

Sevenoaks District Council

Community Right to Bid Guidance



Community Right to Bid

Part 5, Chapter 3 of the Localism Act 2011 and The Assets of Community Value (England) Regulations 2012 provides the legislative framework for the Community Right to Bid.

The Community Right to Bid provides town and parish councils and local voluntary and community organisations with the right to nominate land or buildings within Sevenoaks District which they believe to be of importance to their community's social well-being, for inclusion on a list of assets of community value maintained by the local authority. If successfully listed and the asset subsequently comes up for sale, then the group nominating the asset for listing will be given the opportunity to make a bid to buy it on the open market.

This document provides guidance for community groups interested in nominating an asset for listing, and owners of those assets how Sevenoaks District Council will administer the Community Right to Bid. This guidance should be read in conjunction with the related legislation, regulations and any guidance subsequently issued by the Secretary of State.

The procedures in this document may be subject to frequent updates. The Guide is not and must not be taken as a statement of the law. Owners and community groups are advised to obtain independent legal advice when considering their options when faced with choices under the scheme.

We are always interested in ways to improve our approach to the Community Right to Bid and welcome your suggestions.

Contact us

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Argyle Road
Sevenoaks
Kent TN13 1HG

01732 227000
policy@sevenoaks.gov.uk

Publication details

Purpose of the
Community Right to Bid
Guidance
To help ensure that the
Council supports the local
community in using the
Community Right to Bid and
considers each nomination in
accordance with legislation.

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Legislative Framework

Part 5, Chapter 3 of The Localism Act 2011 and The Assets of Community Value (England) Regulations 2012 set out the rules that the Council must follow in operating the Community Right to Bid (CRtB). This includes:

- Specifying the 'voluntary or community bodies' that may nominate an asset as being of community value;
- Clarifying that voluntary or community bodies must have a 'local connection' and defines what this means;
- Specifying the contents of community nominations; and
- Specifying buildings and land which is not land of community value and therefore may not be listed.

The legislation and regulations continue and set out how the Council must operate elements of the CRtB and sets out the entitlement for owners of assets to ask for compensation.

The sections that follow in this guidance seek to clarify the legislation and explain how Sevenoaks District Council will operate elements of the CRtB.

Council Aims and Objectives

Sevenoaks District Council takes pride in the District and has a vision to work with the community as a whole to sustain and develop a fair, safe and thriving local economy.

Faithful to its core values of fairness, integrity and quality the Council is committed to supporting the community in achieving the potential benefits that the nomination of assets of community value through the Community Right to Bid may bring.

Each nomination received by the Council will be considered efficiently and in accordance with Regulations set out by the Government.

2. Nominating an asset

Who can nominate an asset?

Regulations set out that the following voluntary or community bodies may nominate an asset for inclusion on the list of community assets:

- A body designated as a neighbourhood forum under the Town and Country Planning Act;
- Town and Parish councils;
- Unincorporated bodies with at least 21 individual members and which does not distribute any surplus it makes to its members; (please see additional guidance below)
- Charities;
- Company limited by guarantee which does not distribute any surplus it makes to its members;
- Industrial and provident society which does not distribute any surplus it makes to its members; and
- Community interest companies.

Additional guidance for unincorporated groups

When assessing nominations from unincorporated groups, the Council needs to be satisfied that there is evidence that the nomination is a “community” nomination, and not just a list of signatories. A list of signatories would be considered as a petition, and would not be valid under the regulations.

It is important that nominations from unincorporated bodies who provide their names and addresses (as requested on the nomination form at Q6) can provide

evidence that they think of themselves as members of that group, with a mutual understanding of the group’s purpose. As a minimum, there should be a set of shared principles or rules that guide the purpose of the group (ideally a constitution), and that there is a name for the group.

Unincorporated groups must also confirm, as requested on the nomination form, that any financial surplus made is wholly or partly applied for the benefit of the area covered by Sevenoaks District Council or a neighbouring local authority area.

