



*Rural Capital of Food*

# Agenda

<b>Meeting name</b>	<b>Ad Hoc Community &amp; Social Affairs Committee</b>
<b>Date</b>	<b>Thursday, 8 March 2018</b>
<b>Start time</b>	<b>6.30 pm</b>
<b>Venue</b>	<b>Parkside, Station Approach, Burton Street, Melton Mowbray LE13 1GH</b>
<b>Other information</b>	<b>This meeting is open to the public</b>

Members of the Community & Social Affairs Committee are invited to attend the above meeting to consider the following items of business.

**Edd de Coverly**  
Chief Executive

## Membership

<b>Councillors</b>	A. Pearson (Chair) T. Beaken P. Chandler S. Lumley M. Sheldon	R. de Burle (Vice-Chair) M. Blase A. Freer-Jones P. Posnett D. Wright
<b>Substitutes</b>	M. Glancy E. Hutchison	L. Higgins

**Quorum:** 4 Councillors

<b>Meeting enquiries</b>	
<b>Email</b>	<a href="mailto:jbaum@melton.gov.uk">jbaum@melton.gov.uk</a>
<b>Agenda despatched</b>	Wednesday, 28 February 2018

No.	Item	Page No.
1.	<b>APOLOGIES FOR ABSENCE</b>	
2.	<b>DECLARATIONS OF INTEREST</b> Members to declare any interest as appropriate in respect of items to be considered at this meeting.	1 - 2
3.	<b>RECOMMENDATIONS FROM OTHER COMMITTEES</b>	
4.	<b>ASSET OF COMMUNITY VALUE - UPDATED POLICY AND PROCESSES</b> The Deputy Chief Executive to submit a report to Members to review and approve Melton Borough Councils updated policy regarding Assets of Community Value.	3 - 38
5.	<b>URGENT BUSINESS</b> To consider any other items that the Chair considers urgent	

## Advice on Members' Interests

### **COUNCIL MEETINGS - COMMITTEE MINUTES : DECLARATION OF INTERESTS**

Interests need not be declared at Full Council in relation to Committee Minutes which do not become the subject of debate at Full Council (i.e. Minutes referred to solely on a page by page basis when working through the Minutes of each Committee.)

An interest must be declared at Full Council as soon as it becomes apparent that a relevant Committee Minute is to be debated – this applies even if an interest has been declared at Committee and is recorded in the Minutes of that Committee.

### **PERSONAL AND NON-PECUNIARY INTERESTS**

If the issue being discussed affects you, your family or a close associate more than other people in the area, you have a personal and non-pecuniary interest. You also have a personal interest if the issue relates to an interest you must register under paragraph 9 of the Members' Code of Conduct.

**You must state that you have a personal and non-pecuniary interest and the nature of your interest.** You may stay, take part and vote in the meeting.

### **PERSONAL AND PECUNIARY INTERESTS**

If a member of the public, who knows all the relevant facts, would view your personal interest in the issue being discussed to be so great that it is likely to prejudice your judgement of the public interest and it affects your or the other person or bodies' financial position or relates to any approval, consent, licence, permission or registration then **you must state that you have a pecuniary interest, the nature of the interest and you must leave the room\***. You must not seek improperly to influence a decision on that matter unless you have previously obtained a dispensation from the Authority's Governance Committee.

### **DISCLOSABLE PECUNIARY INTERESTS AND OTHER INTERESTS**

**If you are present at any meeting of the Council and you have a disclosable pecuniary interest in any matter to be considered or being considered at the meeting, if the interest is not already registered, you must disclose the interest to the meeting. You must not participate in the discussion or the vote and you must leave the room.**

You may not attend a meeting or stay in the room as either an Observer Councillor or \*Ward Councillor or as a member of the public if you have a pecuniary or disclosable pecuniary interest\*.

### **BIAS**

If you have been involved in an issue in such a manner or to such an extent that the public are likely to perceive you to be biased in your judgement of the public interest (bias) then you should not take part in the decision-making process; you should leave the room. **You should state that your position in this matter prohibits you from taking part.** You may request permission of the Chair to address the meeting prior to leaving the room. The Chair will need to assess whether you have a useful contribution to make or whether complying with this request would prejudice the proceedings. A personal, pecuniary or disclosable pecuniary interest will take precedence over bias.

In each case above, you should make your declaration at the beginning of the meeting or as soon as you are aware of the issue being discussed.\*

\*There are some exceptions – please refer to paragraphs 13(2) and 13(3) of the Code of Conduct

This page is intentionally left blank

## COMMUNITY AND SOCIAL AFFAIRS COMMITTEE

8<sup>th</sup> March 2018

### REPORT OF DEPUTY CHIEF EXECUTIVE,

#### ASSET OF COMMUNITY VALUE – UPDATED POLICY AND PROCESSES

##### 1.0 PURPOSE OF REPORT

- 1.1 Members to review and approve Melton Borough Councils updated policy regarding Assets of Community Value.
- 1.2 Members to approve a new nomination, assessment and appeal processes.

##### 2.0 RECOMMENDATIONS

- 2.1 **Members review and approve the updated policy for Assets of Community Value including the new nomination, assessment and appeal process.**

##### 3.0 KEY ISSUES

###### Background

- 3.1 The Community Right to Bid (Assets of Community Value (England) Regulations in legislation) was one of a number of new rights introduced in the Localism Act 2011 and came into effect from 21st September 2012. Melton Borough Council has a statutory duty to adhere to the above legislation.
- 3.2 The Community Right to Bid seeks to allow communities and parish councils to nominate buildings or land for listing by Melton Borough Council as an Asset of Community Value. An asset can be listed if its principal use furthers (or has recently furthered) their community's social well-being or social interests (which include cultural, sporting or recreational interests) and is likely to do so in the future.
- 3.3 When an owner of a listed asset wishes to sell a building or a piece of land, a moratorium on the sale (of up to six months) may be invoked, providing local community groups with a chance to raise finance, develop a business plan and make a bid to buy the asset on the open market.
- 3.4 The owner of an asset included in the list may ask us to review our decision, if they do not agree with the initial decision. Currently the Community & Social Affairs Committee are required to undertake the review within 8 weeks of the review request being received.

