Draft Order laid before Parliament under section 235(6) and (7)(h) of the Localism Act 2012 for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2012 No. ***

LOCAL GOVERNMENT, ENGLAND

The Assets of Community Value (England) Regulations 2012

Made - - - - ***

Coming into force in accordance with regulation 1(1)

In accordance with section 235(6) and (7)(h) of the Localism Act 2011(**1**), a draft of this instrument was laid before Parliament and approved by a resolution of each House of Parliament.

The Secretary of State, in exercise of the powers conferred by sections 87(5), 88(3), 89(4), 89(5), 91(2)(d), 92(5), 95(5)(e), 95(5)(j), 95(6), 99(1) and 101(1) of the Localism Act 2011, makes the following Regulations:

Citation, commencement, application and interpretation

1.—(1) These Regulations may be cited as the Assets of Community Value (England) Regulations 2012 and shall come into force on the day after they are made.

(2) These Regulations apply in relation to England only.

(3) In these Regulations—

"the Act" means the Localism Act 2011;

"compensation review" means a review requested in accordance with regulation 16;

"the list", in relation to a local authority, means the list maintained by the authority of land in that authority's area that is land of community value, and "listed" and "listing" are to be interpreted accordingly;

"listing review" means a review under section 92(2) of the Act (review of local authority's decision to include land in its list);

"neighbouring authority": a local authority in England is a neighbouring authority in relation to any land if any part of the boundary of that authority's area is also part of the boundary of the area of the responsible authority;

(**1**) 2011 c.20. The power to make regulations under these provisions in relation to Wales is conferred on the Welsh Ministers, *see* the definition of "appropriate authority" in section 108(1) of the Localism Act 2011.

"registrar", "register" (other than in regulation 4(3)) and "registered estate" have the meaning given in section 132(1) of the Land Registration Act 2002(**2**);

"responsible authority" in relation to any land means the local authority in whose area the land is situated;

"a statutory compulsory purchase" in relation to any land, means a a purchase of the land by a purchaser authorised by or under an Act to acquire the land compulsorily (whether or not a purchase pursuant to the authorisation).

(4) For the purposes of these Regulations, land is owned by a single owner if—

(a) the land is owned by the same person; or

(b) in a case not within sub-paragraph (a), the land is held on trusts and was settled on those trusts by the same settlor.

List of assets of community value

2. A local authority must as soon as practicable after receiving information that enables it to do so make the following amendments to an entry on the list—

(a) add to the entry—

(i) the information that, during the six weeks beginning with the date of receipt of a notice under section 95(2) of the Act in respect of any of the land to which the entry applies, it has received a request from a community interest group with a local connection to be treated as a potential bidder in relation to land to which the notice relates;

(ii) the name of that community interest group; and

(iii) that restrictions on entering into a relevant disposal of the land to which the notice relates continue to apply during the six months beginning with the date the notice was received, but at the end of that six months will then not apply for a further twelve months;

(b) amend or, as the case may be, remove the entry so as to exclude any of the land that has since it was included in the list been the subject of a relevant disposal other than one referred to in section 95(5) of the Act; and

(c) remove the entry if—

(i) an appeal against listing is successful, or

(ii) the authority for any reason no longer considers the land to be land of community value.

Land which may not be listed

3. A building or other land within a description specified in Schedule 1 is not land of community value (and therefore may not be listed).

Definition of local connection

4.—(1) For the purposes of these regulations and section 89(2)(b)(iii) of the Act, a body other than a parish council has a local connection with land in a local authority's area if—

(a) the body's activities are wholly or partly concerned—

(i) with the local authority's area, or

(**2**) 2002 c.9. There have been amendments to section 132 which are not relevant to these Regulations.

(ii) with a neighbouring authority's area;

(b) in the case of a body within regulation 5(1)(c), (e) or (f), any surplus it makes is wholly or partly applied—

(i) for the benefit of the local authority's area, or

(ii) for the benefit of a neighbouring authority's area; and

(c) in the case of a body within regulation 5(1)(c) it has at least 21 local members.

(2) For the purposes of these regulations and section 89(2)(b)(iii) of the Act—

(a) a parish council has a local connection with land in another parish council's area if any part of the boundary of the first council's area is also part of the boundary of the other council's area; and

(b) a parish council has a local connection with land that is in a local authority's area but is not in any parish council's area if—

(i) the council's area is within the local authority's area, or

(ii) any part of the boundary of the council's area is also part of the boundary of the local authority's area.

(3) In paragraph (1)(c), "local member" means a member who is registered, at an address in the local authority's area or in a neighbouring authority's area, as a local government elector in the register of local government electors kept in accordance with the provisions of the Representation of the People Acts(**3**).

Voluntary or community bodies

5.—(1) For the purposes of section 89(2)(b)(iii) of the Act, but subject to paragraph (2), "a voluntary or community body" means—

(a) a body designated as a neighbourhood forum pursuant to section 61F of the Town and Country Planning Act 1990(**4**);

(b) a parish council;

(c) an unincorporated body—

(i) whose members include at least 21 individuals, and

(ii) which does not distribute any surplus it makes to its members;

(d) a charity;

(e) a company limited by guarantee which does not distribute any surplus it makes to its members;

(f) an industrial and provident society which does not distribute any surplus it makes to its members; or

(g) a community interest company(**5**).

