



**Torrige District Council Policy Statement:**

**Community Right to Bid/Assets of  
Community Value**

**January 2013**

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## **1. Introduction**

The purpose of this document is to set out the Council's policy position with regards to the Assets of Community Value (England) Regulations 2012. In particular:

- To provide clarity so that Officers and Members are able to effectively support the management of the process; and
- To provide transparency for community nominators and asset owners so that they are easily able to navigate the Council's process.

## **2. Background**

The Community Right to Bid (the Right'), which is also known as "Assets of Community Value" is one of the new community rights derived from the Localism Act, 2012, all of which have a stated aim of devolving power to local communities.

The aim of the Right is to empower communities wishing to protect community local assets (land and buildings) by requiring the Council to maintain a list of assets in its area, which are of community value, so that upon sale, the community will have a chance to delay a sale in order to prepare a bid to buy it.

The Right does not restrict in any way who the owner of the asset can sell his property to, or at what price and it does not confer a right on first refusal to community interest groups.

The Right does not apply to residential property or operational land as defined in the Town and Country Planning Act 1990 Part 2.

## **3. The Process**

The Government has published an Assets of Community Value Policy Statement and Statutory Regulations, which set out statutory elements of how the Right should operate and a Non-Statutory Advice Note (October 2012). They do not specify how the Right should be administered by individual local authorities.

This section of the policy statement explains our local process for operation of the Right.

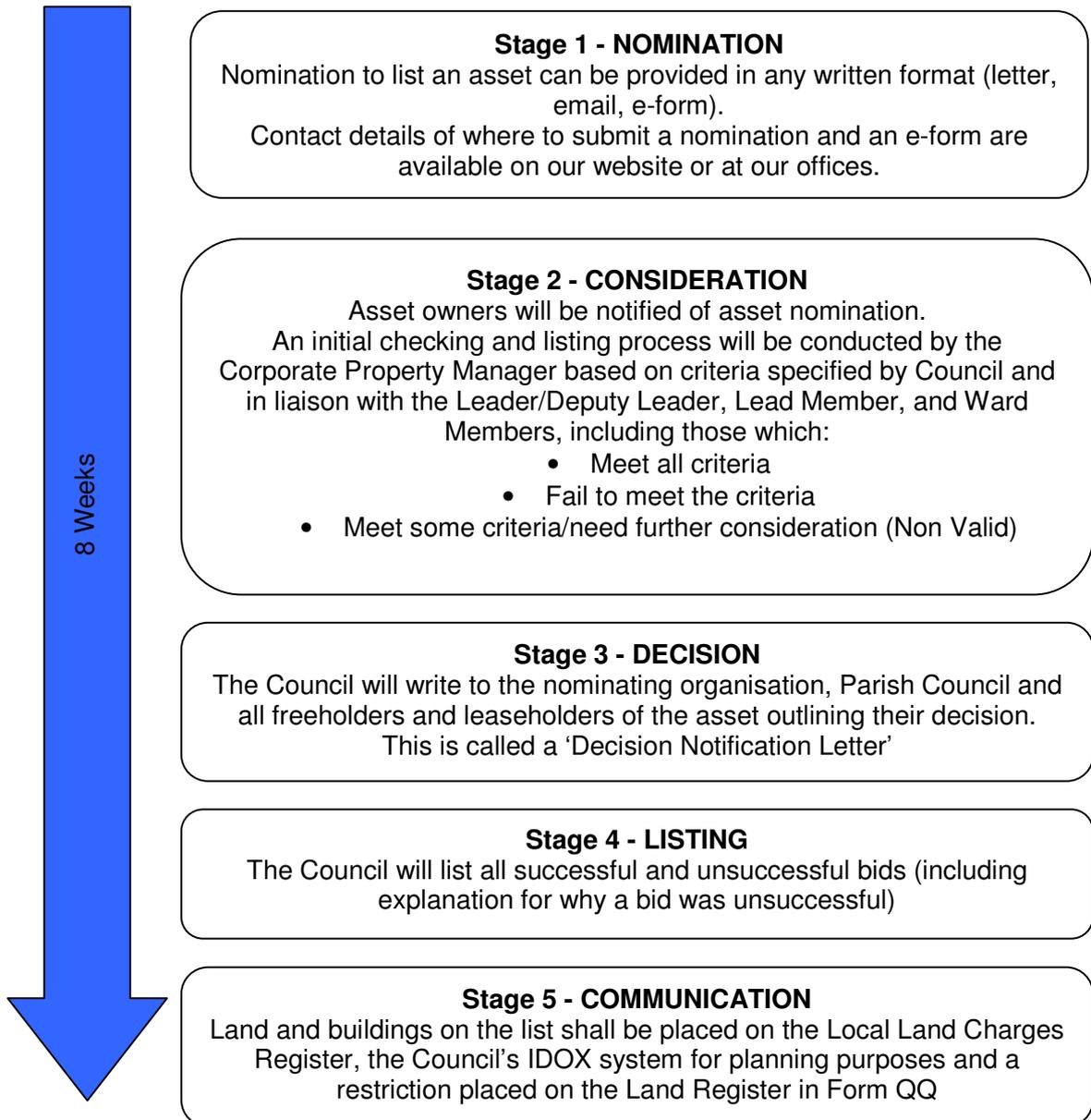
The process falls into three sections:

