

**Assets of Community Value
Draft Guidelines for Determining Nominations**

Introduction

1. Part 5, Chapter 3, of the Localism Act 2011 introduced provisions for the designation of certain buildings or land as Assets of Community Value. Under Section 88 (1) of the Act, a building or other land in a local authority's area is land of community value if in the opinion of the authority:
 - a) An actual current use of the building or other land that is not an ancillary use furthers the social wellbeing or social interests of the local community, and
 - b) It is realistic to think that there can continue to be non-ancillary use of the building or other land which will further (whether or not in the same way) the social wellbeing or social interests of the local community.

2. Under Section 88 (2) land or buildings can also be of community value if in the opinion of the authority:
 - 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
 - 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.

3. Detailed regulations, the Assets of Community Value (England) Regulations, 2012, provide further guidance on the eligibility of local community groups to nominate land or buildings and identify those land or buildings which are exempt from the provisions of the Act (i.e. cannot be designated as ACVs). In 2012, the Department for Communities and Local Government published non-statutory guidance for local authorities on the ACV process. Since 2011, many ACVs have been designated across England and this has established good practice and, in the case of appeals, case law which has interpreted the Act and Regulations.

Guidelines for Nominations in the City of London

4. This note provides guidelines for applicants seeking to nominate land or buildings in the City of London as Assets of Community Value. Section 1 deals with legislative national requirements which must be met for an application to be valid. Section 2 sets out local criteria which will be considered when dealing with applications for ACV status for public houses.

Section 1 Validation of Nominations

A) Information Requirements

5. A nomination must contain the following information. Failure to provide any of this information will result in the nomination being rejected:

- A description of the nominated land or building, including its proposed boundaries. This can be a written description and does not have to include a map.
- Information available to the nominator about freeholders, leaseholders and occupiers of the land or building being nominated.
- The reasons for nominating the land or building.
- The nominator's eligibility to nominate the land or building.

B) Status of the Nominator/Applicant

6. The nominator/applicant must be a voluntary or community body, as defined in Section 5 of the Regulations. Failure to meet this definition will result in the application being rejected. For nominations in the City of London, the nominator/applicant must be one of the following:
 - A designated Neighbourhood Forum
 - A not-for-profit unincorporated body, comprising at least 21 individuals
 - A registered charity
 - A not-for-profit company limited by guarantee
 - A not-for-profit industrial and provident society
 - A community interest company.
7. To support a nomination, nominators/applicants will normally have to provide supporting evidence to confirm their status, such as articles of association or charity registration.

C) Does the Nominator/Applicant have a local connection?

8. The nominator/applicant must demonstrate a local connection to the City of London:
 - Are the nominator/applicant's activities wholly or partly concerned with the City of London, or with a neighbouring borough (Westminster, Camden, Islington, Hackney, Tower Hamlets, Southwark or Lambeth)?
 - For not-for profit bodies, is any surplus generated wholly or partly applied for the benefit of the City of London or its neighbouring boroughs?
 - For unincorporated bodies, any surplus must not be distributed to its members and it must have at least 21 members who are registered for local government elections in the City of London or its neighbouring boroughs?
 - Is it a charity?
 - Is it a Community Interest Company?
 - Is it a Neighbourhood Forum?
9. Supporting evidence will need to be submitted to demonstrate how the nominator/applicant meets these tests.

D) Does the land or building meet the requirement for nomination?

10. The nominator/applicant must demonstrate that the land or building being nominated as an asset of community value:
 - Is located within the City of London
 - Is not listed in Schedule 1 of the 2012 Regulations as being exempt from designation, i.e.
 - The land or building is not a residential property

- The land or building is not licensed for use as a residential caravan park.
- The land or building is not defined as operational land for statutory undertakers.

E) Is the nominated use the primary/principal use of the land or building?

11. A nomination must contain evidence to demonstrate that the current or recent use of the nominated asset is actually the primary or principal use of the land or building and not an ancillary use. In interpreting this provision:

- The City Corporation will have regard to the established planning use of the land or building
- Recent use will normally be taken as within the past 3 years.

F) Is there evidence of continued/future use?