The Act is there to allow groups an opportunity to bid for an Asset should it come up for sale. In other words, the group’s purpose doesn’t end with the nomination, it should demonstrate that the group could, if it decided to, raise funds, coordinate a bid/business plan for the Asset in order to bid for it and keep it in community use.

Each of these groups (except Town & Parish Councils in which the asset is located) will need to demonstrate a local connection.

A local connection can be summarised as:

- The body’s activities being wholly or partly concerned with the local authority’s area or a neighbouring local authority area; and
- In the case of any body able to nominate an asset that make a surplus, that surplus must be wholly or partly applied for benefit of the local authority’s area or a neighbouring local authority area.

What assets can be nominated?

Both privately and publicly owned land and buildings may be nominated where it is considered that the asset has 'community value' and is not land which may not be listed as set out in the Regulations.

An asset is of community value if:

- The principle use of the asset currently, or in the recent past, has furthered the social wellbeing or cultural, recreational or sporting interests of the local community;

AND

- That there will continue to be a use of the asset that furthers the social wellbeing or cultural, recreational or sporting interests of the local community.

Where an asset does not currently demonstrate 'community value', it may still be nominated as a community asset. The nominating body would be required to demonstrate that the asset's main use did further the social wellbeing or cultural, recreational or sporting interests of the local community in the recent past and that it is realistic to think that it will do so again in the next five years.

Land which may not be listed

Schedule 1 of the Regulations provides further detail, but in summary the following exemptions apply:

- Residential property or land attached to a residential property;
- Land covered by the Caravan Sites Act; and
- Land used by public utilities.

2. Nominating an asset (continued)

How to make a nomination

Nominations must be in writing using the Sevenoaks District Council Assets of Community Value Nomination Form.

The nomination form is available on the Council website at www.sevenoaks.gov.uk/righttobid or by contacting:

Policy and Performance,
Sevenoaks District Council,
Argyle Road,
Sevenoaks,
Kent,
TN13 1HG.

Email:
community.rights@sevenoaks.gov.uk

Telephone: 01732 227000

Nominations will need to be supported with the following information:

- A description of the nominated asset including its proposed boundaries – for example, as demonstrated by Land Registry title documents and supporting maps which are less than one month old;
- A statement of all information which the nominator has with regard to the names of current occupiers and the names and current, or last known addresses of all those holding a freehold or leasehold estate in the land;
- Reasons for thinking that the Council should conclude that the land is of community value; and
- Evidence that the nominating body is eligible to make a nomination, in line with the requirements set out above.

Submitting a nomination

Nominations should be sent to:

Community Right to Bid,
Policy and Performance,
Sevenoaks District Council,
Argyle Road,
Sevenoaks,
Kent,
TN13 1HG.

Or they can be submitted by Email at community.rights@sevenoaks.gov.uk

The nominator's contact details as provided on the nomination form will be used for future correspondence, including, in the event that the asset is listed, notice that the owner has advised of an intention to dispose of the asset. It is therefore essential that the nominator ensures that any changes in contact details during the period of the listing are notified to the Council via the address above.

3. Assessing a nomination

The Council's role

Nominations will usually be acknowledged within 5 working days.

Nominations will be considered in line with the requirements set out in the regulations including taking all practical steps to notify the following that the asset is being considered for listing:

- The relevant town or parish council;
- The owner of the asset;
- Where the owner is not the freeholder:
 - the holder of the freehold estate
 - the holder of any leasehold estate other than the owner; and
- Any lawful occupant.

The Council will decide whether the nominated asset should be included in a list of assets of community value within eight weeks of receiving the nomination.

Once a decision has been made the Council will notify the following of the decision reached and the reasons for this decision:

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

Where the Council is unable to identify any of the above details of the decision will be published on the Council website.

Lists of assets of community value

The Council is required to publish two lists detailing the nominations made by community bodies and the decision the Council has made in respect of each of the nominations.

The List of Assets of Community Value is a record of all successfully nominated assets. It will record details of the community group making the nomination and details of the location and description of the asset.