- Listing
- Review and Appeals
- Sale

The following paragraphs of the policy provide more detailed information about each section of the process. Where a Officer is noted it is deemed that they have the delegated powers to make said decisions under this Policy.

i) Listing Arrangements and Communication

**Process Diagram - Listing Assets**



The Council must maintain and publish two lists:

- List of Assets of Community Value
- List of Nominated Assets not of Community Value

In order to ensure that the most up to date version of our lists are available for public inspection, it is the Council's intention to publish these lists on our website, and we will make hardcopies available on request. Assets entered on the list shall be removed no later than five years from the date of entry.

The listing process is community led and will be triggered by the receipt of a nomination. The Statutory Regulations specify what an asset of community value is, who can make a nomination and the information required in a nomination, which must be in written form. To assist, the Council has developed a Nomination Form on our website and available at our offices.

In summary,

**The following issues will be considered in deciding whether an asset is of Community Value:**

- It is at least partly within the local authority's area
- Its main use (ie not ancillary) has recently been or is presently being used to further the social wellbeing or social interests of the local community and could reasonably do so in the future ie within the next 5 years
- It does not fall within one of the exemptions specified in Regulations
- Social interests include Cultural, recreational and sporting interests.
- Wellbeing is the thing that people value in their life that contributes to them reaching their potential (economic, social or environmental)

**Only Parish/Town Councils or voluntary and community organisations with a local connection and of the type listed below can nominate an asset for inclusion on the list.**

- Neighbourhood Forums
- Unincorporated bodies of 21 named members registered to vote within Torridge or a neighbouring authority and which does not distribute any surplus to its members
- A Charity
- Company Limited by Guarantee which does not distribute any surplus to its members
- Industrial or Provident Society which does not distribute any surplus to its members
- Community Interest Company

**The bodies listed above will have a local connection if the body's activities are wholly or partly within the area of Torridge District Council or a neighbouring authority's area. For some of the listed bodies, there is also a requirement that any surplus they make is wholly or partly applied for the benefit of the Torridge area or a neighbouring authority**

**The Council cannot nominate assets to be included on the list. Nominations must be in writing and include the following information:**

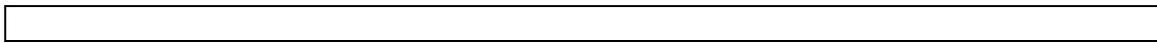
- Clear identification of the asset
- Names of the current occupants of the asset and names and current or last known address of all those holding a freehold or leasehold estate in the asset
- Reasons why the nominating body considers that it qualifies as an asset of community value
- Identification of the nominating organisation and some proof of eligibility to make a community nomination

The Council will assess all nominations and provide written notification of our decision to:

- The body nominating the asset
- The owner
- Any lawful occupier
- Parish/Town Council

