

# AGENDA



For a meeting of the
<b>CONSTITUTION COMMITTEE</b>
to be held on
<b>THURSDAY, 6 DECEMBER 2012</b>
at
<b>10.00 AM</b>
in the
<b>WITHAM ROOM, COUNCIL OFFICES, ST PETER'S HILL, GRANTHAM NG31 6PZ</b>
<b>Beverly Agass, Chief Executive</b>

Committee Members:	Councillor Ray Auger, Councillor Susan Sandall, Councillor Rob Shorrocks, Councillor Adam Stokes (Vice-Chairman) and Councillor Raymond Wootten (Chairman)
Committee Support Officer:	Lucy Bonshor (01476) 40 61 20 <a href="mailto:l.bonshor@southkesteven.gov.uk">l.bonshor@southkesteven.gov.uk</a>

**Members of the Committee are invited to attend the above meeting to consider the items of business listed below.**

**1. MEMBERSHIP**

The Committee to be notified of any substitute members.

**2. APOLOGIES**

**3. DISCLOSURE OF INTERESTS**

Members are asked to disclose any interests in matters for consideration at the meeting.

**4. MINUTES OF THE MEETING HELD ON 24TH SEPTEMBER 2012**

**(Enclosure)**

**5. AMENDMENTS TO THE CONSTITUTION: COMMUNITY RIGHT TO BID  
(ASSETS OF COMMUNITY VALUE) - DELEGATIONS**

Report LDS083 from the Head of Legal and Democratic Services.

**(Enclosure)**

**6. ANY OTHER BUSINESS WHICH THE CHAIRMAN, BY REASONS OF  
SPECIAL CIRCUMSTANCES, DECIDES IS URGENT**

# MINUTES

CONSTITUTION COMMITTEE  
MONDAY, 24 SEPTEMBER 2012



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## COMMITTEE MEMBERS PRESENT

Councillor Ray Auger  
Councillor Susan Sandall  
Councillor Rob Shorrocks

Councillor Mrs Jean Taylor  
Councillor Raymond Wooten (Chairman)

## OFFICERS

Head of Legal and Democratic Services  
(Lucy Youles)  
Planning Policy and Partnerships Service  
Manager (Karen Sinclair)  
Democratic Officer (Lucy Bonshor)

## OTHER MEMBERS

Councillor Bob Adams

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## 7. MEMBERSHIP

Councillor Jean Taylor was substituting for Councillor Adam Stokes for this meeting only.

## 8. DISCLOSURE OF INTERESTS

None disclosed.

## 9. MINUTES OF THE MEETING HELD ON 28TH MAY 2012

The minutes of the meeting held on 28th May were agreed as a correct record of the decision taken.

## 10. AMENDMENTS TO THE CONSTITUTION

### (i) Motions on Notice

#### Decision

*The Constitution Committee recommends to Council that the Constitution be amended at clause 12.3 of page 28 to read:*

*Motions must be about matters for which the Council has a*

***responsibility or which directly affect the district. The content of any motion on notice shall consist of one single subject matter. No motion on notice shall be debated in the absence of the member who has proposed the motion.***

The Chairman of the Committee referred to the July Council meeting at which Motions on Notice had been referred back to the Committee for further investigation. The Chairman informed the Committee that he had undertaken telephone calls with North Kesteven District Council, East Lindsey District Council, West Lindsey District Council and South Holland District Council, had e-mailed all Members of South Kesteven District Council and had looked at other authorities Constitution on the internet. He proposed that the number of motions remain unchanged as per clause 12.4 but that they consist of one single subject matter and that no notice on motion would be debated in the absence of the member who proposed the motion in order that the debate was fair and transparent. This proposal was seconded by Councillor Jean Taylor. Members felt that this was a sensible way forward but asked if there were any restrictions on the number of movers that a motion had, could a motion be moved by more than one mover. The Head of Legal and Democratic Service replied that no there were no restrictions, there was nothing to stop multiple movers subject to the motion being one of the two they were allowed. On being put to the vote the proposal was unanimously agreed.

(ii) **Localism Act – Members Code of Conduct**

The Head of Legal and Democratic Services informed the Committee that the report LDS075 was for information only. The report listed the changes made to the Constitution following the adoption of the Members Code of Conduct by the Council in July. A question was asked about future guidance to which the Head of Legal and Democratic Services replied that as the provision was at a local level there would be no government guidance. A further question was asked about complaints made about non parishes such as the Charter Trustees. The Head of Legal and Democratic Services replied that the Council had no authority to deal with complaints relating to unparished areas.

Members noted the changes.

(iii) **Neighbourhood Plans – Delegation**

**Decision:**

***The Constitution Committee recommends to Council that the Constitution be amended to insert at page 105.3 the following delegation to the Head of Development and Growth:***

#### **4. Neighbourhood Planning**

**(i) To take, after consultation with the relevant Portfolio Holder and the local ward member(s), decisions on the following matters, as defined in the Localism Act 2011 and Neighbourhood Planning (General) Regulations 2012 (or as may be amended):**

- Applications to designate a Neighbourhood Area**
- Applications to designate a Neighbourhood Forum**
- To accept or decline repeat proposals for a Neighbourhood Development Plan or Neighbourhood Development Order**
- Validity and acceptance of proposals for a Neighbourhood Development Plan or Neighbourhood Development Order**
- Appointment of person to carry out examination of a Neighbourhood Development Plan or Neighbourhood Development Order**