The List of Assets Nominated by Unsuccessful Community Nominations is a record of those assets that the Council decided were not of community value and are therefore not included in the other list. The intention of this list is to make it transparent to community and voluntary bodies those assets where a decision has been made, the reasons for that decision and the date from which the Council would accept a further nomination in respect of that asset.

Assets will be listed for a period of five years before a further nomination will be required to maintain the assets listing.

The Council will publish each of these lists on its website at www.sevenoaks.gov.uk/righttobid

Copies of the lists will be also available for inspection at Council Offices or by contacting the Council.

4. Decision Reviews

Nominating bodies right to a review

The legislation set out by Government does not allow for the nominating body to request a review of the Council's decision.

The right to a review is reserved solely to the owner of the asset.

Asset Owners right to a review

The owner of an asset included in the list of community assets may ask the council to review its decision. This request must be made in writing within eight weeks of the date the council gave written notification of its decision to list the land.

The request should be sent to:

Community Right to Bid
Policy and Performance,
Sevenoaks District Council,
Argyle Road,
Sevenoaks,
Kent,
TN13 1HG.

Or the request can be sent by Email to community.rights@sevenoaks.gov.uk

The council will acknowledge receipt of the request for a review within 5 working days and advise of the procedure to be followed in connection with the review. The review will be undertaken by a senior officer independent of the original decision making process.

The owner may request an oral hearing and may appoint a representative to act on their behalf in connection with the review. Where no request for an oral hearing is made by the owner, the council

The owner, or their representative, may make written and oral representation to the reviewer.

The review will be completed within eight weeks of receipt of the written request for the review, or a longer period where this has been agreed with the owner.

The council will notify the owner in writing of the outcome of the review. Where the review concludes that a change to the listing is required, we will also notify those parties who were informed of the original decision.

Where the review concludes that a change to the listing is required, the council will adjust the list of assets of community value and amend the local land charge accordingly.

Where an owner remains dissatisfied with the outcome of the review, they may appeal to the First Tier Tribunal against the council decision on the listing review.

The owner and Council will meet their own costs associated with the review.

5. Disposal of a community asset

Notification of Disposal

Where an asset is included in the list of assets of community value, the owner is required to notify the council in writing of their intention to dispose of the asset.

All assets included on the list of assets of community value will be registered as a local land charge and therefore will impact on the disposal of the asset if notification is not provided to the council at the appropriate time.

To notify the council of their intention to dispose of an asset of community value the asset owner should send their notification to:

Community Right to Bid
Policy and Performance,
Sevenoaks District Council,
Argyle Road,
Sevenoaks,
Kent,
TN13 1HG.

Or the notification can be sent by Email to community.rights@sevenoaks.gov.uk

The council will acknowledge receipt of the notification within 5 working days. The acknowledgement will set out clearly to the asset owner the regulations that need to be followed before the asset can be disposed and the moratorium time periods that take effect.

The Council will also:

- Notify the nominating body in writing that a notice of intention to dispose of the asset has been received;

- Update the list of assets of community value, showing that a notice of an
- intention to dispose of the asset has been received and the moratorium periods that apply; and
- Publish details of the intention to dispose of the asset in the area where it is situated.

Exempt Disposals

The Regulations detail circumstances where a disposal is exempt. For example, where the disposal is as a result of a court order, a separation agreement made between spouses or civil partners, upon inheritance or as a result of insolvency proceedings.

Asset owners should consult the Regulations for the full list of exemptions and detailed definitions.

In any case where the asset owner believes the disposal of their asset is exempt from the Regulations they should notify the council of their intention to dispose setting out the reasons why they deem the disposal to be exempt.

5. Disposal of a community asset (continued)

Moratorium Periods

On the date the council receives a notification from an asset owner of their intention to dispose of an asset of community value it triggers a moratorium period during which the asset owner may not dispose of the asset (other than where the disposal is exempt under the Regulations).