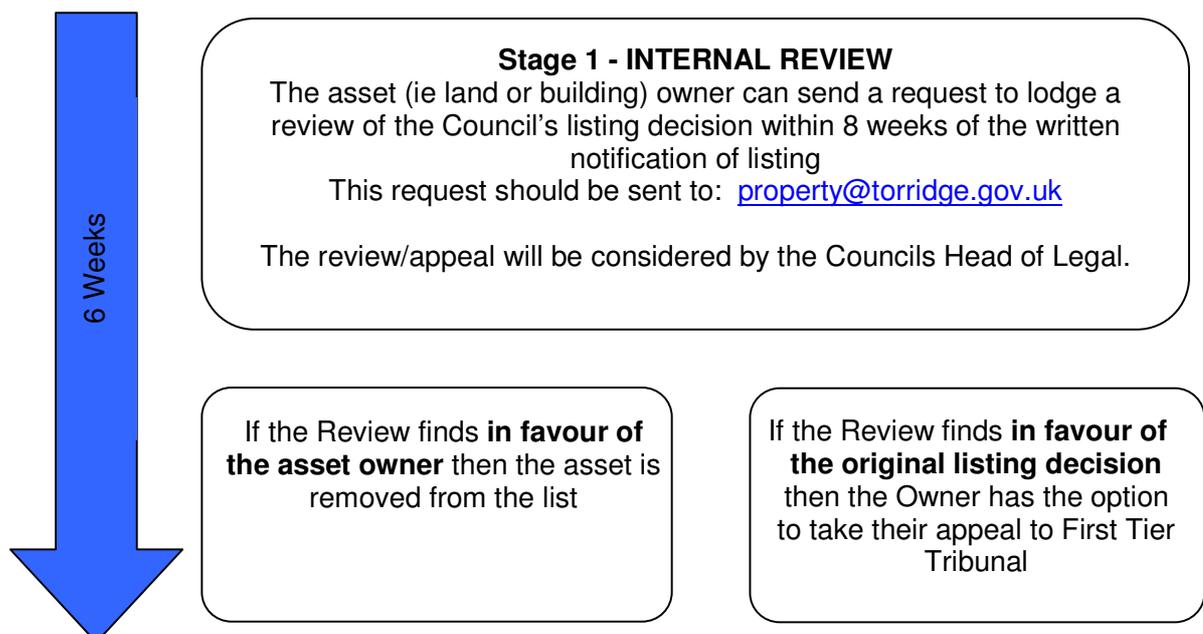
Where we have decided not to list an asset we will explain our reasons why. There is no right of review or appeal for nominating bodies against a decision not to include the asset in the list.

We will aim to complete this section of the process within 8 weeks of a valid nomination.



## ii) Review and Appeals

### Process Diagram - Review and Appeals



***Review of Decision to List an Asset:***

In some cases, a landowner whose asset has been included on the list of assets of community value may wish to ask the Council to review its decision. In such cases, the landowner must write to the Council within 8 weeks of receipt of the Council's notification that the asset is to be listed.

The landowner must present a case for removing the asset from the list based on whatever evidence they consider appropriate, but it should be relevant to the following issues:

- Whether or not the asset is eligible to be listed;
- Whether or not the asset was nominated by an eligible group;
- Any new factors which have come to light since the original nomination was made; or,
- Any irrelevant issues which the Council might have taken into account when reaching its original decision.

The landowner should present this in writing in the first instance, but may also request an oral hearing and be represented at this hearing by whomever they wish.

The Council will aim to complete this review within 8 weeks of receipt of the review request, or a longer period by agreement of both parties.