###### Motivations for a Review

- 3.5 The existing policy and process along with the previous interpretation of the legislation has led to uncertainty surrounding Asset of Community Value nominations and decisions, in turn causing multiple nominations and appeals surrounding single assets. This has impacted the Council, nominating groups and landlords, and has predicated this review. See Appendix A for existing guidance, process flowchart and Asset of Community Value Register.

3.6 The Council's new proposed process is required to ensure less ambiguity around the decision making process and to provide comprehensive guidance on all aspects of the legislation and how this is administered within Melton Borough Council. This will allow for more accurate decision making and thus reducing the likelihood of appeals and potential tribunals/compensation requests. See Appendix B for updated policy, comprehensive assessment form and updated process flowchart.

3.7 Internal discussions and research into wider authority processes have concluded on a new process for the policy:

- Instead of the initial Asset nomination decision falling to an individual officer, this will be undertaken by a panel consisting of Community Policy Officer, Local Planning Officer and Housing, Welfare & Safer Communities Manager.
- If the Asset owner or nominating group is not happy with the initial decision made by the Panel regarding the Asset nomination, a review will then go to be heard by a Director. Appropriate legal advice will be taken at any stage of the process.

There would still be an opportunity for an **oral hearing** for the asset owner, as directed in Schedule 2 of The Assets of Community Value (England) Regulations 2012, in the form of a meeting with the reviewing officer.

- If the owner is still not happy with the outcome of the decision, then it is at this stage the appeal/review can then be taken to a First Tier Tribunal in line with the existing procedure.

#### 4.0 **POLICY AND CORPORATE IMPLICATIONS**

4.1 The Community Right to Bid has direct implications around:

- Encouraging people to take an active role in their communities.
- Increasing public confidence & pride in neighbourhoods

#### 5.0 **FINANCIAL AND OTHER RESOURCE IMPLICATIONS**

5.1 None identified

#### 6.0 **LEGAL IMPLICATIONS/POWERS**

6.1 This is set out in the Localism Act 2011 Part 5 Chapters 2 and 3 and Assets of Community Value (England) Regulations 2012:

6.2 Local Authorities must keep a 'List of Assets of Community Value'; the legislation sets out in detail the process they must enter into and what information they must include.

6.3 The legislation also outlines the definition of an asset of community value, which groups can legitimately nominate an asset, the appeals process for land owners, timescales for groups interested in buying land or property on the list, and compensation available to the owners of land or property on the list

**7.0 COMMUNITY SAFETY**

7.1 No direct Community Safety Implications have been identified.

**8.0 EQUALITIES**

8.1 A comprehensive Impact assessment was carried out by central government in relation to the Community Right to Bid Policy in June 2012 and is available from the following link: [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/8505/2168557.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/8505/2168557.pdf)

An Equalities Impact has not been carried out on this process; the equality analysis has shown no direct or indirect negative implications, the process relates directly to assets rather than people. The Nomination form for the Community Right Bid process will be available through the council’s website and in hard copy.

**9.0 RISKS**

**9.1 Probability**



Very High A				
High B				
Significant C		1		
Low D				
Very Low E				
Almost Impossible F				
	IV Neg- ligible	III Marg- inal	II Critical	I Catast- rophic

→  
**Impact**

Risk No.	Description
1	If the new policy and assessment process was not approved issues would remain with both Nominating groups and asset owners

**10.0 CLIMATE CHANGE**

10.1 No direct implications have been identified.

**11.0 CONSULTATION**

11.1 The Community Right to Bid process is designed to be Community driven and allow communities to take a more active role in their communities.

**12.0 WARDS AFFECTED**

12.1 All wards are affected.

Contact Officer: R Ebdale – Community Policy Officer

Date: February 2018

Appendices: A –Existing guidance, process flowchart and Asset of Community Value Register  
B - Updated policy, comprehensive assessment form and updated process flowchart.

Reference: X: C'tees, Council & Sub-C'tees/

This page is intentionally left blank



## The Community Right to Bid



### Background

The Community Right to Bid (Assets of Community Value in legislation) is one of a number of new rights introduced in the Localism Act 2011 and came into effect 21 September 2012.

The Community Right to Bid allows communities and parish councils to nominate buildings or land for listing by Melton Borough Council as an asset of community value. An asset can be listed if its principal use furthers (or has furthered in the recent past) their community's social well-being or social interests (which include cultural, sporting or recreational interests) and is likely to do so in the future.

When an owner of a listed asset wishes to sell building or land, a moratorium on the sale (of up to six months) may be invoked, providing local community groups with a chance to raise finance, develop a business plan and make a bid to buy the asset on the open market.

### The Legislation: How the Community Right to Bid will work

This is set out in the Localism Act 2011 Part 5 Chapters 2 and 3 and Assets of Community Value (England) Regulations 2012: Local Authorities must keep a 'List of Assets of Community Value'; the legislation sets out in detail the process they must enter into and what information they must include.

The legislation also outlines the definition of an asset of community value, which groups can legitimately nominate an asset, the appeals process for land owners, timescales for groups interested in buying land or property on the list, and compensation available to the owners of land or property on the list.

### What is an Asset of Community Value?

A building or other land is an asset of community value if its main use has recently been (in the last 5 years) or is presently used to further the social wellbeing or social interests of the local community and could do so in the future. The Localism Act states that "social interests" include cultural, recreational and sporting interests.

Examples of a community asset could include:

- **Education, health and wellbeing or community safety**  
Nurseries and schools

## APPENDIX A

Health centres, surgeries and hospitals

Day care centres, residential care homes

- **Sport, recreation and culture**

Parks and open spaces

Sports and leisure centres

Libraries/Theatres/Museums or heritage sites

- **Community services**

Community centres/Youth centres

Public toilets

- **Any economic use (e.g. a business such as a shop)**

Village shops - which also provides an important local social benefit which would no longer be easily available if that service should cease

Pubs

The regulations list a number of situations where land or buildings are exempted from inclusion on the list or operation of the moratorium. These include homes, hotels, assets being transferred between kindred businesses, and Church of England land holdings.

