

# Asset of Community Value Nomination Form

PLEASE REFER TO THE GUIDANCE BEFORE COMPLETING THIS FORM

Should you require assistance, please email [landcharges@burnley.gov.uk](mailto:landcharges@burnley.gov.uk)

## Section 1 About the asset to be nominated

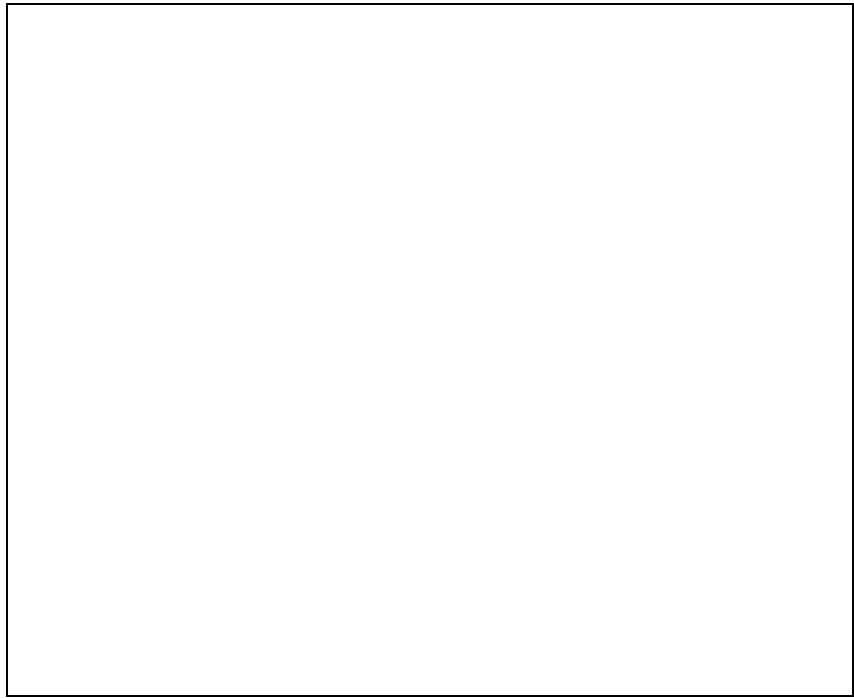
Name of asset : \_\_\_\_\_

Address of asset : \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Postcode : \_\_\_\_\_  
\_\_\_\_\_

Asset owner's name and address details (it is requested that a Land Registry search is undertaken. This will should uncover all ownership details)

Current occupier's name  
and address details (if  
different from above):

A large, empty rectangular box with a thin black border, intended for the user to provide the current occupier's name and address details. The box is currently blank.

## Section 2 About your community organisation

Name of organisation : \_\_\_\_\_

Contact Title (Mr, Mrs etc) : \_\_\_\_\_

Contact Name : \_\_\_\_\_

Position in organisation : \_\_\_\_\_

Email address : \_\_\_\_\_

Telephone : \_\_\_\_\_

Address : \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Postcode : \_\_\_\_\_

Organisation type  Parish Council  Unincorporated Community Group

Neighbourhood Forum  **Community Interest Company**

Industrial & Provident Society  Company Limited by Guarantee

Charity

If you are an unincorporated community group, please can you confirm approximately the number of members you have (you must have over 21 members to be eligible to nominate an asset).

Please explain how your organisation is connected to the local area:

**Section 3 Supporting information for nomination**

***Any information entered in this section will be shared with the owner of the property you are nominating.***

Please explain why you feel the asset you are nominating currently contributes, or did so in the recent past, to the social interest or social wellbeing of the local community and why you feel it should be listed as an asset of community value. Please put as much detail as you can as this section forms the main part of the assessment.

Please explain why you feel it is realistic to think that the asset you are nominating **can continue to further** the social interest or social wellbeing of the local community (whether or not in the same way) or, in the case of an asset contributing to such interests in the recent past, why you feel it is realistic to think that the asset will further the social interest or social wellbeing of the local community within the next five years.

