



Action with Communities in Rural England

ACRE Briefing: Assets of Community Value

February 2011

Previously known as the **Right to Buy**, the Assets of Community Value¹ proposal simply allows a community, group or individual to 'list' a site which they consider to be delivering a valuable service or public facility. This does not give the community the presumption of first refusal to buy the site if it comes up for sale, nor any moves towards compulsory purchase. However, 'listing' delays any possibility of immediate disposal of the site which may prevent a community acquiring it. The local authority is required to hold a list of assets nominated by the community where an application to list has gone through the process prescribed in the Bill. If the owner wishes to dispose of the asset, they must inform the local authority and a moratorium period is then imposed during which the community has the chance to mount a proposal to the owner to purchase the site.

The process for listing an Asset of Community Value is as follows:

- A community (a parish council, town council, individual or group) or the local authority itself can nominate the site
- The local authority assesses the claim that the site has community value and, if appropriate, prepares to list the site by informing the site owner who may ask for a review of that decision
- The local authority must maintain a public register of listed sites and of unsuccessful listings
- If disposal is planned by the site owner, they must notify the local authority and a moratorium period begins during which time negotiations with the community can take place
- If no progress is made for transfer of the site to the community during the moratorium period, the site is removed from the list
- A compensation clause for the site owner is included in the Bill's proposals to cover for financial loss during the moratorium period.

Much of the detail of the Assets of Community Value proposal is still to be prescribed in secondary legislation, and in preparation for this, Communities and Local Government have issued a **consultation document**², open to responses until 3 May 2011.

Who can nominate? The consultation offers the two extremes of being open i.e. any person or group with a local connection and restrictive i.e. specifying only a parish council or incorporated community groups with a local connection.

¹ <http://www.publications.parliament.uk/pa/cm201011/cmbills/126/11126.i-v.html> Chapter 4 page 51

² <http://www.communities.gov.uk/publications/localgovernment/righttobuyconsultation>

What constitutes community value? The consultation proposes that this is a decision left to the local authority, but views on this are requested in the consultation. However, government also proposes that the legislation is framed only to deal with the 'community value' being related to a current or former use. It is not intending to consider assets which the community wishes to acquire because of a **potential use as community facilities or for public use in the future**. This means that rural communities seeking to extend the car park of their village hall, or acquire a field for a new football pitch, would not be able to make use of Assets of Community Value to achieve this. It is worth noting that the intention is that all residential property be excluded from the possibility of listing, except where the accommodation is tied to the asset of community value.

Moratorium period: There are three different periods relevant to this process, all being measured from the time the owner informs the local authority that they wish to dispose of the asset:

- a) An interim window of opportunity, when community groups may express an interest in being treated as a potential buyer of the asset. Government proposes that this is six weeks
- b) The full window of opportunity (which includes the above) which is the time community groups have to pull together a bid to buy the asset. Government proposes that this is either three months or six months and asks for views on this within the consultation
- c) The protected period which is relevant only where the owner has not sold their asset at the end of the full window of opportunity period. Government proposes that this is 18 months.

The main issues that have been raised in the national arena are:

- The need for arrangements for emergency listing, where demolition is planned
- The length of the moratorium period, which most say should be at least six months
- The lack of a right to buy or right of first refusal
- The lack of a community right to appeal a local authority decision
- Concern over the process where the local authority is the site-owner – particularly since public assets are increasingly being disposed of to the private sector.

ACRE believes that the priorities for use of the Assets of Community Value proposals differ between rural and urban communities. Urban examples focus mainly on public land, particularly public facilities owned by local authorities. Rural priorities are more likely to concern private sector-owned sites such as pubs and shops, which a community may consider taking over as a community initiative. However, we are disappointed that **assets of potential community value are proposed to be excluded**, since this is often the way rural communities can acquire new facilities and services.

ACRE is concerned that anyone may be able to nominate a site to be listed, which fails to distinguish between cases where the community as a whole has identified a site as being of specific value. This discrimination in 'community value' needs, in ACRE's opinion, to be strengthened. ACRE proposes that, where a community has listed a site as part of the process of creating a Neighbourhood Plan, the site receives a **higher level of protection**, perhaps through a longer moratorium period than applies to other sites on the Assets of Community Value register.