The Service Manager Planning Policy and Partnerships referred to report PLA948 which had been circulated with the agenda. The report referred to Neighbourhood Development Plans (NDP) and Neighbourhood Development Orders (NDO) which had been introduced by the Localism Act. The procedures for making NDPs and NDOs were very similar in each case only a qualifying body such as a Parish or Town Council except in unparished areas where a Neighbourhood Forum, a local organisation or body which must meet certain criteria set out in the Act, can be designated to instigate NDPs and NDOs. The Act and Regulations set out certain decisions on the administration and technical side of the documents that have to be undertaken by the Local Planning Authority before being examined by an independent examiner. This included the designation of neighbourhood areas (the area to be covered by the NDP or NDO) and forums and decisions on moving NDPs and NDOs on to the next stage of the process. A summary of stages was appended to the report. To make the decision quick and efficient and move it forward she recommended that the decision be delegated to the Head of Development and Growth. Any applications or submissions received would be discussed with the relevant Portfolio Holder and local Ward Member. An exception to this decision would be in respect of action to be taken in response to an examiner's report and whether to modify the Plan in response before submitting it for referendum and bringing into force the NDP as part of a Development Plan. Decisions on these matters would rest with the Cabinet and Full Council.

Various questions were then asked about the new plans and the Neighbourhood Plans submitted by Parish Councils between three and five years ago, would they become Neighbourhood Development Plans.

The Service Manager Planning Policy and Partnerships said that was not automatic. They had to follow the new processes and criteria, there was no provision in the Localism Act. The new NDPs were more planning issued based, therefore if a parish or town council had planning issues that they were keen to address in a local area they should go through the NDP process. Further questions were asked about membership especially for non parish areas such as Grantham. The Service Manager Planning Policy and Partnerships replied that they would have to seek designation and would have to have 21 Members who represented various different interests. Other questions were asked about the powers listed at 3.5 in the report and failure of plans on technicalities. A plan would fail if it was contrary to the Local Development Framework and it would be unlikely to get through the examination stage, unless it was substantially changed, it would be prevented from coming back for two years. The guidance conformed to strategic policies within existing plans such as the Core Strategy such as location, quantum housing, employment and retail development. The NDP's addressed more local issues within town centres. Further discussion followed on those Parishes that had already applied and grants to which the Head of Planning Policy and Partnerships replied. It was proposed, seconded and agreed to accept the proposed additions to the Head of Development and Growth's delegation.

(iv) **The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012**

**Decision:**

***The Constitution Committee recommends to Council the amendments to the Constitution to incorporate the changes introduced by the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 (the Regulations) as follows:***

**Page 63 – Proper Officer for Access to Information**

*15.3 (h) – delete existing clause and replace with:  
Publication of Notices relating to Key Decisions  
The Monitoring Officer will publish notices relating to key decisions in accordance with the provisions of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.*

**Page 90 – Delegation to the Chief Executive**

*Add new item 4 – To authorise the Head of Paid Service to grant dispensation in respect of any conflict of interest of any Member of the Cabinet declared at*

meetings of the Cabinet

**Page 106 – List of Proper Officers and Designated Officers for Particular Functions**

Column C - add reference to Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 for items relating to Monitoring Officer and officer responsible for background papers  
Add new item –

Column A - Monitoring Officer

Column B – Recording of Executive Decisions

Column C – Local Government Act 2000; The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012

**Page 143 – Access to Information Procedure Rules**

Scope – add reference to regulations made in accordance with section 9G, 9GA and 105 Local Government Act 2000.

**Page 144 – Access to Agenda and Reports before the Meeting**

Add after ..and designated offices – “and on the Council’s website”.

**Page 146 – Public Inspection of Background Papers**

Add to 8.2 – which will also be available on the Council’s website.

**Page 147 – Exclusion of access by the Public to Meetings**

Add new paragraph at clause 10.5 as follows:

Where there is a requirement to hold a Cabinet meeting in private:

At least 28 clear days before a private meeting, the Cabinet must--

- (a) make available at the designated offices a notice of its intention to hold the meeting in private; and
- (b) publish that notice on the website.

Any such notice must include a statement of the reasons for the meeting to be held in private.

At least five clear days before a private meeting, the Cabinet must--

- (a) make available at the designated offices a further notice of its intention to hold the meeting in private; and
- (b) publish that notice on the website,

*Any such notice must include--*

- (a) a statement of the reasons for the meeting to be held in private;*
- (b) details of any representations received by the Cabinet about why the meeting should be open to the public; and*
- (c) a statement of its response to any such representations.*

*Where the date by which a meeting must be held makes compliance with this requirement impracticable, the meeting may only be held in private where the Cabinet has complied with Rule 16 (special urgency)*

### **Page 155**

*Delete reference to the forward plan and replace with "Schedule of Decisions"*

### **Page 156 and 157 - The Forward Plan**

*Delete pages 156 and 157 relating to the Forward Plan and replace with:*

#### *Schedule of Decisions*

*A key decision must not be made until a Schedule of Decisions has been published and made available for public inspection at the offices of the Council and on the Council's website at least 28 clear days before the decision is made which states:-*

- (a) that a key decision is to be made on behalf of the local authority;*
- (b) the matter in respect of which the decision is to be made;*
- (c) where the decision maker is an individual, that individual's name, and title if any and, where the decision maker is a decision-making body, its name and a list of its members;*
- (d) the date on which, or the period within which, the decision is to be made;*
- (e) a list of the documents submitted to the decision maker for consideration in relation to the matter in respect of which the key decision is to be made;*
- (f) the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed are available;*
- (g) that other documents relevant to those matters may be submitted to the decision maker; and*

- (h) *the procedure for requesting details of those documents (if any) as they become available.*

*Exempt information need not be included in the Schedule of Decisions and confidential information cannot be included.*

