors may wish to decline to support the application. They may feel that the level of community value is insufficient to support listing of the asset; that the building does not qualify for inclusion; that the regulations relating to church buildings prevent the MRA from successfully requesting the listing.

References

CRB at Cornwall Council

<https://www.cornwall.gov.uk/people-and-communities/transferring-powers-from-london-to-cornwall/community-right-to-bid/#:~:text=The%20Localism%20Act%202011%20introduced,town%20councils>

MyCommunity website

<https://mycommunity.org.uk/nominating-an-asset-of-community-value-acv-and-community-right-to-bid>

Local Government Association: Empowering Communities

<https://locality.org.uk/wp-content/uploads/2018/03/Companion-Guide-for-Local-Authorities-Empowering-Communities.pdf>

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