### **Who can nominate Assets of Community Value?**

A number of community organisations can nominate land and buildings for inclusion on the list:

- Parish Councils
- Neighbourhood Forums (as defined in Neighbourhood Planning regulations)
- Un-constituted community groups (with at least 21 members register to vote in the District of Melton)
- Not-for-private-profit organisations (eg charities)
- Community organisations (must have a local connection, so their activities are wholly or partly concerned with the area or with a neighbouring authority area)

Community Interest Groups are defined by **Regulation 12**

To make a nomination please complete the form, available to download from the Melton Borough Council website.

## Decision and Appeals

If a community organisation nominates land or buildings that meet the definition of an Asset of Community Value, and the nomination process was undertaken correctly (i.e. came from a group entitled to nominate), then the Melton Borough Council must include the asset on its list which will remain on the list for at least 5 years.

If Melton Borough Council decides that the nomination does not meet the criteria, then we will write to the group who nominated the asset and provide an explanation.

Melton Borough Council will also keep a list of unsuccessful nominations for at least 5 years.

Landowners can ask Melton Borough Council to review the inclusion of an asset on the list; this review will be undertaken by the Community and Social Affairs Committee.

If landowners are still unhappy with the outcome of the Committee's decision they may appeal to an independent body, called a First Tier Tribunal by contacting:

Tribunal Clerk, Community Right to Bid Appeals, HM Courts and Tribunals, First Tier Tribunal (General Regulatory Chamber), PO Box 9300, Leicester, LE1 8DJ or via email

to: [GRC.CommunityRights@hmcts.gsi.gov.uk](mailto:GRC.CommunityRights@hmcts.gsi.gov.uk)

There is no appeal or review process for nominating groups.

## Moratorium Periods

The Community Right to Bid gives time for Community Groups to put together the funding necessary to bid to buy the asset on the open market. It does not, however, give the right of first refusal to community organisations to buy an asset.

If an owner wants to sell property or land that is on the list, they must tell the Melton Borough Council. If the nominating body wishes to develop a bid, they can then call for the District Council to trigger a moratorium period, during which time the owner cannot proceed to sell the asset but may still market the asset.

There are two moratorium periods. Both start from the date the owner of the asset tells the Council of their intention to sell:

The first is the '**interim moratorium**' period, which is **6 weeks**, during which time a community organisation can decide if they want to be considered as a potential bidder.

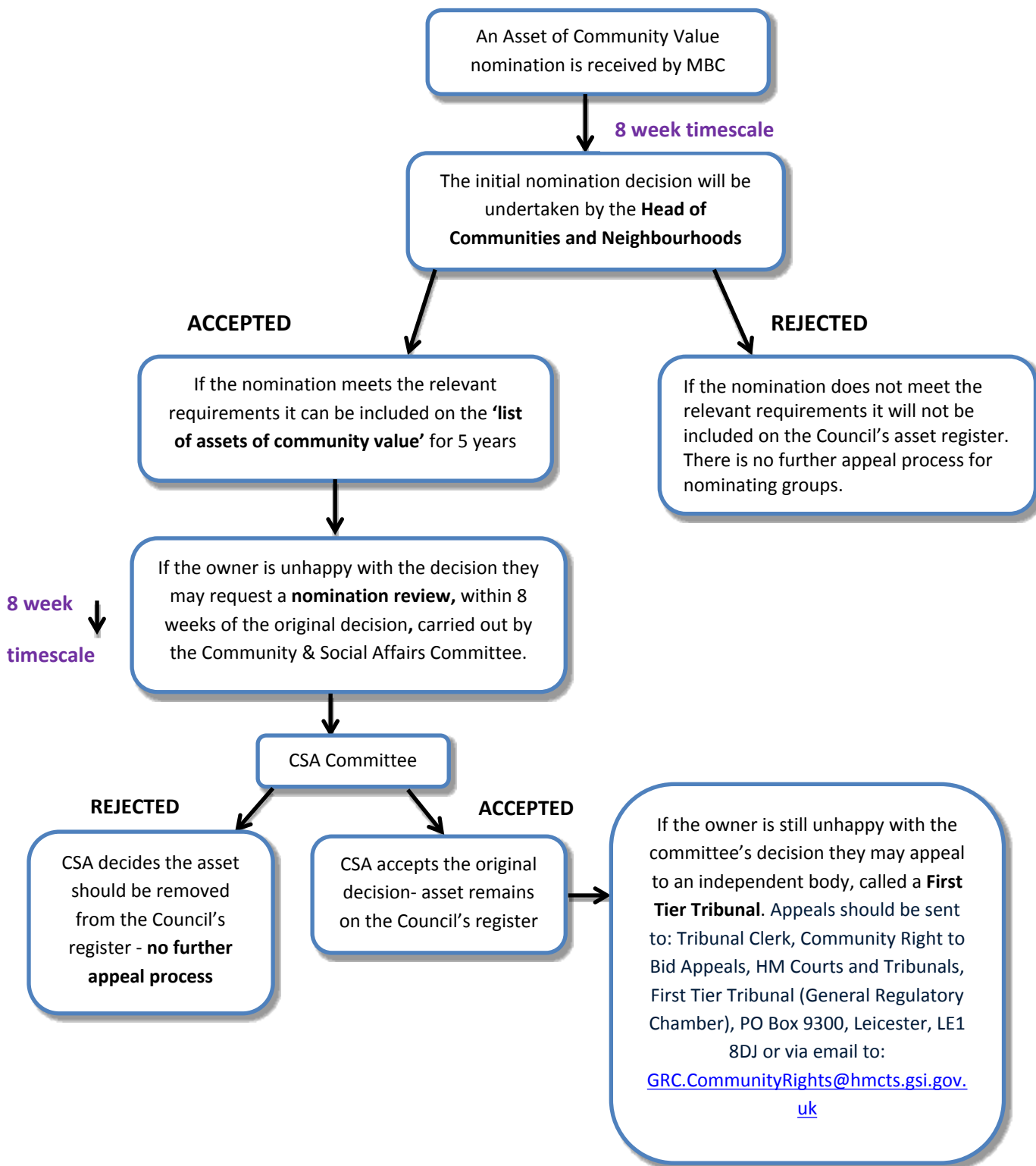
The other is a '**full moratorium**' period, which is **6 months**, during which a community organisation can

APPENDIX A

develop a proposal and raise the money required to bid to buy the asset.

If a sale is not completed then there is an **18 month 'protected period'**(running from the date the owner notified the local authority of an intention to sell) during which the owner is free to dispose of the property without further moratoria.

