

Test Valley Borough Council

Guidance on requests for use of the Council's compulsory purchase powers to acquire a community asset with onward transfer to the community



Guidance on requests for use of the Council's compulsory purchase powers to acquire a community asset with onward transfer to the community.

This Guidance provides assistance to those wishing to submit a request to the Council to exercise its powers of Compulsory Purchase in respect of a community asset where onward purchase by the community is contemplated.

A Compulsory Purchase is a legal function that allows certain public bodies, including councils, to acquire land for a specific purpose in circumstances where the landowner is unwilling to sell by agreement.

Communities are increasingly asking local authorities to exercise their powers of compulsory purchase in respect of community assets with a view to onward purchase of the asset by a community body. Community bodies nationally have acquired assets such as (but not limited to) pubs in this way.

Compulsory Purchase is a remedy of last resort and should only be contemplated where there is a compelling case in the public interest. The Compulsory purchase process is a complex and often lengthy process, the detail of which falls outside the scope of this Guidance.

The Ministry of Housing, Communities and Local Government's Guidance on Compulsory Purchase and The Crichel Down Rules provides:

"215. What requests can be made to a local authority?

Authorities can receive requests from the community or local bodies to use their compulsory purchase powers to acquire community assets, which may have been designated as Assets of Community Value, that are in danger of being lost where the owner of the asset is unwilling to sell or vacant commercial properties that are detracting from the vitality of an areas.

216. What considerations need to be made when receiving a request?

Local Authorities should consider all requests from third parties but particularly voluntary and community organisations, and commercial groupings like Business Improvement District bodies which put forward a scheme for a particular asset which would require a compulsory purchase order to take it forward.

Local Authorities must be able to finance the cost of the scheme (including compensation to the owner) and the compulsory purchase order process either from their own resources or with a partial or full contribution from those making the request.

Local Authorities should for example ascertain the value of the asset to the community, or the effect of bringing it back into use; the perceived threat to the asset; the future use of the asset and who would manage it (including a business plan where appropriate); any planning issues; and how the asset would be financed."

This Guidance sets out the base level of information that the Council would expect to receive to enable it to properly consider and respond to a request for compulsory purchase with onward transfer of the asset to the community.

Please note that the below is not and cannot be a definitive or conclusive list. Given the unique nature of community assets it is quite likely that additional information may be required but the list below is intended as a starting point for communities considering submitting a request. Each request will be carefully considered on its own merits and will require a decision by full Council or Cabinet, depending on the circumstances. The Council will expect to be put in funds in respect of the purchase price prior to any compulsory purchase.

Nothing in this Guidance should be taken as committing the Council to exercise its powers in any given situation. The Council reserves the right to dispose of property as it sees fit in the event that onward purchase fails to complete.

In order to consider a request, the Council will require the following information, with as much supporting detail as possible:

- 1. A full description of the asset with an explanation of the value of the asset to the community.**
- 2. Full details of the anticipated effect of bringing the asset back into use or continuing or changing an existing use.**
- 3. A full description, with evidence, of the perceived threat to the asset.**
- 4. If purchased, what would be the future use of the asset?**
- 5. Confirmation of the value of the asset. Is this agreed with the landowner? Is there a Red Book valuation?**
- 6. What is the planning status of the asset? Are there any planning issues with the anticipated scheme or use?**
- 7. What attempts have been made to negotiate with the owner of the asset? Please provide full details.**
- 8. Who would manage the asset and how would it be run on an on-going basis?**
- 9. Please provide a business plan if appropriate.**
- 10. Are any repairs required to the asset to bring it back into use? If so, please provide full details, a copy of any survey and costings for repair with confirmation of how these costs will be funded.**
- 11. Who would ultimately take ownership of the asset if purchased?**
- 12. How would the acquisition be financed? Please provide supporting evidence.**
- 13. Will the acquirer be in a position to pay over purchase funds to the Council in advance of any acquisition?**

Useful Information:

1. Ministry of Housing, Communities and Local Government Guidance on Compulsory Purchase process and The Critel Down Rules:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/817392/CPO_guidance_-_with_2019_update.pdf

2. The Localism Act 2011:

<http://www.legislation.gov.uk/ukpga/2011/20/contents/enacted>