Firstly, the interim moratorium period applies for six weeks. During this six weeks, community and voluntary groups which can demonstrate a local connection may submit an intention to bid.

If an intention to bid is received by the council from a suitable community group a full six month moratorium period (starting from the date upon which we receive written notification of the owner's intention to dispose of the asset) is triggered. During this six month period the owner cannot dispose of the asset.

This six month period is intended to enable the community group to prepare to submit a bid to the owner to purchase the asset.

It is necessary to be clear that the final sale of the asset can take place under normal market conditions. There is no obligation for the community group to make a bid and the group has no rights of purchase over other potential buyers.

The owner is under no obligation to sell the asset to the community group or any other person.

If the owner decides to sell to the community group, they may do so within the six month moratorium period.

Once the six month moratorium period has passed, and if the community group has not successfully bought the property, a further 12 month protection period is triggered.

During this period the asset may be sold by the owner on the open market without the risk of any further moratorium period being triggered.

In total there is an eighteen month moratorium period commencing on the day the council receives written notification of the owner's intention to dispose of the asset.

Intention to Bid

An intention to bid for a community asset must be made within six weeks of the council receiving a notice of intention to dispose.

The bid may only be submitted by suitably constituted community group which can demonstrate a local connection.

The intention to bid must be submitted in writing together with evidence to support that the bid is being made by a suitably constituted community group.

The intention to bid should be sent to:

Community Right to Bid
Policy and Performance,
Sevenoaks District Council,
Argyle Road,
Sevenoaks,
Kent,
TN13 1HG.

Or Emailed to
community.rights@sevenoaks.gov.uk

6. Compensation

Compensation Claims

The owner or former owner of an asset included in the list of assets of community value is entitled to make a claim for compensation from Sevenoaks District Council.

The claim for compensation can only be in respect of incurred loss or expense in relation to the asset which would not have been incurred if the land had not been listed. The Regulations should be consulted for details of bodies which are not entitled to compensation.

Claims should be made in writing and be made within thirteen weeks after the loss or expense was incurred or finished being incurred. Claims must state the amount of compensation being claimed for each part of the claim and be accompanied by supporting evidence.

Claims should be sent to

Community Right to Bid
Policy and Performance,
Sevenoaks District Council,
Argyle Road,
Sevenoaks,
Kent,
TN13 1HG.

Or claims can be sent by Email to community.rights@sevenoaks.gov.uk

Compensation Reviews

Any person making a compensation claim may ask for a review of the decision the council reach in relation to their claim. This must be made in writing within eight weeks of the date the council advised you

of the reasons for its decision in relation to the claim.

The request for review should be sent to:

Community Right to Bid
Policy and Performance,
Sevenoaks District Council,
Argyle Road,
Sevenoaks,
Kent,
TN13 1HG.