**Page 157 – General Exception**

- (i) *Delete “forward plan” and insert “Schedule of Decisions”*
- (ii) *Insert “ the chair of the relevant Policy Development Group and....” before Scrutiny Committee*
- (iii) *Insert “..... and on the Council’s website*
- Add (iv) *As soon as reasonably practical after all the above have been satisfied, The Monitoring Officer must make available at the Council offices a notice setting out the reasons why compliance with procedure rule 14 is impractical; and Publish that notice on the Council’s website*

**Page 158 – Special Urgency**

*Add after notifies in writing :..... the Chairman of the relevant Policy Development Group and .....*

*Add further paragraph:*

*As soon as reasonably practicable after the decision maker has obtained agreement under this rule that the making of the decision is urgent and cannot reasonably be deferred, the decision maker must--*

- (a) *make available at the designated offices of the Council a notice setting out the reasons that the meeting is urgent and cannot reasonably be deferred; and*
- (b) *publish that notice on the website.*

**Page 158 - Report to Council**

- (a) *Delete forward plan and replace with Schedule of Decisions*

**Page 159 – Quarterly Reports on Special Urgency Decisions**

*Add further paragraph*

*The Leader must submit at least one report under paragraph (1) annually to the relevant local authority.*

**Page 162 – Access to Documents – Policy Development Groups and Scrutiny Committee**

Delete clause 24 and replace with new clause 24 as follows:

- 24.1 A member of a Policy Development Group or Scrutiny Committee is entitled to a copy of any document which--
- (a) is in the possession or under the control of the Cabinet; and
  - (b) contains material relating to--
    - (i) any business that has been transacted at a meeting of a decision-making body of the Council;
    - (ii) any decision that has been made by an individual member of the Cabinet in accordance with executive arrangements; or
    - (iii) any decision that has been made by an officer of the authority in accordance with executive arrangements.
- 24.2 Where a member of a Policy Development Group or the Scrutiny Committee requests a document which falls within paragraph 24.1, the Cabinet must provide that document as soon as reasonably practicable and in any case no later than 10 clear days after the Cabinet receives the request.
- 24.3 No member of a Policy Development Group or Scrutiny Committee is entitled to a copy--
- (a) of any such document or part of a document as contains exempt or confidential information unless that information is relevant to--
    - (i) an action or decision that that member is reviewing or scrutinising; or
    - (ii) any review contained in any programme of work of such a Policy Development Group or Scrutiny Committee or sub-committee of such a committee;
  - (b) of a document or part of a document containing advice provided by a political adviser or assistant.
- 24.4 Where the Cabinet determines that a member of a Policy Development Group or Scrutiny Committee is not entitled to a copy of a document or part of any such document for a reason set out in paragraph 24.3, it

*must provide the Policy Development Group or Scrutiny Committee with a written statement setting out its reasons for that decision.*

**Page 163 – Additional Rights of Access for Members**

*Delete clause 25 and replace with new clause 25 as follows:*

*25.1 Any document which--*

- (a) is in the possession or under the control of the Cabinet; and*
- (b) contains material relating to any business to be transacted at a public meeting,*

*must be available for inspection by any member of the Council.*

*25.2 Any document which is required by paragraph 25.1 to be available for inspection by any member of the Council must be available for such inspection for at least five clear days before the meeting except that--*

- (a) where the meeting is convened at shorter notice, such a document must be available for inspection when the meeting is convened; and*
- (b) where an item is added to the agenda at shorter notice, a document that would be required to be available under paragraph 25.1 in relation to that item, must be available for inspection when the item is added to the agenda.*

*25.3 Any document which--*

- (a) is in the possession or under the control of the executive of the local authority; and*
- (b) contains material relating to--*
  - (i) any business transacted at a private meeting;*
  - (ii) any decision made by an individual member in accordance with executive arrangements; or*
  - (iii) any decision made by an officer in accordance with executive arrangements,*

*must be available for inspection by any member of the Council when the meeting concludes or where an executive decision is made by an individual member or an officer immediately after the decision has been*

*made.*

- 25.4 *Any document which is required by paragraph 25.3 to be available for inspection by any member of the relevant local authority must be available for such inspection, in any event, within 24 hours of the conclusion of the meeting or the decision being made, as the case may be.*
- 25.5 *Paragraphs 25.1 and 25.3 do not require a document to be available for inspection if it appears to the proper officer that it discloses exempt information of a description falling within Part 1 of Schedule 12A to the 1972 Act (descriptions of exempt information: England).*
- 25.6 *Notwithstanding paragraph 25.5, paragraphs 25.1 and 25.3 do require the document to be available for inspection if the information is information of a description for the time being falling within--*
- (a) paragraph 3 of Schedule 12A to the 1972 Act (except to the extent that the information relates to any terms proposed or to be proposed by or to the authority in the course of negotiations for a contract); or*
  - (b) paragraph 6 of Schedule 12A to the 1972 Act.*
- 25.7 *Where it appears to the proper officer that compliance with paragraph 25.1 or 25.3 in relation to a document or part of a document would involve the disclosure of advice provided by a political adviser or assistant that paragraph will not apply to that document or part.*
- 25.8 *The rights conferred by paragraphs 25.1 and 25.3 are in addition to any other rights that a member of a local authority may have.*

### **Page 163**

*Add new paragraph 26*

### **26 Reports to the local authority where the key decision procedure is not followed**

- 26.1 *Where an executive decision has been made and--*
- (a) was not treated as being a key decision; and*
  - (b) the Scrutiny Committee is of the opinion that the decision should have been treated as a key decision, that Committee may require the executive which is responsible for the decision to submit a report to the Council within such reasonable period*

*as the Committee may specify.*

26.2 *A report under paragraph 26.1 must include details of--*

- (a) the decision and the reasons for the decision;*
- (b) the decision maker by which the decision was made; and*
- (c) if the executive are of the opinion that the decision was not a key decision, the reasons for that opinion.*

The Head of Legal and Democratic Services referred to report LDS076 which concerned changes to Regulations in connection with executive decision making. The changes had been issued in late August and would make the process more open and transparent. The former Regulations had been revoked and replaced with similar arrangements. Changes had been made to meetings where the public are excluded, the forward plan, scrutiny and background papers. The Head of Legal and Democratic Services then highlighted the main areas.

