

APPENDIX 6 – ACV definitions

Definitions

Community interest group

A group will qualify as a community interest group if either of the following apply:

- A parish council is a community interest group in relation to land which is the subject of an owner's notice given in satisfaction of Condition A (see *Restrictions on disposing of land listed as an ACV*) if any of that land is in the council's area.
- A body is a community interest group in relation to any land if the body has a local connection with the land (see *Local connection: other bodies*) **and** falls within one or more of the following definitions:
 - a charity (see *Practice note, What is a charity?*);
 - a company limited by guarantee, that does not distribute any surplus to its members (see *Practice note, Companies limited by guarantee*);
 - an industrial and provident society, which does not distribute any surplus to its members and is registered or deemed to be registered under the *Industrial and Provident Societies Act 1965* (IPSA 1965) which meets one of the conditions in *section 1* of the IPSA 1965 (these organisations are now known as co-operative or community benefit societies (see *Practice note, Co-operative and community benefit societies: registration and formation*); or
 - a community interest company (see *Practice note, Community interest companies: CICs*).
 - (*Regulation 12, ACV Regulations 2012*.)

ASSET OF COMMUNITY VALUE

An ACV is not specifically defined in the LA 2011 or the ACV Regulations 2012, but “land of community value” is defined in *section 88* of the LA 2011.

An ACV is land in a local authority's area that the local authority considers to have community value on the basis that:

- **Either:**
 - **the primary current use of the land furthers the social well-being or social interests of the local community.**
 - The First-tier Tribunal has rejected the view that amount of use cannot be determinative in deciding what will amount to primary and ancillary use of a piece of land or building. In particular, in the case of school playing fields, it will not always be the case that use by the school itself will be the primary use of the land and the use by community groups will be an ancillary use (*Dorset County Council v Purbeck District Council (Community Rights: Allowed) [2014] UKFTT CR_2013_0004 (GRC)* and *Idsall School v Shropshire Council [2015] UKFTT CR-2014-0016 (GRC)*) and also in the case of land set-aside for agricultural purposes (see *Legal update, Increase in public's recreational use of asset of community value results in qualifying non-ancillary actual current use under ACV regime (FTT)*)
 - Note that following *Banner Homes Ltd v St Albans City and District Council and another [2018] EWCA Civ 1187*, actual “current use” does not have to be lawful use (see *Legal update, Council entitled to list undeveloped field used by trespassers as an asset of community value (Court of Appeal)*); and
 - **it is realistic to think that the land can continue to be used in a way that will further the social well-being or social interests of the local community (whether or not in the same way as previously).**
 - A number of cases concerning pubs have focused on this point and it appears that a recent poor trading history will not necessarily affect this requirement being met (*Evenden Estates v Brighton and Hove City Council and another [2015] UKFTT CR_2014_0015 (GRC)* (see *Legal update, Assets of community value: realistic prospect of community use (First-tier Tribunal)*) and *Moat v North Lincolnshire District Council and another [2015] UKFTT CR_2014_0014 (GRC)*).

- **The land has previously been used for the purposes of furthering the social well-being or interests of the local community in the “recent past” and it is realistic to think that it will be used for the same purpose again within the next five years.** For more information on this point and what will constitute “recent past”, see *Practice note, Assets of community value: frequently asked questions: What is meant by “recent past” under section 88 of the Localism Act 2011?*.

Land

Land includes any of the following:

- Part of a building.
- Part of any other structure.
- Mines and minerals, whether or not held with the surface.
- (*Section 108, LA 2011.*)

The definition of “land” in section 108 of the LA 2011 must be read alongside the definition of “land” in the Interpretation Act 1978:

”Land’ includes building and other structures, land covered with water, and any estate, interest, easement, servitude or right in or over land” (*Schedule 1, Interpretation Act 1978*).

Local authority

A local authority, in relation to England, means:

- A district council.
- A county council where no district council exists for an area.
- A London Borough Council.
- The Common Council of the City of London.
- The Council of the Isles of Scilly.

A local authority, in relation to Wales, means a county council in Wales or county borough council.

(*Section 106, LA 2011.*)

Owner

An owner, in relation to land, is one of the following:

- The person in whom the freehold estate in the land is vested, unless there is a qualifying leasehold estate in the land (that is, a leasehold estate for a term which, when granted, had at least 25 years left to run).
- Where there is one qualifying leasehold estate in the land, the person in whom that estate is vested.
- Where there are two or more qualifying leasehold estates in the same land, the person in whom the most distant (from the freehold estate) qualifying leasehold estate is vested.

(*Section 107, LA 2011.*)

In summary, if there is more than one proprietor of a legal estate in the land, only one will qualify as the owner for the purposes of the LA 2011. If there is no qualifying leasehold estate (for a term which, when granted, had at least 25 years left to run), the freeholder will be the owner. If there are several leases and sub-leases, then the proprietor of the qualifying leasehold estate most distant from the freeholder will be the owner.

Relevant disposal

A relevant disposal for the purposes of the section 95 moratorium provisions is either of the following:

- A disposal of a freehold estate with vacant possession.
- A grant or assignment of a leasehold estate (for a term which, when granted, had at least 25 years to run) with vacant possession.

(Section 96, LA 2011.)