

## **Community Right to Bid**

### **Review Procedure**

#### **1 Introduction**

This document sets out the procedure to be followed by the Council when the owner of an asset has asked for a review of a decision to include an asset owned by them in the Council's List of Assets of Community Value.

#### **2 Request for review**

An asset owner who is aggrieved by a decision to include their asset in the Council's List of Assets of Community Value (the Owner) may ask the Council to review its decision. Any request must be made in writing within 8 weeks of the date on which the Owner was notified in writing that the asset has been included in the List of Assets of Community Value. Requests for review must be sent to the Council's Chief Executive, London Borough of Lewisham, Laurence House, Rushey Green, London SE6 4RU.

The request for review must set out, or be accompanied by a written statement of, the grounds on which the Owner requests a review, and if the Owner is to be represented, the name and contact details of that representative. The request should also state whether the Owner requests an oral hearing be held.

#### **3 The owner's representative**

References to the Owner in this document shall include the Owner's representative where one is appointed to act. Notices required to be served on or by the Owner, or actions required to be taken by the Owner, will be deemed to be served on or by, or taken by the Owner if served on or by, or taken by the Owner's representative. If a request for review is made by a representative on behalf of an Owner, it must be accompanied by a written authority from the Owner that the representative is authorised to act.

#### **4 Supporting documentation**

The Owner may submit with their request for a review, any documentation in support of that request which he/she wishes to be taken into account in the course of the review.

#### **5 Acknowledgement**

The Council's Chief Executive will acknowledge receipt of the request for review in writing as soon as reasonably practicable, but normally within 7 days of receiving it. In that acknowledgement, the Chief Executive will inform the Owner of the name and contact details of the Council's Executive Director who will review the decision to include the asset in the Council's Register of Assets of Community Value (the original decision).

## **6 Timescale for decision**

The nominated Executive Director will write to the Owner as soon as practicable, but normally within 14 days of receipt by the Council of the request for review, indicating the timescale within which he/she expects to be able to make a decision. This will not normally exceed 3 months from the date of receipt by the Council of the request for review. However, if for any reason it is not possible to make a decision within that period, the Executive Director will write to the Owner before it expires, to indicate when a decision is likely to be made.

## **7 The right to an oral hearing**

When initially writing to the Owner, the Executive Director will send a copy of this procedure note and, unless an oral hearing has already been requested, inform the Owner that they may request that an oral hearing be held, or that the Executive Director deal with the matter on the basis of written submissions. Any request by the Owner for an oral hearing must be received by the Council within 14 days of the Executive Director's letter. If such a request is made, an oral hearing will be held. If no such request is made, the Executive Director will make a decision whether to hold an oral hearing or to make a decision based on a review of written submissions, any documentation made available to him/her by the Owner and the person who made the original decision, and any other relevant documentation which the Executive Director has available to him/her.

## **8 Notification to original decision maker**

As soon as practicable, but normally within 14 days of receipt by the Council of the request for review, the Executive Director will inform the person who made the original decision (normally the Council's Head of Community and Neighbourhood Development) that a request for review has been made. This person must then, as soon as practicable but normally within 14 days of receipt of the notification from the Executive Director, provide to the Executive Director all documentation relating to and/or relied upon in reaching the original decision.

## **9 Additional information and/or documentation**

The Executive Director may at any time ask the Owner and/or the person who made the original decision for further information and/or documentation to assist in their deliberations.

## **10 If there is no oral hearing**

If there is no oral hearing, the Executive Director will consider the relevant legislation and any written submissions made by the Owner and/or their representative and the original decision maker. He/she will also consider other relevant documentation available to him/her. The Executive Director may seek clarification on any point from the Owner, their representative and/or the original decision maker and may make such enquiries as he/she believes necessary to assist in making his/her decision.

## 11 If there is an oral hearing

An oral hearing will be held if the Owner requests that one take place or if the Executive Director decides that an oral hearing should be held. The procedure applying to any oral hearing will normally be as follows:-

- The Executive Director will give at least 10 days notice in writing, to the Owner and the person who made the original decision, of the date of the oral hearing.
- The Owner must provide to the Executive Director an indexed bundle containing all documentation on which they seek to rely at the oral hearing. A copy of this bundle will be provided by the Executive Director to the person who made the original decision, at least 5 days before the oral hearing. This bundle must include the signed written statements of any witnesses on whose evidence the Owner seeks to rely.
- The original decision maker will provide to the Executive Director an indexed bundle containing all documentation on which they seek to rely at the oral hearing. A copy of this bundle will be provided by the Executive Director to the Owner, at least 5 days before the oral hearing. This bundle must include the signed written statements of any witnesses on whose evidence the person who made the original decision seeks to rely.
- At the start of the oral hearing, which will be held in private, the Executive Director will explain the purpose of the hearing and the procedure to be adopted. A notetaker will take a note of the proceedings for the Executive Director's use.
- The Owner may be represented. The Executive Director will invite the Owner, and/or their representative, to make a statement explaining the grounds on the basis of which they say that the original decision ought to be overturned.
- The Owner may call witnesses whose written statements have been submitted to the Executive Director to give evidence in person, and the Executive Director may question the Owner's witnesses. Where a witness who has submitted a statement in support of the Owner does not attend, at the discretion of the Executive Director, the statement may still be admitted in evidence, but may be given less evidential weight than if the witness had attended to answer any questions the Executive Director may have.
- The person who made the original decision may call any witnesses whose written statements they have submitted to the Executive Director, and the Executive Director may ask questions of any witnesses called by the person who made the original decision. Where a witness who has submitted a statement in support of the original decision maker does not attend, at the discretion of the Executive Director, the statement may still be admitted in evidence, but will be given less evidential weight than if the witness had attended to answer any questions the Executive Director may have.

- The Executive Director may, of their own volition, ask any person to give evidence to him/her, whether orally or in writing, notwithstanding that neither party sought to rely on their evidence, if he/she thinks it appropriate

## **12 The decision**

Whether there has been an oral hearing or not, the Executive Director will consider the evidence and make a decision. As soon as reasonably practicable, he/she will give notice of his/her decision in writing to the Owner, the original decision maker and to the organisation which successfully nominated the asset for inclusion in the List of Community Assets. The decision notice will explain the reasons for the decision and its implications.

If the decision is to remove the asset from the List of Assets of Community Value, formal written notice of removal will also be given to the Owner, occupier (if the Owner is not also the occupier), the organisation which made the nomination and any other person required under the legislation

## **13 Executive Director's discretion**

This procedure note is intended as a guide for general application and the Executive Director may depart from it where necessary for the expeditious conduct of the review. In particular, at any oral hearing, the conduct of proceedings will be a matter for the Executive Director's discretion. Provided that the proceedings are conducted fairly and in accordance with the rules of natural justice, he/she may depart from the provisions of this procedure note, to the extent that is legally permissible, if he/she is satisfied that it is appropriate for the efficient conduct of the oral hearing to do so.

## **14 Legal advice**

Legal advice will be provided to the Executive Director if required, but it will not be provided by any person who has provided legal advice in respect of the original decision.

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