- There was now a requirement that if a key decision was to be made then 28 days clear notice had to be given not including weekends and bank holidays.
- The Forward Plan no longer existed but was replaced with a Schedule of Decisions. This would still be published monthly and would be on the website, but there was no longer a need to publish an annual notice.
- There was more emphasis on background papers, if they were referred to in a report they must be available for public inspection at the same time as the report.
- There were increase powers for the Scrutiny Committee, where background papers must be made available within 10 days.
- If the Scrutiny Committee believes a Non Key Decision should have been a Key Decision then they can request that the decision goes to Council.
- Key Decisions made by Officers are also subject to the 28 day clear notice. Currently this only seems to affect procurement.

Questions were then asked of the Head of Legal and Democratic Services concerning urgent decisions, past papers, past exempt papers and exempt papers concerning key decisions to which she replied. It was proposed, seconded and agreed to accept the proposed changes to the Constitution.

**11. ANY OTHER BUSINESS WHICH THE CHAIRMAN, BY REASONS OF SPECIAL CIRCUMSTANCES, DECIDES IS URGENT - REVIEW OF THE CONSTITUTION**

*The following item was considered as a matter of urgency as the Head of Legal and Democratic Services needed to update Members with regard to the Review of the Constitution.*

The Head of Legal and Democratic Services referred to the Constitution Review. An independent review to confirm the structure and robustness of current provision with emphasis on efficiency of decision making was proposed. It was agreed that the Review of the Constitution would be a standing item on future agendas.

**>Action note**

***The Review of the Constitution was to be a standing item on future agendas.***

**12. CLOSE OF MEETING**

The meeting closed at 11.10am.

## REPORT TO CONSTITUTION COMMITTEE

**REPORT OF:** HEAD OF LEGAL AND DEMOCRATIC SERVICES

**REPORT NO:** LDS083

**DATE:** 6<sup>TH</sup> DECEMBER 2012

<b>TITLE:</b>	COMMUNITY RIGHT TO BID (Assets of Community Value) - DELEGATIONS	
<b>KEY DECISION OR POLICY FRAMEWORK PROPOSAL:</b>	Constitution change	
<b>PORTFOLIO HOLDER: NAME AND DESIGNATION:</b>	Councillor Paul Carpenter – Portfolio Holder for Governance and Communication	
<b>CONTACT OFFICER:</b>	Lucy Youles Head of Legal and Democratic Services <a href="mailto:l.youles@southkesteven.gov.uk">l.youles@southkesteven.gov.uk</a> Tel:01476 406105	
<b>INITIAL IMPACT ANALYSIS:</b>	Carried out and Referred to in paragraph (7) below	Full impact assessment Required: Not applicable
<b>Equality and Diversity</b>		
<b>FREEDOM OF INFORMATION ACT:</b>	This report is publicly available via the Your Council and Democracy link on the Council's website: <a href="http://www.southkesteven.gov.uk">www.southkesteven.gov.uk</a>	
<b>BACKGROUND PAPERS</b>	Localism Act 2011 <a href="http://www.legislation.gov.uk/ukpga/2011/20/part/5/chapter/3/enacted">http://www.legislation.gov.uk/ukpga/2011/20/part/5/chapter/3/enacted</a> Non-statutory Guidance <a href="http://www.communities.gov.uk/publications/communities/righttobidadvicenote">http://www.communities.gov.uk/publications/communities/righttobidadvicenote</a> Empowering Communities: making the most of local – A Councillor's Guide <a href="http://locality.org.uk/wp-content/uploads/Empowering-communities-making-the-most-of-local-assets-a-councillors-guide.pdf">http://locality.org.uk/wp-content/uploads/Empowering-communities-making-the-most-of-local-assets-a-councillors-guide.pdf</a>	

## 1. RECOMMENDATIONS

The Constitution Committee recommend to Council the amendments to the scheme of delegation to enable applications to be determined relating to the Community Right to Bid (Assets of Community Value) as follows:

1.1 At page 104 of the Constitution relating to delegations to the Property Development Manager add:

**8. In consultation with the Portfolio Holder for Governance and Communication, to determine the regulations and procedures from time to time applicable in accordance with the Localism Act, The Assets of Community Value (England) Regulations 2012 and guidance issued relating to applications to include a property on the list of assets of community value.**

**9. In consultation with the Head of Finance and the Head of Legal and Democratic Services in accordance with the provisions of the Assets of Community Value (England) Regulations 2012,**

- **to consider correctly completed applications received to nominate a property to be included on the list of assets of community value and**
- **to determine applications to include a property on the list of assets of community value or on the list of assets which have not been included on the list of community assets.**
- **To consider and determine applications for compensation received from owners or former owners of property which has been included on the list of assets of community value.**

1.2 At page 93 of the Constitution relating to delegations to the Strategic Director Corporate Focus (Section 151 Officer) add:

**27. To consider and determine applications for a review of a listing and applications received for compensation received from the owner of any property included on the list of assets of community value in accordance with the Assets of Community Value (England) Regulations 2012.**

