

Blackburn with Darwen Borough Council Listing Review – Procedure

Owners (or their representative) of assets listed on the Council's list of assets of community value may request the Council for a review of the decision, under the Localism Act 2011 ("the **Act**") and the Assets of Community Value (England) Regulations 2012 ("the **Regulations**"). The Council's Strategic Director of Place is the "Reviewer" under the Regulations and has delegated authority to determine Listing Reviews.

Where such a request for a Listing Review is made, this procedure shall be followed.

1. The Owners (or their representative) must notify the Council in writing of their request for a Listing Review, within 8 weeks of the Council's notification that the asset is to be listed.
2. The Council will acknowledge receipt within 7 days of the request for a Listing review, and send to the Owners (or their representative) relevant documentation, including a written statement from the Listing Officer detailing the reasons for the decision to list.
3. The Owners (or their representative) shall submit within 14 days of receiving the Council's acknowledgement and the Listing Officer's statement, written representations for the Council's consideration.
4. The Council will acknowledge receipt of the written representations, and arrange for the Listing Review to be completed. The Council will complete a Listing Review within 8 weeks from the date the written request for the Listing review is received. If any longer period is required, this shall be agreed with the Owners (or their representative).

HEARING

The Owners (or their representative) may make a request in writing to the Council for an oral hearing under Paragraph 7, Schedule 2 of the Regulations. Upon receipt of the request the Council will provide an acknowledgement and agree with the Owners (or their representative) a date for the hearing. Where the Owners (or their representative) wish to bring witnesses to attend the hearing to make representations to the reviewer, they must notify the Council at least 10 days before the hearing providing details of the witnesses and explain how they are relevant to the Listing Review.

The hearing will be conducted in accordance with the following procedure.

Introduction

The Strategic Director Place, as the Reviewer:

- opens the hearing and asks all parties present to introduce themselves and briefly state their role.
- confirm that the Listing Officer and the Owner (and their representative) received the listing notification and the date of the review hearing.
- if applicable, check with the Owners of their right to appoint a representative (who may be legally qualified) to act on his/her behalf in connection with the Listing Review.
- if applicable, check with the Owners (or their representative) whether they have any witnesses.

- Check if there are any other housekeeping matters before proceeding?

Setting the scene

The Strategic Director Place, as the Reviewer:

- confirms that the hearing is a Listing Review Regulation 10 and Schedule 2 of the Assets of Community Value (England) Regulations 2012 (“the Regulations”).
- confirm that the purpose of the hearing is to determine whether the owner’s property should remain on the Council’s list of assets of community value under the Regulations
- confirms that he/she has delegated authority to determine the listing reviews and confirms that he/she had no involvement in the initial listing process.
- will briefly outline the procedure and steps of the hearing.
- states that he/she may take legal advice from the Legal Advisor at any time during hearing or while he/she is considering his/her determination.
- confirm that both parties can take notes during the hearing.
- confirm that a short adjournment may be requested at any time if required.
- Any questions at this time? If not, proceed.

Statement of the Listing Officer

The Strategic Director Place, as the Reviewer:

- will ask the Listing Officer who initially determined the listing of the owner’s asset under the Regulations to make a statement outlining his/her reasons and why the owner’s assets should remain on the Council’s list of assets of community value.
- may ask the Listing Officer questions.
- will invite the Owners (or their representative) to ask the Listing Officer any questions.

Statement of the Owner

The Strategic Director Place, as the Reviewer:

- will ask the Owners (or their representative) to make a statement explaining why the owner’s asset should be removed from the Council’s list of assets of community value.
- may ask the Owners (or their representative) questions.
- will invite the Listing Officer to ask the Owner (or their representative) any questions.
- will ask Owners (or their representative) to call the witnesses (if applicable)
- may ask the witnesses questions
- will invite the Listing Officer to ask the witnesses any questions.

Summary

The Strategic Director Place, as the Reviewer will ask:

- the Listing Officer to summarise.

- the Owners (or their representative) to summarise.

Adjournment

The Strategic Director Place, as the Reviewer will:

- advise the parties that he/she will make a determination based on the legislation, submitted written documentation and the statements made by the parties.

- advise that he/she will make a decision and will consult with the Executive Member for Regeneration and the Executive Member for Resources before announcing the decision to the parties. The Deputy Chief Executive will consult the Executive Member for Regeneration and the Executive Member for Resources strictly on the basis that they have had no involvement in the initial listing process and have no conflict of interest.
- adjourn the hearing and ask the parties to leave the room.

Decision

The Strategic Director Place, as the Reviewer will:

- consider his decision based on the legislation, submitted written documentation and the statements made by the parties, and seek any necessary legal advice.
- prepare a statement of his/her decision outlining the reasons.
- check with the Legal Advisor to determine whether the Executive Member for Growth & Development and the Executive Member for Resources had any involvement with the initial listing and if any conflict of interests exists.
- consult with the Executive Member for Growth & Development and the Executive Member for Resources and advise them of his/her proposed decision.
- ask the parties to return and read out his/her decision statement, or advise that he/she will inform the parties his decision in writing within 5 days.

If the decision is to:

- remove the property from the Council's list of assets of community value, the Strategic Director Place (as the Reviewer) will formally request the Listing Officer to arrange the formal removal of the property from the Council's list of assets of community value, the removal of the Local Land Charge and the removal the restriction from the title of the property
- retain the property on the Council's list of assets of community value, the Strategic Director Place (as the Reviewer) will advise the Owner of his/her right to appeal to the First Tier Tribunal.

The Strategic Director Place (as the Reviewer) will confirm his decision in writing within 5 days of the hearing.