



BIRCHAM DYSON BELL

Localism Act 2011  
Assets of Community Value

Mark Challis: HTF 31 May 2012

# LEGAL FRAMEWORK

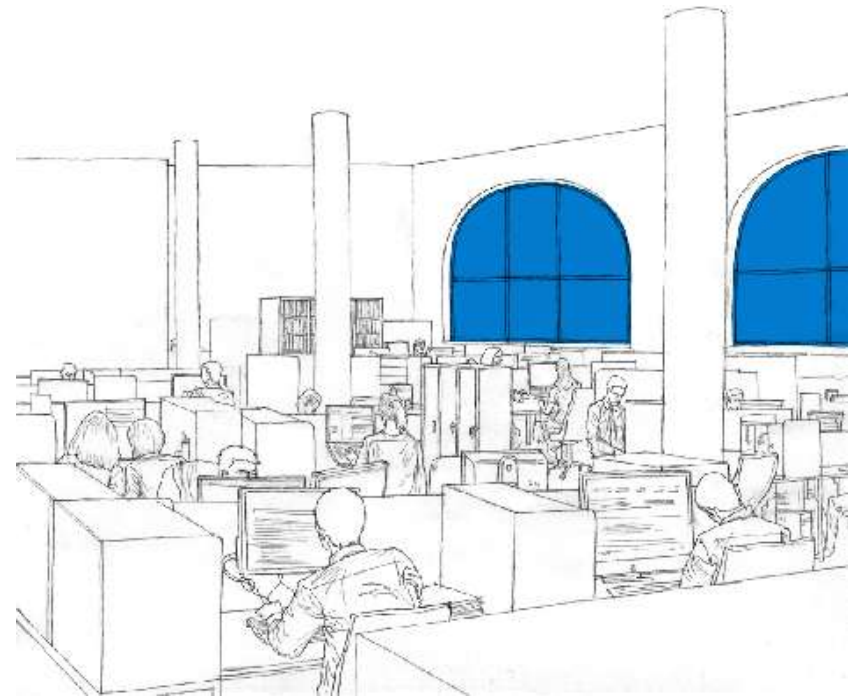
- Sections 87 – 108 Localism Act 2011
- Not in force yet
- No draft regulations yet
- Local Government Act 1972
- General Disposal Consent (England) 2003

# DUTY TO MAINTAIN LIST OF ASSETS OF COMMUNITY VALUE

- Local authority must maintain a 'list of assets of community value'
- Land generally remains on the list for 5 years (unless removed earlier)
- Form of the list is to be determined by the LA but within parameters prescribed in regulations.
- The list is likely to include details of the owner/occupier, nature of the estate, past/current/potential use and the price or value (for any purpose) of the land

# IS THE ASSET OF COMMUNITY VALUE?

- Current use of the building or land “furthers the social wellbeing or social interests of the local community”; and
- It is realistic to think that there can continue to be such use; OR
- Building or land was so used in the recent past; and
- It is realistic to think that such a use could resume in the next 5 years



# DEFINING ASSETS OF COMMUNITY VALUE - REGULATIONS

Regulations may

- provide that a building or other land is/is not of community value
- provide that a building or other land is/is not of community value if the LA or another person specified in regulations determines that it is of such description
- prescribe matters to be taken into account in determining whether land is of community value
- those matters may include ownership, occupation, use etc



# ASSETS OF COMMUNITY VALUE - NOMINATION

- Land may be included in the list in response to:
  - A Parish Council nomination
  - Nomination by a “voluntary or community body” with a local connection
  - A person permitted to nominate under the regulations; or
  - The local authority acting on its own initiative (where permitted under the regulations)



# REJECTED NOMINATIONS

Following an unsuccessful nomination:

- LA must include it in a list of “unsuccessful community nominations”
- Written reasons for the decision must be given to the nominator and included in the list
- Entry may (not must) be removed after 5 years



# NOMINATION ACCEPTED

- If land is in authority's area and of community value – the nomination must be accepted and listed in the list of assets of community value
- An owner whose land is in the list of assets of community value has a right to ask the authority to review its decision
- The review is to be undertaken by a person within the LA of appropriate seniority who was not involved in the original decision
- The owner has a right of appeal against the review decision





# ASSETS OF COMMUNITY VALUE - DISPOSAL

- Where land is included in the list of assets of community value the owner must not enter into a “relevant disposal” unless certain conditions are met
- A relevant disposal includes disposal of the freehold as well as the grant, assignment or surrender of certain leases
- Must be with vacant possession
- The conditions are
  - written notice has been given to LA
  - moratorium periods have ended
  - protected period has not ended
  - Restrictive covenants?



# EXEMPT DISPOSALS OF ACVs

- Where as a gift
- By PR of a deceased person under a will (i.e inheritance)
- By PR of a deceased person to pay debts. taxes etc
- To a family member
- “Part list disposals”
- As part of sale of a business as a going concern
- Various other situations (including as prescribed in future regulations) –eg Crichton Down, CPO, by court order, by lenders etc



# ASSETS OF COMMUNITY VALUE - MORATORIUM

- ‘interim moratorium period’
  - 6 weeks from written notice of intent to dispose
  - allows a community group to submit intention to bid
  - moratorium lifted if no group had done so by that date
- ‘full moratorium period’
  - 6 months from written notice
  - allows community interest group to formulate and submit bid
- The “protected period” -i.e. 18 months from disposal notice

# COMPENSATION

- Regulations may make provision for payment of compensation in relation to the operation of these provisions
- Seems that local authority will be liable
- Likely to be expenses only
- Not likely to cover loss of sale



# ASSETS OF COMMUNITY VALUE - THOUGHTS

- Lots of detail left for regulations
- Community assets may be identified through neighbourhood planning
- Not a right to buy. More a weak pre-emption right (requiring a vendor to make an offer where it wants to sell, but not obliging it to accept)
- What will community groups get out of these provisions – will they have the professional resources to formulate bids and the funds to bid successfully?
- What resources are the Government going to provide to such groups?
- Transfers happen now under existing rules
- May trigger disposals before the law comes into force



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[markchallis@bdb-law.co.uk](mailto:markchallis@bdb-law.co.uk)