**Asset of Community Value Review and Appeal Process**



This page is intentionally left blank

**COMMUNITY RIGHT TO BID- Details of assets nominated for listing as an asset of community value and decision reached**

					Details of where owner has notified of intention to dispose of asset					
NOMINATION DETAILS			DECISION Accepted /Rejected and date	REASONS FOR DECISION	INTENTION TO SELL					EXPIRY
Asset Name	Asset Address & Ward	Date nomination received			Date notification received	Interim moratorium period	Intention to bid received (date)	Full moratorium end date (6months from notification)	Full 18 month protection period end date	Date listing expires (5 years after decision)
The Red Lion Page 13	Grantham Road, Bottesford, NG13 0DF  Bottesford	26/10/2017	<b>Accepted 28/11/17</b>	Following a review by the ACV Panel 27/11/2017 it was concluded that this nomination met the requirements of being an Asset of Community Value, in accordance with the Localism Act 2011 and the Assets of Community Value (England) Regulations 2012; specifically the Localism Act, Part 5, Chapter 3, s.88(2). This states that a building or other land is an Asset of Community Value if “there is a time in the recent past when an actual use of the building or other land that						28/11/2022

<p style="writing-mode: vertical-rl; transform: rotate(180deg);">Page 14</p>				<p>was not an ancillary use furthered the social wellbeing or interests of the local community and... 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.” It was felt that there was now sufficient evidence to support this definition.</p>						
<p>John Dory  (also known as The Chequers Public House and Gas Gorilla Bar)</p>	<p>2 Rutland Square, Barkeston Le Vale  Long Clawson &amp; Stathern</p>	<p>19/10/17</p>	<p><b>Accepted 22/01/2018</b></p>	<p>The nomination satisfies the definition of an Asset of Community Value, as stated in the Localism Act, Part 5, Chapter 3, Section 88(2)(a)&amp;(b): 88 Land of community value (2)For the purposes of this Chapter but subject to regulations under subsection (3), a building or other land in a local authority’s area that is not land of community value as a result of subsection (1) is</p>	<p>22/01/2018</p>	<p>22/01/2018 to 05/03/2018</p>	<p>22/01/2018 (Community Group)</p>	<p>22/07/2018</p>	<p>22/07/2019</p>	<p>22/01/2023</p>



Page 15				<p>land of community value if in the opinion of the local authority—</p> <p>(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, and</p> <p>(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. It was felt that there was now sufficient evidence to support this definition.</p>						
The Red Lion Car Park	Red Lion Street Stathern LE14 4HS	02/10/17	Accepted 30/11/2017  Appeal decision outcome: <b>Rejected at CSA Committee Review</b>	Following a review by the ACV Panel 27/11/2017 in light of additional supporting information, it was concluded that this nomination met the requirements of being an Asset of Community Value, in accordance with the Localism Act 2011 and the						

Page 16			<b>23/01/2018</b>	Assets of Community Value (England) Regulations 2012; specifically the Localism Act, Part 5, Chapter 3, s.88(2). This states that a building or other land is an Asset of Community Value if “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 and... 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.” It was felt that there was now sufficient evidence to support this definition.						
	The Chequers Public House (also known as The John Dory and Gas Gorilla Bar)	2 Rutland Square, Barketstone-le-Vale, NG13 0HN	08/05/17	<b>Rejected 03/07/17</b>	Following a review by the Head of Communities and Neighbourhoods it was felt that the Chequers Public House did not fully meet the definition criteria set					

<p style="writing-mode: vertical-rl; transform: rotate(180deg);">Page 17</p>	<p>Long Clawson &amp; Stathern</p>			<p>out in the Community Right to Bid legislation, specifically the Localism Act, Part 5, Chapter 3, s.88(2). This states that a building or other land is an Asset of Community Value if “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.” It was felt that there was insufficient evidence to support this definition and use of the property in the “recent past”.</p>						
<p>The Windmill Inn</p>	<p>4 Main Street, Redmile, NG13 0GA  Barkestone, Plungar and Redmile</p>	<p>14/03/17</p>	<p><b>Accepted 21/04/17</b>  Appeal decision outcome:</p>	<p>Following a review by the Head of Communities and Neighbourhoods it was concluded that this nomination met the requirements of being an Asset of Community Value, in accordance with the Localism Act 2011 and the Assets of Community Value (England) Regulations 2012.  The decision to list the Windmill Public House as</p>	<p>N/A</p>	<p>N/A</p>	<p>N/A</p>	<p>N/A</p>	<p>N/A</p>	<p>N/A</p>

			<p><b>Retained as an Asset of Community Value on amended plan 17/08/17 Partial Listing</b></p>	<p>an Asset of Community Value was upheld by the Community and Social Affairs Committee, however, they accepted that site plan would need to be amended as it contained land that was not part of the ACV listing. It is now part-listed and qualifies as an exemption. The owners have notified that they intend to sell.</p>						
<p>The Boat Inn Page 18</p>	<p>57 Burton Street, Melton Mowbray LE13 1AF</p>	<p>15/03/17</p>	<p><b>Rejected 09/05/17</b></p>	<p>Following a review by the Head of Communities and Neighbourhoods it was felt that the Boat Inn did not fully meet the definition criteria set out in the Community Right to Bid legislation, specifically the Localism Act Part 5, chapters 2 and 3. The Community Right to Bid states that a building or other land is an asset of community value if its main use has recently been, or is presently used, to further the social wellbeing or social interests of the local community and could do so in the future. The Localism</p>						

				Act states that 'social interest' include cultural, recreational and sporting interest. It was felt there was insufficient evidence to support this definition.						
The Red Lion Public House and Car Park	Red Lion Street Stathern LE14 4HS  Stathern	23/01/17	<b>Public House - Accepted 20/03/17</b>  <b>Car park – rejected 20/03/17</b>	<p>Following a review by the Head of Communities and Neighbourhoods it was concluded that the Red Lion Public House met the requirements of being an Asset of Community Value, in accordance with the Localism Act 2011 and the Assets of Community Value (England) Regulations 2012.</p> <p>In regards to the car park, it was concluded that this did not meet the requirements of being an Asset of Community Value, in accordance with the Localism Act 2011 and the Assets of Community Value (England) Regulations 2012, and in particular Part 5, Chapter 3, Section 88(2)(a)&amp;(b) of the Localism Act which states that there is a time in the recent past when an actual</p>	N/A	N/A	N/A	N/A	N/A	N/A