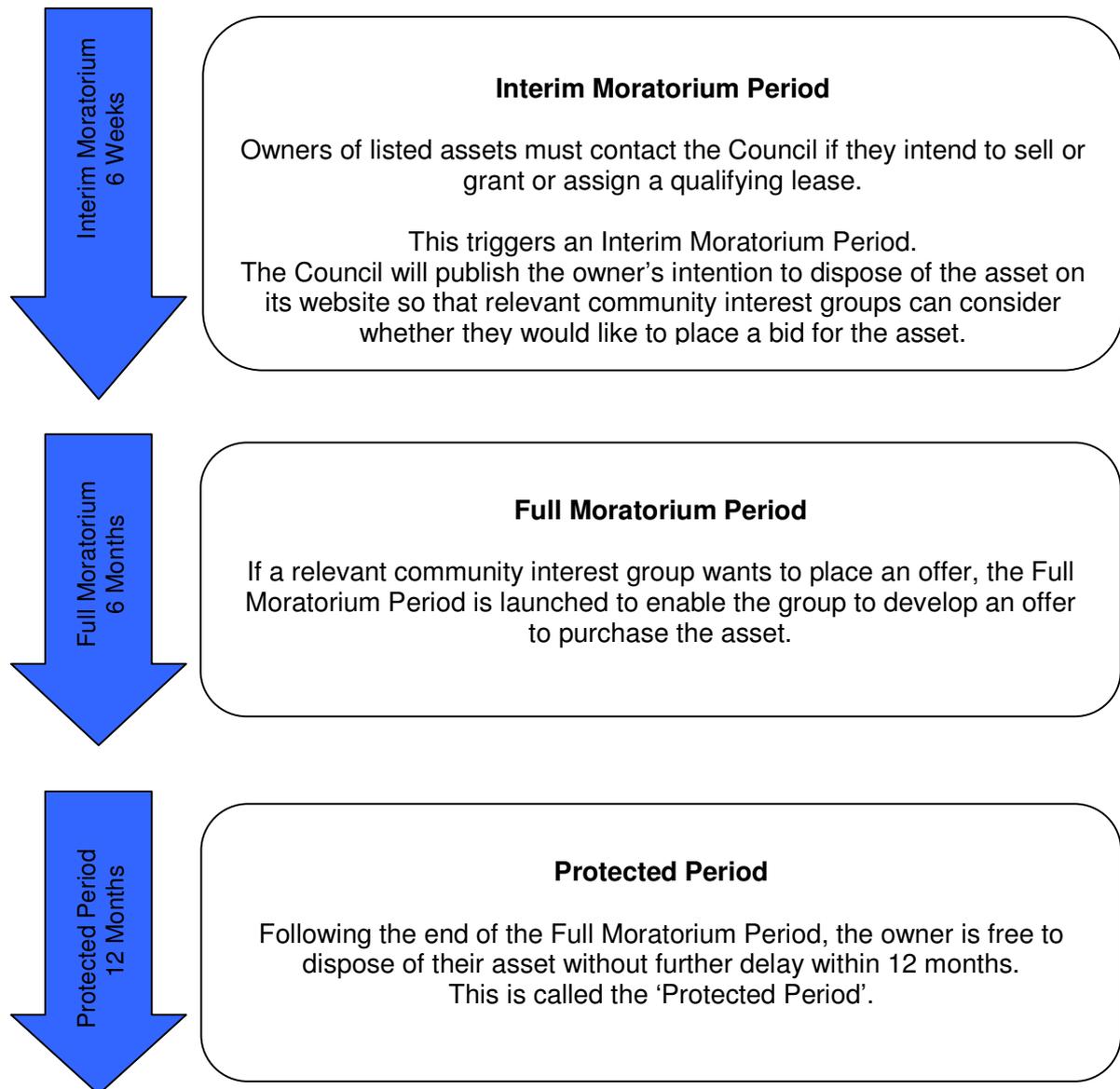
***Appeal:***

If a landowner is dissatisfied with the decision reached through the internal review process then they are entitled to appeal to an independent First Tier tribunal. If successful in their appeal then the landowner may apply to the Council for reasonable costs.

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### iii) Sale or Lease Arrangements

#### Process Diagram – Sale or Lease



The purpose of the Right is to provide 'breathing space' for communities to prepare a bid to purchase an asset when it comes up for sale.

It is the responsibility of the asset owner to contact the Council to notify them of an intention to make a 'relevant disposal'. This terminology is used because not all sales are covered by the Right, there are a number of exclusions specified in the Regulations, these are:

- Transfers made other than for value, ie a gift
- Transfers between members of the same family, ie made as a sale as well as a gift

- Transfers due to the inheritance of the asset
- Sales by personal representatives in order to pay estate debts or cash legacies
- Transfers occasioned by resignation or death of partners in a firm of trustees of a trust
- Transfers between trustees, between a trust and settler, and between a trust and a beneficiary
- Business to business transactions of a going concern, where the intention is to continue the existing use of the asset
- Transfers where the listed asset forms part of a larger estate
- Disposals made as a result of pre-existing arrangements
- Transfers between connected companies
- Disposals of land made under existing statutory provisions that clash with the Assets of Community Value moratorium rules
- Provision of on-going public service delivery

Receipt of notification of a relevant disposal will trigger a **6 week interim moratorium period** in which **community interest groups** should decide whether they wish to prepare a bid to purchase an asset.