12. The legislation requires that it is realistic to think that a current use can continue or that there could be a use in the next 5 years which, in either case, furthers the social wellbeing or social interests of the local community. The legislation does not require the future use to be the same as the current or recent use, merely that the future use will further the social wellbeing or social interests of the local community. Such use does not have to be “likely”, but can be one of several realistic options, and must be more than “fanciful”. The current owner’s intentions are relevant, particularly if it is likely that they will be implemented, e.g. a planning permission where there is strong evidence that it will be implemented. (However, a pending planning application to end or change the current use should not be pre-judged in order to inform the ACV decision as such a planning application would be subject to separate consideration.)

Section 2: Guidelines for Nominations in the City of London

13. It is not possible to anticipate all possible land uses that might be nominated as an asset of community value, nor provide guidelines on how each land use might be assessed. However national experience has shown that the most common land use nomination has been the public house. Therefore it is considered helpful to provide guidelines on the approach that will be taken in the consideration of nominations submitted for public houses in the City of London.

Relevant Tests

14. In considering potential public house nominations is it useful to be reminded of the two tests set out in the Localism Act 2011:

- a) An actual current (or recent past) use of the building or other land that....furthers the social wellbeing or social interests of the local community.
- b) It is realistic to think there can continue to be (or can be in the next five years) non-ancillary use of the building or other land which will further the social wellbeing or social interests of the local community.

Local Community

15. The City Corporation’s Statement of Community Involvement already recognises that it is not appropriate to regard the ‘local community’ as being limited to just the resident community. The local community is not defined in the Act and public houses in the City serve a range of customers including workers, residents and

visitors. Such customers can form part of the local community providing they regularly frequent a public house and contribute to its community spirit. Therefore the local community served by a public house may comprise local residents and others who frequent it and regard it as their 'local'. To assist in the determination of a nomination applicants should define the local community for the public house under consideration and justify this definition with supporting evidence.

Furthering Social Wellbeing or Social Interest

16. The City of London contains over 200 drinking establishments (Use Class A4) which include public houses and wine bars. They vary greatly in their character, customers and in their contribution to the local community. Therefore it is suggested that when considering a nomination for a public house as an asset of community value Members should use their local knowledge and consider the evidence submitted in support of the nomination. Such evidence should relate to the public house's role in furthering the social wellbeing or social interests of the local community.
17. 'Social Wellbeing' is not defined in the Act but is generally taken to mean a condition where there is a positive sense of involvement contributing to quality of life or welfare. 'Social Interest' is defined to include cultural, recreational or sporting interests.
18. In order to list a public house as an ACV it should be shown that the local community derives social benefit from the use and that the local community would suffer a loss if the use ceased. The nature or consequence of the loss to the community should be identified.

Examples of evidence that would help show the use furthers social wellbeing or social interest include:

- 1) Evidence from local residents, other individuals and groups who use the public house that it furthers social wellbeing or social interests, e.g. letters, email, social media, petitions.
- 2) Evidence from local Members and other local community leaders that the public house furthers social wellbeing or social interests.
- 3) Evidence of awards, recognitions and recommendations earned by the public house.
- 4) Evidence of long term use as a public house contributing to a sense of place for the local community.
- 5) Other social or cultural associations with the local area.
- 6) Evidence it is a well-used venue for local sports and games competitions, e.g. pool, snooker, darts, dominoes, cards.
- 7) Fielding a representative 'pub team' in local sports or games leagues or other competitions, e.g. football, darts.
- 8) Evidence it is a well-used regular meeting venue for local clubs, societies, hobby groups, work-based groups and other special interest groups.
- 9) Staging frequent events which meet the needs of local customers, e.g. quiz nights, karaoke, parties, etc.

10) Evidence it is a well-used venue for local community events and services, e.g. Community Toilet Scheme membership, party bookings, family occasions, room for hire, catering available.

19. The City Corporation recognises that public houses in the City vary greatly in their character, customers and in their contribution to the local community. It considers that they largely cater for the working population who tend to use a range of public houses for socialising with colleagues and others. Therefore many pubs have a transient or variable user base rather than a core of regulars who derive particular social value from a particular public house. However the City Corporation will consider each nomination on its merits taking into account the evidence submitted with the nomination in the context of the examples given in these guidelines. It is expected that nominations will normally include evidence relating to a wide range of the examples given in these guidelines.