Page 20				<p>use of the building or other land that was not an ancillary use furthered the social wellbeing or interests of the local community, and it is realistic to think there is a time in the next five years when there could be non-ancillary use. When considering the car park itself, it seemed that the use is ancillary to the primary use of the land as a public house. Therefore the decision was taken to separate out the public house from the car park, listing the pub itself, but not the car park.</p>						
The Red Lion	<p>Grantham Road, Bottesford, NG13 0DF</p> <p>Bottesford</p>	21/02/17	<b>Rejected 17/04/17</b>	<p>Following a review by the Head of Communities and Neighbourhoods it was felt that the Red Lion did not fully meet the definition criteria set out in the Community Right to Bid legislation, specifically the Localism Act Part 5, chapters 2 and 3. The Community Right to Bid states that a building or other land is an asset of community value if its main use has recently been, or is</p>						

				presently used, to further the social wellbeing or social interests of the local community and could do so in the future. The Localism Act states that 'social interest' include cultural, recreational and sporting interest. It was felt there was insufficient evidence to support this definition.						
The Red Lion  Page 21	Grantham Road, Bottesford, NG13 0DF  Bottesford	22/06/16	<b>Rejected 25/07/16</b>	Following a review by the Head of Communities and Neighbourhoods it was felt that the Red Lion did not fully meet the definition criteria set out in the Community Right to Bid legislation, specifically the Localism Act Part 5, chapters 2 and 3. The Community Right to Bid states that a building or other land is an asset of community value if its main use has recently been, or is presently used, to further the social wellbeing or social interests of the local community and could do so in the future. The Localism Act states that 'social interest' include cultural, recreational and sporting						

				interest. It was felt there was insufficient evidence to support this definition.						
The Red Lion	Grantham Road, Bottesford, NG13 0DF  Bottesford	22/05/16	<b>Rejected 26/05/16</b>	Following a review by the Head of Communities and Neighbourhoods it was concluded that this was an invalid nomination under Regulation 6, d of the Asset of Community Value (England) regulations 2012.						
Peacock Inn	Church Corner, Red Mile, NG13 0GA  Long Clawson & Stathern	16/03/16	<b>Rejected 10/05/16</b>	Following a review by the Head of Communities and Neighbourhoods it was concluded that this was an invalid nomination under Regulation 6, d of the Asset of Community Value (England) regulations 2012.						
Castle Inn	33 Vicarage Lane, Eaton, NG32 1SP  Croxton Kerrial	16/03/16	<b>Rejected 10/05/16</b>	Following a review by the Head of Communities and Neighbourhoods it was concluded that this was an invalid nomination under Regulation 6, d of the Asset of Community Value (England) regulations 2012.						
The John Dory Pub	2 Rutland Square, Barkeston-le-Vale, NG13 0HN  Long Clawson &	16/03/16	<b>Rejected 10/05/16</b>	Following a review by the Head of Communities and Neighbourhoods it was concluded that this was an invalid nomination under Regulation 6, d of the Asset of Community Value						



	Stathern			(England) regulations 2012.						
The John Dory Pub	2 Rutland Square, Barkestone-le-Vale, NG13 0HN  Long Clawson & Stathern	21/01/16	<b>Rejected 29/02/16</b>	Following a review by the Head of Communities and Neighbourhoods it was felt that the John Dory Pub did not fully meet the definition criteria set out in the Community Right to Bid legislation, specifically the Localism Act Part 5, chapters 2 and 3. The Community Right to Bid states that a building or other land is an asset of community value if its main use has recently been, or is presently used, to further the social wellbeing or social interests of the local community and could do so in the future. The Localism Act states that 'social interest' include cultural, recreational and sporting interest. It was felt there was insufficient evidence to support this definition.	N/A	N/A	N/A	N/A	N/A	N/A
The Bell & Brasserie	2 Main Street, Frisby on the Wreake, Melton Mowbray, LE14 2NJ	24/09/15	<b>Accepted 11/11/15</b>  Appeal decision outcome:	Following a review by the Community and Social Affairs Committee it was determined that this was an invalid nomination under Regulation 6, d of	N/A	N/A	N/A	N/A	N/A	N/A

	Frisby on The Wreak		<b>Rejected 12/10/16</b>	the Asset of Community Value (England) regulations 2012.						
The Fox Inn Pub	13 Main Street, Thorpe Satchville, Melton Mowbray, LE14 2DQ.  Somerby	10/8/15	<b>Rejected 21/1/15</b>	The nomination for the Fox Inn pub was taken to the Community and Social Affairs Committee on the 21 <sup>st</sup> January 2015. The building nominated failed to meet the definition of asset of community value as set out in Sections 88 of the Localism Act 2011 and the Asset of Community Value (England) Regulations. The Community Right to Bid states that a building or other land is an asset of community value if its main use has recently been, or is presently used, to further the social wellbeing or social interests of the local community and could do so in the future. The Committee felt there was insufficient evidence to support this definition.	N/A	N/A	N/A	N/A	N/A	N/A

<p>Frisby Lakes</p>	<p>The Old Quarry, Hoby Road, Asfordby, Melton Mowbray, Leicestershire, LE14 3TL.</p> <p>Frisby on the Wreake</p>	<p>28/9/2013</p>	<p><b>Accepted 7/10/2013</b></p> <p>Appeal decision outcome: <b>Rejected 22/4/14</b></p>	<p>The evidence submitted by the owner, for the purposes of an appeal, was assessed against two exemptions:</p> <p><b>Land included a business which was a going concern.</b></p> <p>The first floor of the old sailing club building on the site accommodated Celtic Tackle, a fishing tackle retailer. The shop was well stocked and served personal and on-line customers. The business was a going concern. This building was situated within the area of land which was proposed to be listed.</p> <p><b>Part-listed land – sale of a site only part of which has been listed.</b></p> <p>The evidence submitted by the owner indicated that only part of the whole site was proposed to be listed. The eastern portion of the lakes was totally excluded from the proposed listed land. Other, smaller areas</p>	<p>N/A</p>	<p>N/A</p>	<p>N/A</p>	<p>N/A</p>	<p>N/A</p>	<p>N/A</p>
---------------------	-----------------------------------------------------------------------------------------------------------------------------------------------	------------------	--------------------------------------------------------------------------------------------------------------	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	------------	------------	------------	------------	------------	------------