(2) A public or local authority may not be a voluntary or community body, but this does not apply to a parish council.

(**3**) *See* in particular section 2 of the Representation of the People Act 1983 (c.2), inserted by section 1 of the Representation of the People Act 2000 (c.2).

(**4**) 1990 c.8. Section 61F was inserted by paragraphs 1 and 2 of Schedule 9 to the Localism Act 2011, with effect from 6th April 2012, in accordance with article 8(a) of the Localism Act 2011 (Commencement No. 4 and Transitional, Transitory and Saving Provisions) Order 2012, S.I. 2012/628.

(**5**) A community interest company is a company which satisfies the requirements of Part 2 of the Companies (Audit, Investigations and Community Enterprise Act 2004 (c.27). *See* in particular sections 26, 35 and 36A. There have been amendments to section 26 and a substitution of section 36A which are not significant for these Regulations.

(3) In this regulation "industrial and provident society" means a body registered or deemed to be registered under the Industrial and Provident Societies Act 1965(**6**) which meets one of the conditions in section 1 of that Act

Contents of community nominations

6. A community nomination must include the following matters—

(a) a description of the nominated land including its proposed boundaries;

(b) a statement of all the information which the nominator has with regard to—

(i) the names of current occupants of the land, and

(ii) the names and current or last-known addresses of all those holding a freehold or leasehold estate in the land;

(c) the nominator's reasons for thinking that the responsible authority should conclude that the land is of community value; and

(d) evidence that the nominator is eligible to make a community nomination.

Procedure when considering whether to list land

7. The responsible authority must decide whether land nominated by a community nomination should be included in the list within eight weeks of receiving the nomination.

8. A local authority which is considering whether land nominated by a community nomination should be included in the list must take all practicable steps to give the information that it is considering listing the land to—

(a) a parish council if any of the land is in the council's area;

(b) the owner of the land;

(c) where the owner is not the freeholder—

(i) the holder of the freehold estate in the land; and

(ii) the holder of any leasehold estate in the land other than the owner; and

(d) any lawful occupant of the land.

Notice of inclusion or removal

9. A local authority which gives notice under section 91 of the Act must, in addition to the persons specified in that section, give it to—

(a) where they are not the owner, the holder of the freehold estate in the land and the holder of any leasehold estate in the land, and

(b) a parish council if any of the land is in the council's area.

Procedure to be followed for listing review

10. Where an owner of listed land asks the responsible authority to carry out a listing review, the review is to be carried out in accordance with the procedure set out in Schedule 2.

(**6**) 1965 c.12. There have been amendments to section 2 of the 1965 Act which are not significant for these Regulations. Section 1 of the Co-operative and Community Benefit Societies and Credit Unions Act 2010 (c.7) substitutes new wording for section 2 of the 1965 Act, and amends the title of that Act to the Co-operative and Community Benefit Societies and Credit Unions Act 1965, on a date to be appointed.

Appeal against listing review decision

11.—(1) An owner of listed land may appeal to the First-Tier Tribunal against the local authority's decision on a listing review in respect of the land.

(2) The owner referred to in paragraph (1) may be either the owner who requested the review, or a subsequent owner of part or the whole of the land.

Community interest groups

12. For the purposes of these regulations and section 95(3)(a) of the Act—

(a) a parish council is a community interest group in relation to land to which a notice under section 95(2) of the Act relates if any of the land is in the council's area; and

(b) a body is a community interest group in relation to any land if the body—

(i) is within one or more of sub-paragraphs (d) to (g) of regulation 5(1); and

(ii) has a local connection with the land.

Moratorium

13.—(1) Where the responsible authority receives notice under section 95(2) of the Act in relation to any listed land, an owner of the land may enter into a relevant disposal of any of that land to a community interest group with a local connection at any time in the eighteen months beginning with the date of receipt of the notice.

(2) Section 95(1) of the Act does not apply to a relevant disposal of listed land in the cases set out in Schedule 3.

Compensation

14.—(1) An owner or former owner of listed land or of previously listed land, other than an owner or former owner specified in regulation 15, is entitled to compensation from the responsible authority of such amount as the authority may determine where the circumstances in paragraph (2) apply.

(2) The circumstances mentioned in paragraph (1) are that the person making the claim has, at a time when the person was the owner of the land and the land was listed, incurred loss or expense in relation to the land which would be likely not to have been incurred if the land had not been listed.

(3) For the avoidance of doubt, and without prejudice to other types of claim which may be made, the following types of claim may be made—

(a) a claim arising from any period of delay in entering into a binding agreement to sell the land which is wholly caused—

(i) by relevant disposals of the land being prohibited by section 95(1) of the Act during any part of the relevant six weeks that is on or after the date on which the responsible authority receives notification under section 95(2) of the Act in relation to the land, or

(ii) in a case where the prohibition continues during the six months beginning with that date, by relevant disposals of the land being prohibited during any part of the relevant six months that is on or after that date; and

(b) a claim for reasonable legal expenses incurred in a successful appeal to the First-Tier Tribunal against the responsible authority's decision—

(i) to list the land,

(ii) to refuse to pay compensation, or

(iii) with regard to the amount of compensation offered or paid.