

Appendix 3 Definitions

Community interest group

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

- a) 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 if any of that land is in the council's area;
- b) A body is a community interest group in relation to any land if the body has a local connection with the land and falls within one of more of the following definitions:
 - a charity;
 - a company limited by guarantee, that does not distribute any surplus to its members ;
 - 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; or
 - a community interest company (CICs).

(Regulation 12, ACV Regulations 2012.)

Land

Land includes any of the following:

- a) Part of a building.
- b) Part of any other structure.
- c) Mines and minerals, whether or not held with the surface.

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

(Section 106, LA 2011.)

Local connection: other bodies

A voluntary or community body (other than a parish council) is deemed to have a local connection with land in a local authority's area if the body's activities are wholly or partly concerned with either:

- a) The local authority's area.
- b) A neighbouring authority's area.

Additional requirements are imposed on the following types of body:

- a) An incorporated body must also:
 - have at least 21 local members; and
 - apply any surplus it makes wholly or partly for the benefit of the local authority's area or for the benefit of a neighbouring authority's area.
- b) A company limited by guarantee must not distribute any surplus to its members and must apply any surplus it makes wholly or partly for the benefit of the local authority's area or for the benefit of a neighbouring authority's area;
- c) An industrial or provident society must not distribute any surplus to its members and must apply any surplus it makes wholly or partly for the benefit of the local authority's area or for the benefit of a neighbouring authority's area.

Local connection: parish councils

A parish council will have a local connection with land in a local authority's area if that land is:

- a) In another parish council's area, if any part of the boundary is shared;
- b) In a local authority's area, that is not in any parish council's area, if:
 - the parish council's area is within the local authority's area; or
 - any part of the parish council's boundary is shared with the local authority's area.

Owner

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

- a) 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);
- b) Where there is one qualifying leasehold estate in the land, the person in whom that estate is vested;
- c) 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) A disposal of a freehold estate with vacant possession; or

- b) 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.)

Residence and land connected with that residence

A residence is a building that is used or partly used as a residence.

A building is a residence if it meets any of the following tests:

- a) It is normally used or partly used as a residence, but what is normally used as a residence is temporarily unoccupied for whatever reason.
- b) It is let or partly let for use as a holiday dwelling.
- c) It, or part of it, is a hotel or is otherwise principally used for letting or licensing accommodation to paying guests.
- d) It is a house in multiple occupation as defined in section 77 of the Housing Act 2004.
- e) A building will not be a residence if it meets any of the following tests:
 - f) It is land on which currently there are no residences but for which planning permission or development consent has been granted for the construction of residences.
 - g) It is a building undergoing construction where there is planning permission or development consent for the completed building to be used as a residence, but construction is not yet complete.
 - h) It was previously used as a residence but is in future to be used for a different purpose and planning permission or development consent for a change of use to that purpose has been granted.

Land is connected with a residence if both the following apply:

- a) The land and the residence are owned by a single owner.
- b) Every part of the land can be reached from the residence without having to cross land that is not owned by that single owner, that is, where:
 - part of the land cannot be reached from the residence by reason only of intervening land in other ownership on which there is a road, railway, river or canal; and
 - It is reasonable to think that if the intervening land were removed, every part of the land could be reached from the residence without having to cross land in other ownership.

Social interests

The LA 2011 defines “social interests” to include cultural interests, recreational interests and sporting interests, which could include ACVs of the following type:

- a) A community building, such as a village hall
- b) A building or land of local historical value
- c) A public house
- d) A sports ground
- e) A local park
- f) A car park
- g) A playing field

Voluntary or community body

A voluntary or community body can include the following:

- a) A body designated as a neighbourhood forum under section 61F of the Town and Country Planning Act 1990;
- b) A parish council;
- c) An unincorporated body with at least 21 members who are individuals, that does not distribute any surplus to its members;
- d) A charity;
- e) A company limited by guarantee, that does not distribute any surplus to its members;
- f) 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;
- g) A community interest company (CICs)

A public or local authority cannot be a voluntary or community body (except in the case of a parish council).