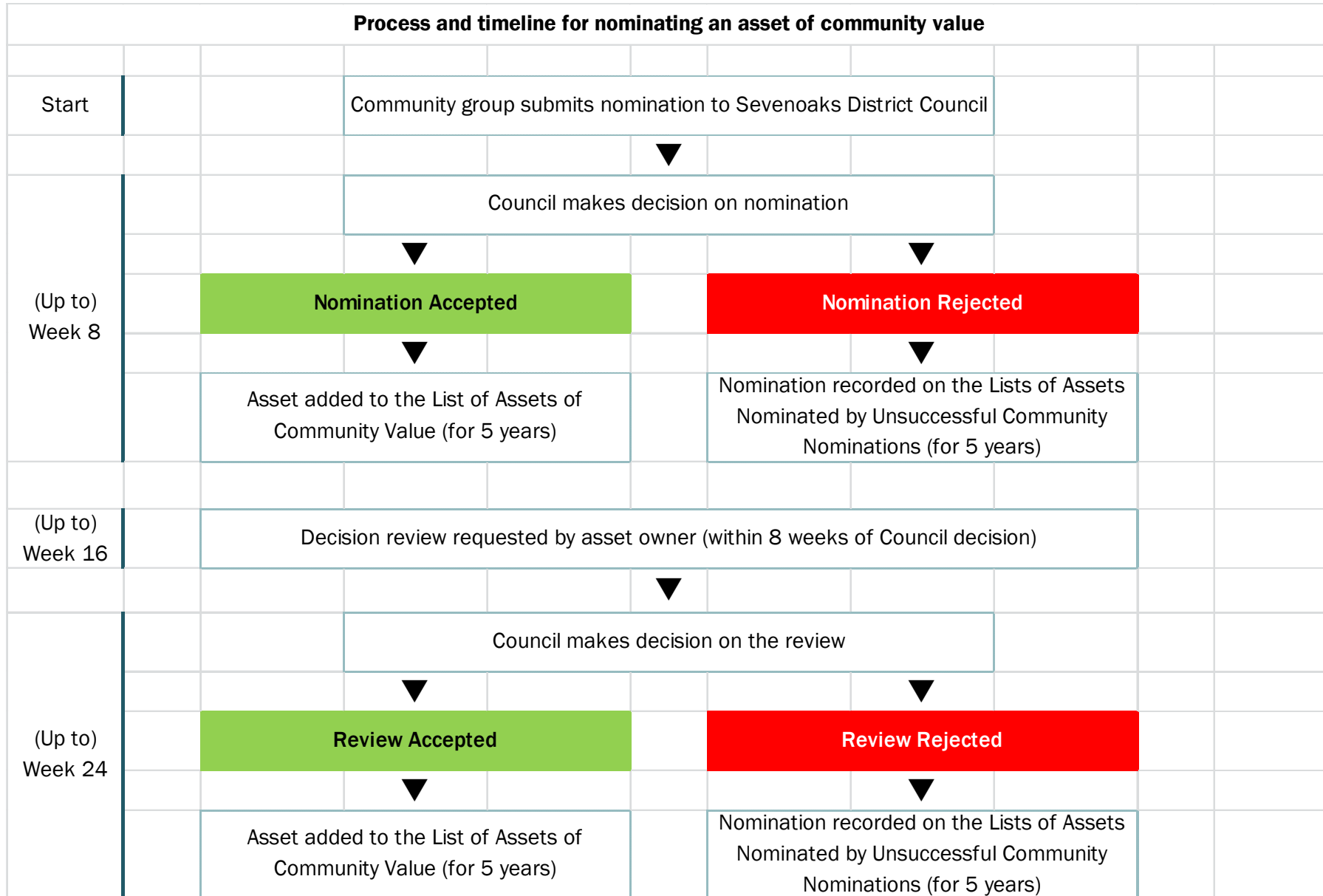
Or the request can be sent by Email to community.rights@sevenoaks.gov.uk

The council will acknowledge receipt of the request and advise of the procedure to be followed in connection with the review. The review will be undertaken by a senior officer independent of the original decision making process.