				<p>of land, along with western and southern boundaries of the larger, whole site were also excluded from the proposed listed land.</p> <p>The larger, whole site was a coherent parcel of land in single ownership. The area which was proposed to be listed did not include all of this land.</p>						
--	--	--	--	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--	--	--	--	--	--

## **Community Right to Bid – Assets of Community Value Policy & Procedure**

### **Legislation Background**

The Community Right to Bid came into force on 21<sup>st</sup> September 2012 and gives communities a right to identify a building or land that is believed to be of value to their social interests or social wellbeing and gives the community a fair chance to make a bid to buy the property on the open market should the owner decide to sell. Only eligible community groups, local parish councils or local neighbourhood planning forums and charities can nominate.

### **Asset of Community Value – Definition**

A building or land is deemed to be an Asset of Community Value if, in the opinion of the Melton Borough Council:

- A current principal ('non ancillary') use of the building or land furthers the social interests or social wellbeing of the local community, and it is realistic to think that there can continue to be a principal use of the building or land which will further the social interests or social wellbeing of the local community, whether or not in the same way, or;
- A principal use of the building or land in the recent past furthered the social interests or social wellbeing of the local community and it is realistic to think that this could be the case within five years.

### **NOTES –**

- 1) The Definition of Recent Past can be viewed differently in different circumstances. For example, if a building has been used for its principal purpose for 50+ years, such as a Public House, the definition will be viewed differently to another Public House which has been in use for just 5 years. Each Nomination will be viewed on a case by case basis.
- 2) The Nominated asset will be deemed to comprise of the entire boundary noted on the Land Registry Title plan submitted with the nomination form.

### **Making a nomination**

Community Groups must be eligible to nominate, such groups should be able to answer yes to the two questions below:

- Do you have a local connection to the property you are wishing to nominate? and;
- Are you an unincorporated community group with at least 21 members who are registered to vote in the District of Melton, a parish council, charity, industrial & provident society, local neighbourhood forum, company limited by guarantee or a community interest company?

Within the Nomination Melton Borough Council must be informed of the address of the property, details of the owner, the extent of the site and why it is an asset of community value. Evidence must be provided of the groups eligibility to nominate along with the Land Registry Title Plan for the nominated building or land.

To assist Melton Borough Council has provided a nomination form which can be accessed via the Website. Once completed, send the form to [ACVnominations@melton.gov.uk](mailto:ACVnominations@melton.gov.uk). Alternatively, the nomination can be sent by post to:

Community Policy Officer, Melton Borough Council, Station Approach, Burton Street, Melton Mowbray, LE13 1GH

### **Decision making process/criteria**

Once the completed form has been received Melton Borough Council will check the eligibility of the nomination and if it is considered the property fits the criteria it will be added to the 'list of assets of community value'. Nominations will be considered within eight weeks of receipt.

The Nomination will be assessed against the following criteria:

- a) The nomination has been made by a community interest group in line with the regulations and is locally based.
- b) The information required on the nomination form has been fully completed and includes Asset Title Plan.
- c) The current principal use of the asset has served to further the social wellbeing or cultural, recreational or sporting interests of the local community.
- d) The principal use of the asset in the recent past has served to further the social wellbeing or cultural, recreational or sporting interests of the local community.
- e) It is realistic to assume that in the next five years the asset could continue to be used to further the social wellbeing or cultural, recreational or sporting interests of the local community.

If the nomination meets the above requirements it will be included on the 'list of assets of community value'.

Assets will remain on the list for five years and a land charge will be registered against the property.

Melton Borough Council will inform the owner and nominating group if the property has been listed and the date when it will be removed (5 years from the date of the decision to list). There will be no further contact with Nominating Groups unless the property owner notifies of an intention to sell. When the five years have expired a new Nomination may be submitted.

If the Nomination is unsuccessful the nominating group and owner will be informed and an explanation will be provided as to why it was unsuccessful. In such circumstances the property will be noted on the list as 'Rejected', this will remain on the list for five years. There is no appeal or review process for unsuccessful nominations.

**NOTE** - Melton Borough Council will review further Nominations for previously rejected assets but only where NEW additional information is provided in support of the Nomination.

## Requests to Review Decision from the Asset Owner

The owner of a building or land included in the list of Assets of Community Value may ask for a review of the decision. This request must be made in writing within eight weeks from the date written notification of our decision was received or longer where we have agreed to this in writing. The request should be sent to:

Legal Services, Melton Borough Council, Station Approach, Burton Street, Melton Mowbray LE13 1GH

Melton Borough Council will acknowledge receipt of the review request within 5 working days and advise of the procedure to be followed in connection with the review. The review will be undertaken by a member of legal services not involved in the original decision.

The owner may request an oral hearing and may appoint a representative to act on his or her behalf in connection with the review. Where no request for an oral hearing is made by the owner, Melton Borough Council will decide whether or not an oral hearing would be beneficial to the review process. The owner, or their representative, may make written and oral representation to the reviewer.

The review process will be completed within eight weeks from receipt of the request for the review from the asset owner. A longer review period may be required in extenuating circumstances.

Melton Borough Council will notify the owner in writing of the outcome of the review and where the review concludes that a change to the listing is required; the following will also be notified:

- The nominator
- The occupier of the land (if not the owner)
- Where they are not the owner, the holder of the freehold estate and the holder of any leasehold estate
- The relevant town or parish council

The list of assets of community value will also be updated and the Land Registry will be advised accordingly.

If landowners are still unhappy with the outcome of the Review decision they may appeal to an independent body, called a First Tier Tribunal by contacting:

Tribunal Clerk, Community Right to Bid Appeals, HM Courts and Tribunals, First Tier Tribunal (General Regulatory Chamber), PO Box 9300, Leicester, LE1 8DJ or via email to: [GRC.CommunityRights@hmcts.gsi.gov.uk](mailto:GRC.CommunityRights@hmcts.gsi.gov.uk)

There is no appeal or review process for nominating groups.