A large, empty rectangular box with a thin black border, intended for the respondent to provide their explanation as requested in the text above. The box is currently blank.

#### **Section 4    Boundary of property**

What do you consider to be the boundary of the property or land that you are nominating? Please give as much detail as possible (it is requested that a plan is attached, available for a fee from the Land Registry).

#### **Section 5    Attachment checklist**

- Copy of group constitution (if you are an unincorporated group)
- Name & home addresses of 21 members registered to vote in nomination area (only required if the group is unincorporated)
- Site ownership details from Land Registry search**
- Site boundary plan from Land Registry**

## **Section 6 Declaration**

I can confirm that, to the best of my knowledge, the information contained in this nomination form is complete and accurate.

Signed:

Dated:

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### **Data protection statement**

We will process the information provided in accordance with the Data Protection Act 1998 and in line with the council's data protection policy. Information is stored securely for six years after which time it will be destroyed.

The information provided will be subject to the Freedom of Information Act, but personal information (names and contact details) will not be released in response to requests.

**Please send your completed form to either**  
**[landcharges@burnley.gov.uk](mailto:landcharges@burnley.gov.uk) or**  
**Land Charges**  
**Burnley Council**  
**Town Hall, Manchester Road**  
**Burnley BB11 9SA**

# Assets of Community Value-

## Guidance and Procedure

### What are “community assets” and what is the “right to bid”?

Community assets, in the broadest sense, are buildings and pieces of land that are an essential part of the social fabric of the area.

The Community Right to Bid aims to keep valued land and buildings in community use by giving local people the chance to bid to buy them if and when they come onto the market. You have the right to nominate public and private land and buildings to be part of a local authority-held list of ‘**assets of community value**’ and if something on this list is offered for sale, the Right is triggered and you’ll have up to six months to prepare a bid to compete to buy it.

The Localism Act states that a building or piece of land will be deemed to have community value *only* if:

- The use of the land or building currently, or in the recent past, furthers the social well-being or cultural, recreational, sporting or other social interests of the local community.
- This use (as described above) of the building will continue to further the social well-being or interests of the local community.
- The use of the building or land must not be deemed ‘ancillary’, i.e. of secondary purpose. This means that the use of the land or building to further social well-being or interests of the community must be a principle use.

The Council must maintain and publish two lists:

- A list of Assets of Community Value
- A list of Assets not of a Community Value (unsuccessful nominations).

These two lists will be published on the Council’s website.

### Who can nominate

Burnley Borough Council and Lancashire County Council are not able to list land of their own accord, it must be nominated by either a Parish Council or Padiham Town Council, or a voluntary or community group (the Nominating Body). The Nominating Body has to demonstrate that its activities are wholly or partly concerned with the local authority in which the asset sits or with a neighbouring authority (an authority which shares a boundary with the authority in which the asset is located).



This means only voluntary and community organisations with a local connection based in the Borough of Burnley or a neighbouring authority can nominate an asset for inclusion in the list. The bodies able to nominate are:-

- Neighbourhood/Residents' Groups
- Parish Councils or Padiham Town Council
- Unincorporated bodies of 21 named members
- A Charity
- Company Limited by Guarantee
- Industrial or Provident Society
- Community Interest Company

## **Before nominating**

It is important to consider the current ownership of the land and other safeguards that may already be in place.

For example, if a school should close and Lancashire County Council wishes to dispose of a playing field within ten years of the school's closure, consent needs to be obtained from the Secretary of State for Education. As you would expect, this is a lengthy procedure unless the field continues in playing field use (which in most cases it is likely to), likely to be longer than the delay if listed as an asset of community value and then put up for sale. Similar restrictions could exist on other open public land.