## 2. PURPOSE OF THE REPORT

The purpose of the report is to set out proposed amendments to the Constitution required to put in place a process to determine nominations received to include property on the list of assets of community value. The proposals include delegations to the Property Development Manager in consultation with the Portfolio Holder for Governance and Communication to make provision for the process, delegations to the Property Development Manager in consultation with the Head of Finance and the Head of Legal and Democratic Services to consider and determine nominations made to include property on the list of assets of community value and relevant applications for compensation and delegation to the Strategic Director Corporate Focus to consider and determine applications for review of listings and compensation. All delegations are proposed to be carried out in accordance with the Assets of

Community Value (England) Regulations 2012 which are attached to the report at Appendix A.(the Regulations)

### **3. DETAILS OF REPORT**

.A report and presentation considered by the Communities Policy Development Committee (PDG) setting out the provisions relating to assets of community value is attached at Appendix B. The PDG considered aspects of the process and recommended that a report should be made to the Constitution Committee to consider the delegations set out in the recommendations. The report introduced a proposed form of application, the contents of the list of assets of community value and the criteria to be used for determination of nominations which are recommended for use in the delegations proposed. The decisions required are technical and must be carried out in accordance with the Regulations .

A nomination to include a property on the list of assets of community value could be received at any time and must be considered within 8 weeks of receipt. Incomplete applications will be rejected with details of the further information needed. Complete applications must be determined in accordance with the Regulations and the proposed evaluation criteria.

### **4. OTHER OPTIONS CONSIDERED**

The Council has a duty to determine applications received to list assets of community value. No other options have been considered.

### **5. RESOURCE IMPLICATIONS**

The proposals are made to ensure that the provisions of the Localism Act can be implemented within current budget provision.

### **6. RISK AND MITIGATION**

Risk has been considered as part of this report and any specific high risks are included in the table below:

<b>Category Risk</b>	<b>Action / Controls</b>
Delay in consideration of applications	Delegation to officers to consider applications immediately on receipt

### **7. ISSUES ARISING FROM IMPACT ANALYSIS**

Equality impact analysis not required

### **8. CRIME AND DISORDER IMPLICATIONS**

No crime and disorder implications

**9. COMMENTS OF FINANCIAL SERVICES**

There are no financial implications relating to the proposed amendments.

**10. COMMENTS OF LEGAL AND DEMOCRATIC SERVICES**

The Council must put in place robust processes to consider applications made in respect of this right. Consideration of applications will involve technical application of strict criteria determined by the legislation and guidance. Applications must be determined in accordance with time limits determined by the legislation.

The legislation permits each authority to set its own regulations relating to the issues detailed in the recommendation of this report

**11. COMMENTS OF OTHER RELEVANT SERVICES**

None relevant

**12. Appendices**

Appendix A - Assets of Community Value (England) Regulations 2012

Appendix B - Report to Communities PDG - LDS083 – Community Right To Bid and Presentation

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 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.

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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(a), 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;

“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(b);

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

- (a) 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.
- (b) 2002 c.9. There have been amendments to section 132 which are not relevant to these Regulations.

“a statutory compulsory purchase” in relation to any land, means 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).

“a statutory compulsory purchase” in relation to any land, means 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).

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

(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—

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(a) (a)

(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(a).

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(b);

(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(c).

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

(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(d) 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—

(a) 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).

(b) 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.

(c) 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.

(d) 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.

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(i) (i)

(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.

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.

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Moratorium

Moratorium

(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.

(4) In paragraph (3)(a) “the relevant six weeks” means the six weeks, and “the relevant six months” means the six months, beginning with—

(a)

the date on which the responsible authority receives notification under section 95(2) of the Act in relation to the land, or

(b) if earlier, the earliest date on which it would have been reasonable for that notification to have been given by the owner who gave it.

(5) A claim for compensation must—

(a)

be made in writing to the responsible authority;

(b)

be made before the end of thirteen weeks after the loss or expense was incurred or (as the case may be) finished being incurred;

(c)

state the amount of compensation sought for each part of the claim; and

(d)

be accompanied by supporting evidence for each part of the claim.

(6) The responsible authority must give the claimant written reasons for its decisions with respect to a request for compensation.

15. The following are not entitled to compensation under regulation 14—

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(a)

an authority or other body in respect of loss or expense incurred at a time when it has accounts which are required by section 2 of the Audit Commission Act 1998(a) to be audited in accordance with that Act;

(b) a department, authority or other body in respect of loss or expense incurred at a time when section 6 of the National Audit Act 1983(b) (“the 1983 Act”) applies to it; and

(c)

an authority or body in respect of loss or expense incurred in any of its financial years if its use of resources in that year is examinable under section 7 of the 1983 Act.

Review by local authority of compensation decision

16.—(1) A person who has under regulation 14 made a claim for compensation may ask the responsible authority concerned to review either or both of its decisions, made in response to that

claim, as to—

(a)

whether compensation should be paid to that person, and

(b)

if compensation is to be paid, the amount of that compensation.

(2) If a request for a compensation review is made in accordance with the provisions of paragraph 2 of Schedule 2, the authority must in accordance with the procedure in Schedule 2

review the decision or decisions of which review is requested.

(3) Where an authority carries out a compensation review, the authority must give written notification to the person who asked for the review of—

(a)

the decision on the review, and

(b)

the reasons for the decision.

Appeal against compensation review decision

17. Where a local authority has carried out a compensation review, the person who requested the

review may appeal to the First-Tier Tribunal against any decision of the authority on the review.