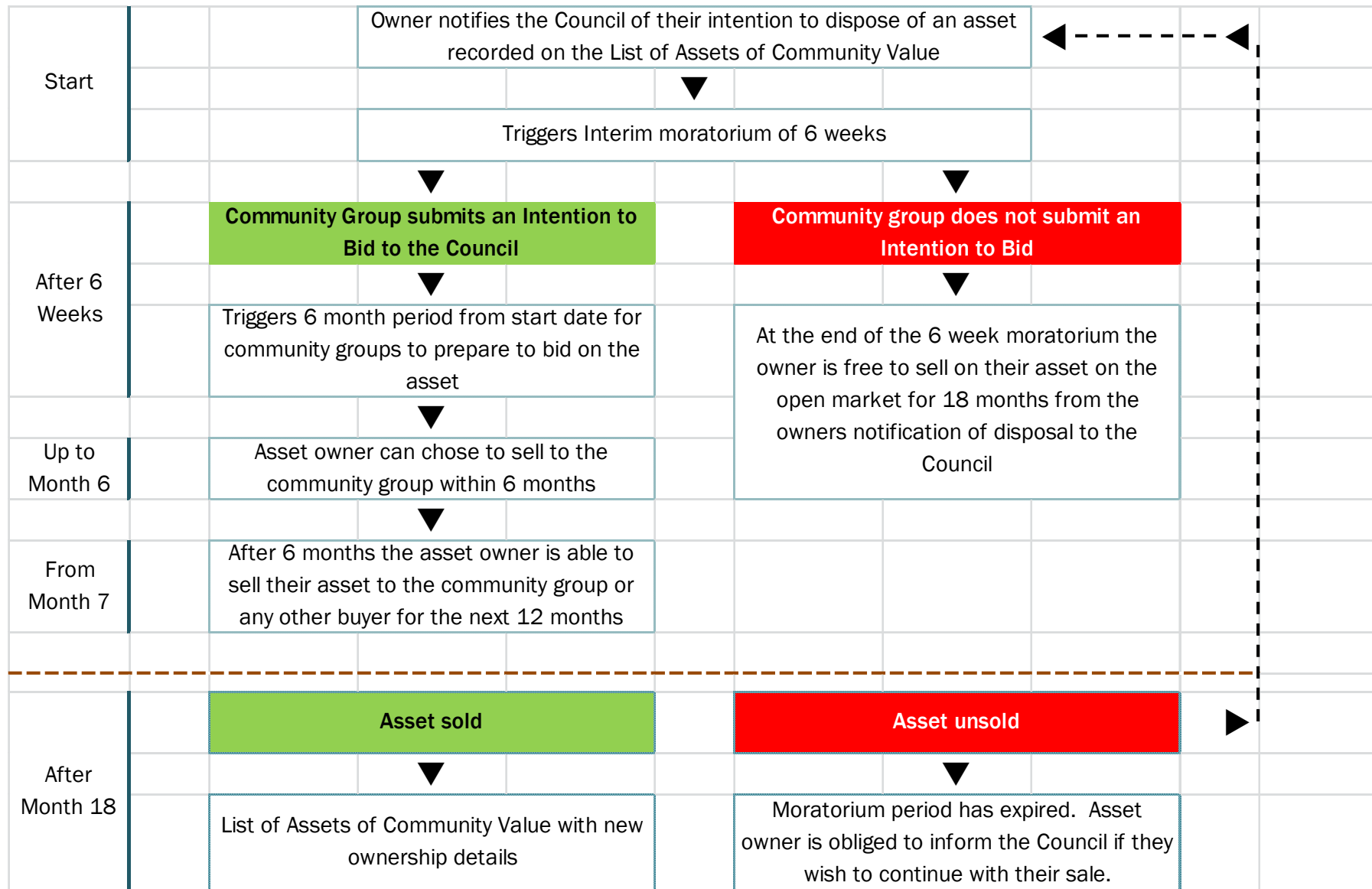
The owner may request an oral hearing and may appoint any representative to act on his or her behalf in connection with the review. Where no request for an oral hearing is made by the owner, the council will decide whether or not an oral hearing would be beneficial to the review process. The owner, or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

The review process will be completed within eight weeks of receipt of the written request for the review, or a longer period where this has been agreed with the owner and the owner will be notified in writing of the outcome of the review.

Appendix 2 – Process and timeline for disposal and bidding for an asset of community value



Appendix 2 – Process and timeline for disposal and bidding for an asset of community value



Sevenoaks District Council

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If you have any comments about this document or require further copies, please contact:

Policy & Performance
Sevenoaks District Council
Argyle Road
Sevenoaks
Kent
TN13 1HG

Telephone 01732 227000

E-mail policy@sevenoaks.gov.uk

Further information about the Community Right to Bid is available on the Council's website at www.sevenoaks.gov.uk/righttobid

Other formats:

This publication is available in large print.

For a copy, call 01732 227000.

If you need help communicating with us or understanding this document, we can arrange for an interpreter to help you. Please contact us on 01732 227000 stating your language and telephone number.

www.sevenoaks.gov.uk

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