Church of England owned churches, although not excluded from listing in the legislation, will be exempt from the sale moratoria being applied under the Localism Act, as the Church has its own separate and lengthy consultation process set out in legislation for the closure and sale of its property (disposals of closed Church of England churches are covered under Part 6 of the Mission and Pastoral Measure 2011: the lengthy 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, or demolished, or transferred to the Churches Conservation Trust for preservation – following which outcomes it will be possible to nominate the building if appropriate).

Property which is already in community ownership or owned by a charitable trust is also likely to be eligible for listing, depending on its use. However, charitable assets are already protected by an asset lock that limits how trustees can apply their funds, and prevent charitable funds being used for private benefit. In the event that a charity is wound up, all assets must go to a charity with similar objectives. In such cases, it may make sense to have a conversation with the charity about ideas you have for the use of their assets rather than nominate the property as an asset of community value.

## **Making a nomination**

Nominations to list an asset must be made in writing. A form is available on the Council's website to make it easier for nominees to provide the right information to the Council.

- Nominations must describe the nominated asset and its proposed boundaries
- Names of current occupants of the asset and the names and current or last known address of those holding freehold or leasehold estate in the asset
- Reasons why it qualifies as an asset of community value
- Evidence that the nominator is eligible.

The Council takes the view that any Nominating Body is able to undertake a search at the Land Registry in order to identify the legal owners of the asset. The Council would expect any costs arising from the search to be borne by the nominee. The Council would also expect the results of such a search to be included with any nomination in order to fulfil the requirement to identify the freehold or leasehold owner.

## **Consideration**

A panel of designated officers (the Panel) shall be convened to consider nominations, consisting of the Head of Housing and Development, the Property Services Manager, and the Corporate Policy and Projects Manager.

Once the nomination has been received, the nomination will be acknowledged and notifications will be sent to all interested parties:

- The relevant parish or town council
- The owner of the asset
- Any lawful occupant of the asset

To confirm that all relevant ownership details are available to enable the Council to make an informed decision the Council may serve a Section 16 Notice under the Local Government (Miscellaneous Provisions) Act 1976 on the owner of the asset unless the nominating body is also the owner.

## Decision

The Panel will check the contents of the nomination against the criteria for submission and criteria for inclusion on the list of Assets of Community Value. The Panel will write to the nominating organisation and property owner outlining the decision. This letter is called the Section 91 decision notice (section 91 of the Localism Act 2011 sets out the process for informing relevant persons of the decision to include or remove an asset from the list of community assets).

The Council has eight weeks to decide whether or not the nominated land is going to be included in the list.

## Listing

The Council will list all successful and unsuccessful bids, including a short explanation of why a bid was unsuccessful, in the register.

The Council will maintain the list and add the following where necessary:

- That a notification has been received by the owner of intention to dispose of the asset and the date this was received
- Where relevant the full moratorium has been triggered
- Where the above applies the identity of the community interest group that triggered the full moratorium

The Council will remove an asset from the list as soon as practicable

- After a relevant disposal
- When an appeal against a listing has been successful
- If and when the Council form an opinion that the asset is no longer of community value
- Or no later than five years from the date of entry in the list.

## Sale / Moratorium

Once an asset has been listed nothing further will happen unless and until the asset owner decides to dispose of it.

When the owner decides she/he wants to sell the asset they must notify the designated office of the Council in writing.

Once the Council receives notification of a relevant disposal this will trigger a six week interim moratorium period. The Council will write to the nominating body and publish on their website the owner's intention to sell the asset. In this time the community interest group should decide whether they wish to prepare a bid to purchase the asset. The Council will also make an entry in the list detailing:

- That a notice has been received from an asset owner of a relevant disposal
- The date when the Council received the notice
- The end of the interim moratorium, full moratorium period and the protected period apply.

The community interest group must submit a written request to the designated officer if it wants to be treated as a potential bidder. When the six weeks have passed, and the relevant community interest group wants to place an offer, the full moratorium period is triggered.