Duty of local authority regarding restriction entered in the register in respect of listed land

18. Where a local authority which has caused a restriction in Form QQ(c) to be entered in respect of a registered estate subsequently removes the land to which the registered estate relates

from the list, the authority must as soon after doing so as is practicable apply to the registrar for

cancellation of the restriction.

Duties of owners and mortgagees in respect of listed land

19.—(1) Where listed land is entered in the register on an application for first registration of the

land made to the registrar—

(a)

by an owner of the land, or

(b)

under rule 21 of the Land Registration Rules 2003(d), by a mortgagee in the name of the owner,

the applicant must, as soon as is practicable after the land is entered in the register, inform the

responsible authority of that.

(2) A person who as a result of a disposal has become the owner of listed land must as soon as

practicable after becoming the owner give the responsible authority—

(a) 1998 c.18. The accounts to which section 2 applies are specified in Schedule 2 to the 1998 Act, which has been amended from time to time.

(b)

1983 c.44. The list of public bodies to which section 6 applies has been amended from time to time.

(c) Form QQ is a new form of wording of a restriction added to Schedule 4 to the Land Regulation Rules 2003 (S.I. 2003/1417)

by paragraph 6 of Schedule 4 to these Regulations.

(d)

2003/1417. See footnotes to Schedule 4 for details of previous amendments to this instrument.

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(a) (a)

(b) full details of—

(i) the name of the person who has become the owner including, where that person is a body corporate subject to registration, its place of registration and registered number; and

(ii) the address of that person.

(3) In this regulation—

(a) “owner” includes a person who would be an owner as defined in section 107 of the Act—

(i) but for the effect of section 7(1) and (2) of the Land Registration Act 2002(a); or

(ii) if the disposition to that person had been completed by registration in accordance with section 27(1)(b) of that Act; and

(b) “disposal” means a transfer of a freehold estate or a grant or assignment of a leasehold estate in land, including—

(i) a relevant disposal, and

(ii) a binding agreement to make a disposal.

Amendments to Land Registration Rules

20. The Land Registration Rules 2003 are amended as set out in Schedule 4.  
Consequences of non-compliant disposal

21.—(1) Subject to paragraph (2), a disposal of listed land is ineffective if it is a disposal that contravenes section 95(1) of the Act.

(2) Paragraph (1) does not apply if the person making the disposal, having made all reasonable

efforts to find out if the land to be disposed of is listed, does not know that it is listed at the time

the disposal is entered into.

Signed by the authority of the Secretary of State for the Department for Communities and Local

Government

Name

Parliamentary Under Secretary of State

Date Department for Communities and Local Government

SCHEDULE 1 Regulation 3

Land which is not of community value (and therefore may not be listed)

1. —(1) Subject to sub-paragraph (5) and paragraph 2, a residence together with land connected with that residence.

(2) In this paragraph, subject to sub-paragraphs (3) and (4), land is connected with a residence

if—

(a) the land, and the residence, are owned by a single owner; and

(a) 2002 c.9. Section 7 was amended by the Land Registration Act (Amendment) Order 2008 (S.I. 2008/2872).

(b) Section 27 was amended by the Commons Registration Act 1965 (c.64) and by section 157(1) and (4) of the Localism Act

2011, brought into force on 1st April 2012 by article 6(a) of the Localism Act 2011 (Commencement No. 4 and Transitional, Transitory and Saving Provisions) Order 2012 (S.I. 2012/628).  
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(b) every part of the land can be reached from the residence without having to cross land which is not owned by that single owner.

(3) Sub-paragraph (2)(b) is satisfied where a 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, provided that the additional requirement in sub-paragraph (4) is met.

(4) The additional requirement referred to in sub-paragraph (3) is that it is reasonable to think

that sub-paragraph (2)(b) would be satisfied if the intervening land were to be removed leaving no gap.

(5) Land which falls within sub-paragraph (1) may be listed if—

(a) the residence is a building that is only partly used as a residence; and

(b) but for that residential use of the building, the land would be eligible for listing.

2. For the purposes of paragraph 1 and this paragraph—

(a) “residence” means a building used or partly used as a residence;

(b) a building is a residence if—

(i) it is normally used or partly used as a residence, but for any reason so much of it as is normally used as a residence is temporarily unoccupied;

(ii) it is let or partly let for use as a holiday dwelling;

(iii) it, or part of it, is a hotel or is otherwise principally used for letting or licensing accommodation to paying occupants; or

(iv) it is a house in multiple occupation as defined in section 77 of the Housing Act 2004(a); and

(c) a building or other land is not a residence if—

(i) 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;

(ii) 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; or

(iii) 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.

3. Land in respect of which a site licence is required under Part 1 of the Caravan Sites and Control of Development Act 1960(b), or would be so required if paragraphs 1, 4, 5 and 10 to 11A

of Schedule 1 to that Act were omitted.

4. Operational land as defined in section 263 of the Town and Country Planning Act 1990(c).

(a)

c. 34.

(b) 1960 c.62. Paragraph 11A of Schedule 1 was inserted by section 176 of the Local Government, Planning and Land Act 1980 (c.65).

(c) 1990 c.8. Section 263 has been amended by paragraph 5 of Schedule 5 to the Transport Act 2000 (c.38); by paragraph 23 of Schedule 6, and Part 2 of Schedule 19 to the Planning and Compensation Act 1991 (c. 34), and by S.I. 2001/1149.

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SCHEDULE 2 Regulation 10 and regulation 16

SCHEDULE 2 Regulation 10 and regulation 16

Time for requesting a listing review

1.—(1) Except as specified in sub-paragraph (2), a request for a listing review must be made in writing before the end of a period of eight weeks beginning with the day on which written notice of inclusion of the land in the list was given by the responsible authority under section 91(2) of the Act, or such longer period as the authority may in writing allow.