## **Making a bid**

Where a building or land is listed as an asset of community value the property owner must advise Melton Borough Council of their intention to sell the property and this intention will be publicised on the website as well as informing the nominator. The notification will trigger the 'interim moratorium' period of six weeks.

If a community group wishes to make a bid they must inform Melton Borough Council within six weeks from the date the owner notified their intention to sell. This will trigger the full moratorium period and a community group will have six months to put together the bid (this is also six months from the owner advising of their intention to sell). If there is more than one community group interested in purchasing the property we would encourage the groups to work together. At any point before the end of the six months the community group may enter into negotiations with the property owner providing the owner is willing to do so. Melton Borough Council should be kept informed of developments throughout the negotiation period.

At the end of the moratorium period if the community group have successfully put a bid together the owner will have the option to either accept their bid or sell the property freely on the open market. There is no right of 'First Refusal' for community bids.

## **Sales outside of the Act**

There are some circumstances where the property owner does not need to comply with the Act, these are:

- Disposing the property in the form of a gift.
- Disposal of a property containing a business which uses the property and it is a going concern.
- Disposal within a family or a partnership or between trustees or a trust or between companies in a group.
- Disposal in the execution of a will or arising from various legal proceedings.
- Disposal of a property that is part of a larger estate, part of which is not listed, but where the whole estate is owned by the same person and is a single lot of land.

## **Non-compliance from owner on sale of Land**

In the event that the owner does not comply with the scheme, any sale will be void, meaning the sale has not taken place. This penalty will not apply if the owner was unaware through no fault of their own that the land was listed when it was sold.



It should be noted however that where land is listed it does not:

- 1) Restrict who the owner of the land can sell their property to or at what price
- 2) Give a right of first refusal to community interest group
- 3) Place any restriction on what an owner can do with their property – i.e. prevent development of the land. Planning policy permitted uses for particular sites. However, the fact that the site is listed may affect planning decisions – it is open to the Local Planning Authority to decide whether listing as an asset of community value is a material consideration if an application for change of use is submitted, considering all circumstances of particular cases.

## **Compensation Requests – Asset Owner**

Private owners may claim compensation for loss and expenses incurred through the asset being listed or previously listed. The regulations specifically provide that this will include a claim arising from a period of delay in entering into a binding agreement to sell which is wholly caused by the interim or full moratorium period; or for legal expenses incurred in a successful appeal to the Tribunal.

The time limit for making a compensation claim is 13 weeks from the end of the interim or full moratorium period (as appropriate) or from the date when the Land ceases to be listed. The assumption is that most claims for compensation will arise from a moratorium period being applied; however the legislation wording allows for claims for loss or expense arising simply as a result of land being listed.

All Compensation claims must:

- 1) Be submitted in writing
- 2) State the amount of compensation sought
- 3) Provide supporting evidence for the claim and the amount sought

The obligation to prove loss lies with the owner.

Melton Borough Council will consider the claim and give written reasons for the decision. No time limit is set for responding to claims. The reason for this is that it may take some time to assemble the necessary evidence; however once all the facts are clear a decision will be made as quickly as is practicable.

All compensation claims should be sent to:

Legal Services, Melton Borough Council, Station Approach, Burton Street, Melton Mowbray LE13 1GH

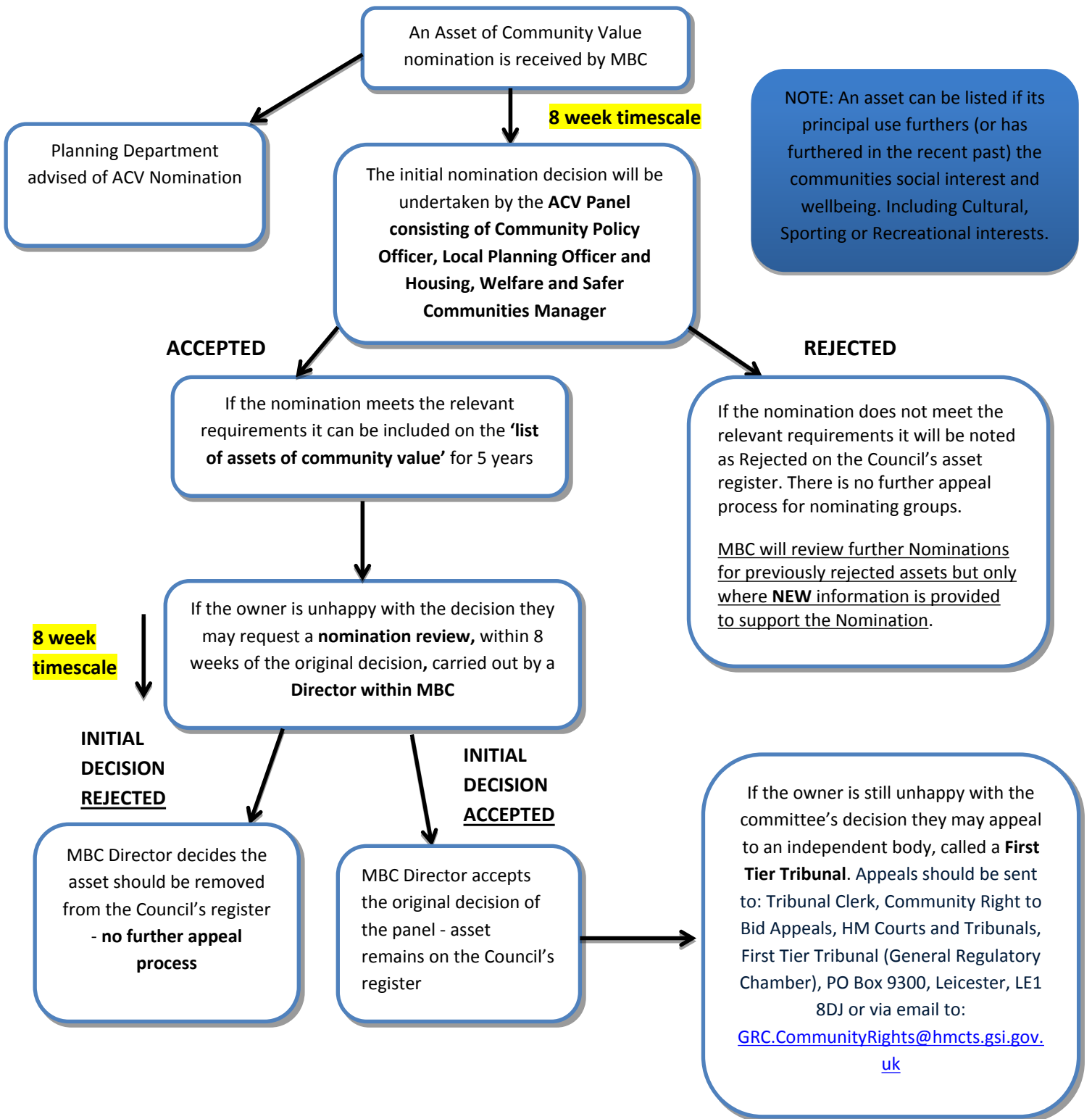
**Asset of Community Value Nominations – Assessment Criteria**