This gives the group six months (from date of notification) to develop and put an offer in. During this time any sale of the asset is barred and the interested community group are able to prepare a bid for the asset. The Council will, as soon as practicable, inform the owner that a request has been received. The owner is under no obligation to accept the bid and is free to dispose of their asset as they wish.

If a bid is not received during the six months of the moratorium period, then the owner is free to dispose of their asset as they wish and no further moratorium period can be triggered for a protected period of eighteen months from the date that the Council receives notification of a relevant disposal. This provides the asset owner with twelve months in which to dispose of the asset as they wish without any restriction. This is called the protected period.

## **Review and Appeals**

Where an asset has been included in the list, the owner has the right to request the Council to review its decision by writing to the designated appeal officer of the Council within eight weeks of the notice of the listing. The owner of the asset may appoint any representative to act on his behalf.

### **Procedure for review**

Once the Council is in receipt of a request for review it shall, within two weeks (or as soon as practicable) notify the owner of the procedure to be followed in connection with the review.

The designated officer for reviews shall be the Head of the People, Law and Regulation.

In the review the designated officer (the Reviewer) will look at the decision made by the first officer and consider the relevant representations made by the asset owner and/or their representatives. The main points the reviewer will look at include:

- Whether or not the asset is eligible to be listed
- Whether or not the asset was nominated by a eligible group
- Any new factors which may have come to light since the original nomination was made
- If the decision was made properly.

If the Reviewer finds in favour of the owner then the asset will be removed from the list. If the Reviewer finds in favour of the original listing decision then the owner has the option to take their appeal to the First Tier Tribunal. The appeal must be made to the General Regulatory Chamber of the First Tier Tribunal. The deadline for appealing as specified in the procedural rules of the chamber is twenty eight days from the date in which the notice of the decision appealed against was sent to the owner. The asset will remain listed during the appeals process.

The Council must complete the review within eight weeks from receiving the written request for the review or such longer period to be agreed with the owner/representative in writing. The Reviewer will write to the owner with his decision.

If the asset owner is successful in their appeal to the First Tier Tribunal then they may apply to the Council for reasonable costs. (Please see Compensation procedure).

## Enforcement

As soon as the decision has been taken to list an asset, the Council will ensure that the asset is listed on the Local Land Charges Register. A memo will be sent to the Land Charges Officer with the relevant details and the entry will be listed in the register.

The Council will also apply to the Land Registry. Where the asset/land is registered the Council will place the following restriction *'No transfer or lease is to be registered without a certificate signed by a conveyance that the transfer or lease did not contravene section 95 (1) of the Localism Act 2011.'*

Where an asset is removed from the list the Council will apply to cancel the restriction by completing form RX3 and will submit it to Land Registry.

## Compensation

The following types of claim may be made:

- For any loss arising from any period of delay in the owner entering into a binding agreement to sell the asset which was caused by either the interim or full moratorium periods
- A claim for reasonable legal expenses incurred in a successful appeal to the First Tier Tribunal against the Council's decision
  - To list the land
  - To refuse to pay compensation or
  - With regard to the amount if compensation offered or paid

A claim for compensation must:

- Be made in writing to the Head of People, Law and Regulation (the Reviewer)
- Be made before the thirteenth week (90 days) after the loss of expenses was incurred
- State the amount of compensation sought for each part of the claim
- Must be accompanied by supporting evidence for each part of the claim

The burden of proving the claim falls on the owner; the Council will look at the evidence and base its decision on the facts of the case. It will then give the asset owner written reasons for its decisions with respect to a request for compensation. There is no time limit for this but it will be done as soon as practicable.

## Review by Council of compensation decision

Where an asset owner has made a claim for compensation and is not satisfied with the outcome they can request the Council to review either or both of its decisions in relation to:

- Whether compensation should be paid to that person
- If compensation is to be paid, the amount of that compensation

The asset owner has eight weeks from the date they received the decision to request a review.