(2) Where the authority takes reasonable alternative steps to bring the notice to the attention of the owner in accordance with section 91(2), a request for a listing review must be made before the end of a period of eight weeks beginning with the day on which the authority completes the taking of those steps.

Time for requesting a compensation review

2. A request for a compensation review must be made in writing before the end of a period of eight weeks beginning with the date on which the responsible authority provides the owner with written notification of its reasons in accordance with regulation 14(6), or such longer period as the authority may in writing allow.

Procedure for reviews

3. In the following provisions of this Schedule, “the review” means a listing review or a compensation review.

4. An officer of the authority of appropriate seniority who did not take any part in making the decision to be reviewed (“the reviewer”) shall carry out the review and make the review decision.

5.—(1) The owner may appoint any representative (whether legally qualified or not) to act on his or her behalf in connection with the review.

(2) The local authority must provide to the representative any document which is required to be sent to the owner, and need not provide that document separately to the owner.

6. As soon as is practicable following the written request for the review, the authority shall notify the owner of the procedure to be followed in connection with the review.

7.—(1) An oral hearing must be held at the owner’s written request.

(2) Where no written request for an oral hearing is made by the owner, the authority may decide whether or not to include an oral hearing in the review process.

8. Both the owner and the owner’s representative may make representations to the reviewer orally or in writing or both orally and in writing.

9. The authority must complete the review by the end of the period of eight weeks beginning with the date the authority receives the written request for the review, or such longer period as is agreed with the owner in writing.

10. The authority and the owner shall each bear their own costs of the review.

SCHEDULE 3 Regulation 13

Relevant disposals to which section 95(1) of the Act does not apply

SCHEDULE 3 Regulation 13

Relevant disposals to which section 95(1) of the Act does not apply

A disposal pursuant to an order made by a court or by a tribunal established by or under an Act.

2.—(1) A disposal made pursuant to a separation agreement made between spouses or civil partners.

(2) A disposal made pursuant to an agreement—

(a)

made between spouses or civil partners in connection with their separation, or between former spouses or former civil partners, and

(b) relating to the care of a child dependent on a party to the agreement.

3.—(1) Any disposal made under, or for the purposes of, any statutory provision relating to incapacity.

(2) In this paragraph—

(a) “incapacity” includes any of the following (whether temporary or permanent)—

(i) physical impairment,

(ii)

mental impairment, and

(iii) lack of, or impairment to, capacity to deal with financial and property matters; and

(b)

“statutory provision” means any provision contained in an Act or in an instrument made under an Act.

4.—(1) Subject to sub-paragraph (2), a disposal—

(a) to a particular person in pursuance of a requirement that it should be made to that person under a planning obligation entered into in accordance with section 106 of the Town and Country Planning Act 1990; or

(b)

made in pursuance of the exercise of a legally enforceable—

(i) option to buy,

(ii)

nomination right,

(iii) right of pre-emption, or

(iv) right of first refusal.

(2) A disposal is not within sub-paragraph (1)(a) if it is of land that was listed when the obligation was entered into; and a disposal is not within sub-paragraph (1)(b) if it is of land that

was listed when the option or right was granted.

5.—(1) A disposal by a transferor, “T”, to a former owner, where both the conditions in paragraph (2) are satisfied.

(2) The conditions referred to in paragraph (1) are that—

(a) the land was acquired by T or by a predecessor in title of T by a purchase that was a statutory compulsory purchase (“the original purchase”); and

(b)

T has made a first offer of the land to the former owner, in accordance with an obligation to offer back the land to the former owner before disposing of the land on the open

market.

(3) In this paragraph—

(a)

“former owner” means—

(i) the person, “P”, from whom the land was acquired under the original purchase; or

(ii) a successor to P; and

(b)

“successor” means the person on whom the land, had it not been acquired by T or a predecessor of T, would clearly have devolved under P’s will or intestacy, and includes a  
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person who has succeeded, otherwise than by purchase, to adjoining land from which the land was severed by the original purchase.

person who has succeeded, otherwise than by purchase, to adjoining land from which the land was severed by the original purchase.

(2) The reference in sub-paragraph (1) to a power of sale includes in particular a power implied

by virtue of section 101(1)(i) of the Law of Property Act 1925(a).

7. A disposal pursuant to insolvency proceedings as defined by Rule 13.7 of the Insolvency Rules 1986(b).

8. A disposal of land to a person whose acquisition of the land is a statutory compulsory purchase.

9. A grant of a tenancy of the land pursuant to the provisions of Part 4 of the Agricultural Holdings Act 1986(c).

10.—(1) A disposal by one body corporate to another, where the second one is a group undertaking in relation to the first.

(2) In this paragraph, “group undertaking” has the meaning given by section 1161(5) of the Companies Act 2006(d).

11.—(1) A part-listed disposal as specified in section 95(5)(e) of the Act where, subject to subparagraphs

(2) and (3), the following conditions are satisfied with regard to the land which is being disposed of—

(a)

the land is owned by a single owner; and

(b)

every part of the land can be reached from every other part without having to cross land which is not owned by that single owner.

(2) Sub-paragraph (1)(b) is satisfied where a part of the land cannot be reached from every other part of the land by reason only of intervening land in other ownership on which there is a road, railway, river or canal, provided that the additional requirement in sub-paragraph (3) is met.

(3) The additional requirement referred to in sub-paragraph (2) is that it would be reasonable to think that sub-paragraph (1)(b) would be satisfied if the intervening land were to be removed leaving no gap.

12. A disposal of a church, together with any land annexed or belonging to it, pursuant to a scheme under Part 6 of the Mission and Pastoral Measure 2011(e).