<p>a) Does the Nomination form include a description of the nominated Land including the proposed Boundary? (Melton Borough Council require a copy of the Land Registry Title Plan within Nominations)</p>	
<p>b) Is the Nominated Building or Land within the area of Melton Borough?</p> <p>(If partly in Melton &amp; partly in neighbouring authority we will co-operate on Decision)</p>	
<p>c) Does the Nomination include all information regarding names of the current occupant(s) of the land and the names of current or last known addresses of those holding freehold/leasehold estate in the Land?</p>	
<p>d) Is the application a community nomination?</p>	<p>6   Page</p>

<p>Do you have a local connection to the property you are wishing to nominate? and;</p> <p>Are you an unincorporated community group with at least 21 members who are registered to vote in the District of Melton, a parish council, charity, industrial &amp; provident society, local neighbourhood forum, company limited by guarantee or a community interest company?</p>	
<p>e) Is the Land of Community Value? (s88 Localism Act 2011)</p> <p>Does an actual current non ancillary use of the building or land further the social wellbeing or social interest of the local community?</p> <p>AND it is realistic to think that there can continue to be non ancillary use of the building or land which will further the social wellbeing or social interest of the local community (whether or not in the same way)?</p> <p>OR</p> <p>There is a time in the recent past when an actual non ancillary use of the building or land furthered the social wellbeing or social interest of the local</p>	

<p>community;</p> <p>AND it is realistic to think that there is a time in the next 5 years when there could be non ancillary use of the building or land that would further the social wellbeing or social interest of the local community (whether or not in the same way)?</p> <p>NOTE – Recent past can be viewed differently in different circumstances. Viewed on a case by case basis.</p>	
<p><b>Decision with Rationale</b></p>	

**Asset of Community Value Review and Appeal Process**



For more information contact Melton Borough Council:

Telephone: 01664 502502

Email: [contactus@melton.gov.uk](mailto:contactus@melton.gov.uk)

**What is an Asset of Community Value?**

A building or other land is an asset of community value if its principal use furthers (or has furthered in the recent past) the social wellbeing or social interests of the local community and could do so in the future. The Localism Act states that “social interests” include cultural, recreational and sporting interests.

**ACV Listing Criteria**

An Asset of Community Value nomination is received by Melton Borough Council

**Considerations:**

Has the Nomination been made by a Community interest group in line with regulations?

Is the Nomination completed in full and includes ACV site plan?

**Who Can Nominate?**

Parish Councils

Neighbourhood Forums (as defined in Neighbourhood Planning regulations)

Un-constituted community groups (with at least 21 members registered to vote in the District of Melton)

Not-for-private-profit organisations (e.g. charities)

Community organisations (must have a local connection, so their activities are wholly or partly concerned with the area or with a neighbouring authority area)

Is it reasonable to conclude that there can be non-ancillary (principal) use of the building or land which will further the social wellbeing and social interest of the community?

Does the current principal use of the building or land further the social wellbeing and social interest of the Community?

**8 Week Timescale for Decision**

Has there been a time in the recent past when the principal use of the building or land has served to further the social wellbeing or social interest of the community?

Is it realistic to think that there is a time in the next five years where the principal use of the building or land could further the social interest or social wellbeing of the community (whether or not in the same way)?

A decision will be made by an MBC panel based on the information provided and the building or land will be added to the ACV register as an Accepted or Rejected ACV.

**The nominating group has no right to appeal the decision. MBC will consider Nominations for previously rejected ACVs but only where NEW additional supporting information is provided.**

For more information contact Melton Borough Council:  
Telephone: 01664 502502

## **Examples of Social Wellbeing or Cultural, Recreational or Sporting Interests**

Please Note, this is not an exhaustive list but is intended to aid Nominating groups in understanding areas that the Council would consider as being of value to the community.

- 1) The nominated asset includes outdoor space which can be enjoyed by the local community enhancing sporting and recreational interests.
- 2) The nominated asset provides free Wi-Fi access allowing for community use.
- 3) Community events are hosted at the nominated asset and/or they are heavily involved with local events. This enhances the social wellbeing and social interests of the community.
- 4) The nominated asset sponsors local sports teams enhancing the sporting interest of the community.
- 5) The nominated asset hosts events to raise money for local charities/community groups enhancing the recreational, social and cultural wellbeing and interest of the community.
- 6) There is disabled access allowing community use for those with physical impairments enhancing their social wellbeing.
- 7) The asset includes important local services such as a Post Office, Library or recreational activities (for example pool tables or dart boards in a Public House).
- 8) The nominated asset is of historical importance to the community and its heritage is of cultural importance to the local community.
- 9) Nominated asset is utilised for local community meetings such as Parish Council meetings, local playgroup/school meetings etc.

10) The nominated asset is the only of its kind in the locality (e.g. Pub, shop, café, public toilet etc.) and is therefore vital to the social wellbeing of the community.

11) The nominated asset provides an area for advertising for local events, business and amenities.

Examples of a community asset could include:

- Any economic use (e.g. a business such as a shop)

Pubs & Village shops - which also provides an important local social benefit which would no longer be easily available if that service should cease

Education, health and wellbeing or community safety

Nurseries and schools

Health centres, surgeries and hospitals

- Sport, recreation and culture

Parks and open spaces

Sports and leisure centres

Libraries/Theatres/Museums or heritage sites

- Community services

Community centres/Youth centres

Public toilets