A community interest group is:

- A Parish Council in whose area the asset lies,
- A Charity
- Company Limited by Guarantee which does not distribute any surplus to its members
- Industrial or Provident Society which does not distribute any surplus to its members or
- Community Interest Company

having a local connection with the land

At this stage community interest groups only need to express an interest in bidding, they do not need to provide any details of their bid. This will trigger a **full moratorium period of 6 months** in total from notification of the relevant disposal during which time a sale is barred and they are able to prepare a bid for the asset. The owner is under no obligation to accept this bid and is free to dispose of their asset as they wish once the full moratorium period has expired.

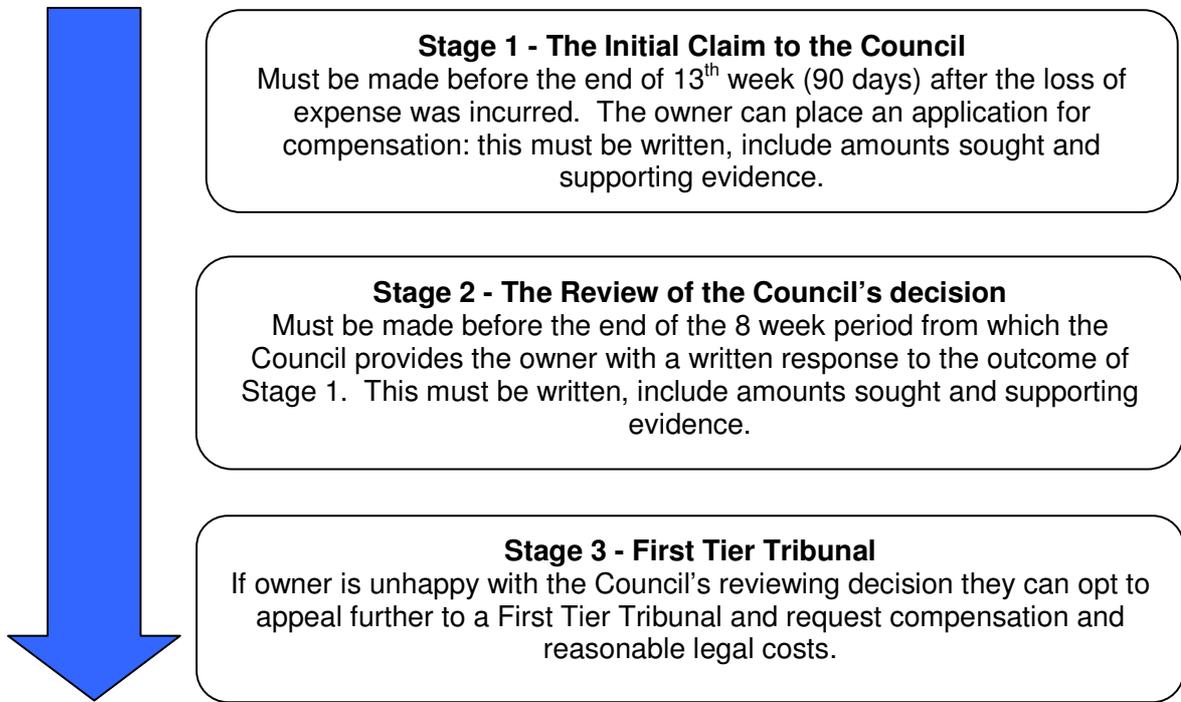
If a bid is not received during the moratorium period then the landowner is free to dispose of their asset as they wish and no further moratorium period can be triggered for a protected period of 18 months from the date that the Council receives notification of a relevant disposal. This provides the owner with 12 months in which to dispose of the asset freely.

**What you need to know:**

- If you are the owner of a listed asset and intend to sell or grant or assign a lease, please notify [property@torridge.gov.uk](mailto:property@torridge.gov.uk)

Enforcement procedures and processes to encourage compliance are stated in the Regulations.

## Process Diagram - Compensation:



## Types of Claim

The owner of the listed asset may make a claim for compensation for any loss or expenses he may have incurred at a time when the land was listed, which he would not have incurred had the land not been listed.

The following claims may therefore be made:

- For any loss, arising from any period of delay in the owner entering into a binding agreement to sell the land, which has been 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 Local Authority's decision to:
  - I. List the asset
  - II. To refuse to pay compensation, or
  - III. With regard to the amount of compensation offered or paid

### **What you need to know:**

- For compensation queries contact [property@torridge.govd.uk](mailto:property@torridge.govd.uk)
- Compensation will be agreed by the Corporate Property Manager and the Chief Accountant with relevant expert valuation advice.