13.—(1) A disposal by any person for the purpose of enabling health service provision to continue to be provided on the land.

(2) In this paragraph, “health service provision” means services provided as part of the health service continued under section 1(1) of the National Health Service Act 2006(f).

14.—(1) A disposal of land to be held for the purposes of—

(a) 1925 c.20. The application of section 101(1)(i) was affected by the insertion of sub-section (1A) by paragraph 2 of Schedule 5 to the Commonhold and Leasehold Reform Act 2002 (c.15).

(b)

S.I. 1986/1925.

(c)

1986 c.5. Part 4 of this Act makes provision for succession on the death or retirement of a tenant of an agricultural holding.

(d)

2006 c.46.

(e) 2011 No. 3. Part 6 of this Measure, which comes into force on 1st July 2012, concerns redundant churches and replaces Part 3 of the Pastoral Measure 1983 No. 1.

(f) 2006 c.41. A new version of section 1 is substituted by section 1 of the Health and Social Care Act 2012 (c.7), on a date to be specified by the Secretary of State by order. The new wording of section 1(1) of the 2006 Act is not significantly different for the purposes of these Regulations.

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(a) (a)

(b)

a 16 to 19 Academy(b); or

(c)

an institution within the further education sector as defined in section 91(3) of the Further and Higher Education Act 1992(c).

(2) For the purposes of sub-paragraph (1)(a), “school” does not include an independent school other than one in respect of which Academy arrangements have been entered into by the Secretary of State under section 1 of the Academies Act 2010.

(3) For the purposes of sub-paragraph (2), “independent school” has the meaning given in section 463(d) of the Education Act 1996.

15. A disposal which is subject to a statutory requirement regarding the making of the disposal, where that requirement could not be observed if the requirements of section 95(1) of the Act were complied with.

SCHEDULE 4

Regulation 20

#### Amendments to Land Registration Rules

1. The Land Registration Rules 2003(e) are amended as follows.

2. After rule 27, insert—

“First registration – where land is or was listed as land of community value

27A.—(1) An owner of listed land who applies for first registration of that land, or where

rule 21 applies a mortgagee who makes such an application in the name of the owner, must

at the same time apply for entry of a restriction in Form QQ in respect of that land.

(2) Where a person applies for first registration of land and any of the deeds and documents accompanying the application (in accordance with rule 24(1)(c)) includes a conveyance or lease to the applicant or to a predecessor in title made at any time when the

land was listed land, the applicant must in respect of each such conveyance or lease provide a certificate by a conveyancer that the conveyance or lease did not contravene section 95(1) of the Localism Act 2011.

(3) In this rule—

(a)

“listed land” means land entered in a local authority’s list of assets of community value maintained under section 87(1) of the Localism Act 2011, and

(b)

“owner” has the same meaning as in section 107 of the Localism Act 2011, except that it includes a person who would be such an owner but for the effect of section 7(1) and (2) of the Act.”

(a) 1996 c.56. Section 4 has been amended by section 51 of, and paragraph 10(b) of Schedule 7 and Schedule 8 to, the Education Act 1997 (c.44); by section 95(1), (2) and (3) of the Childcare Act 2006 (c.21); by Part 3 of Schedule 22 to the Education Act 2002 (c.32); by paragraph 9(1), (2)(a) and (2)(b) of Schedule 13 to the Education Act 2011 (c.21); and by S.I. 2010/1080.

(b) A “16 to 19 Academy” is an educational institution which meets the requirements of section 1B of the Academies Act 2010

(c.32). Section 1B was inserted into that Act by section 53(7) of the Education Act 2011, with effect from 1st April 2012

(commenced by S.I. 2012/924).

(c) 1992 c.13. Amendments to section 91(3) have been made by paragraphs 1 and 13(1) and (3) of Schedule 8 to the Apprenticeships, Skills, Children and Learning Act 2009 (c.22).

(d)

Section 463 was substituted by section 172 of the Education Act 2002, and has been amended by S.I. 2010/1158.

(e)

S.I. 2003/1417. Rule 27 was amended by S.I. 2008/1919.

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3.3.

(a) in paragraph (w), omit the final “and”, and

(b) after paragraph (x) add—

“(y) a local authority where it has entered land, the title to which is registered, in its list of assets of community value which it maintains in accordance with section 87(1) of the Localism Act 2011, and is applying for a restriction in form QQ to be entered in the register for that land, and

(z)

a mortgagee under a mortgage falling within section 4(1)(g) of the Act who makes an application for first registration under rule 21, where the estate charged relates to land entered in a local authority’s list of assets of community value maintained under section 87(1) of the Localism Act 2011, and is applying for a restriction in Form QQ to be entered in the register of that estate.”

4. In rule 94(b), after the end of paragraph (10) add—

“(11) Where a local authority has entered land in its list of assets of community value which it maintains in accordance with section 87(1) of the Localism Act 2011, an application for a restriction in Form QQ must be made—

(a) if that land includes a registered estate the proprietor of which is an owner as defined in section 107 of that Act, as soon as practicable by the local authority in respect of that registered estate unless there is an existing restriction in Form QQ in respect of that estate, or

(b) if the title to the land is unregistered, where required by rule 27A(1).”

5. In rule 217(3)(c), for “PP” substitute “QQ”.

6. In Schedule 4(d), at the end (after the end of the provision regarding Form PP) add—  
“Form QQ (Land included in a list of assets of community value maintained under section 87(1) of the Localism Act 2011)

No transfer or lease is to be registered without a certificate signed by a conveyancer that the transfer or lease did not contravene section 95(1) of the Localism Act 2011.”

#### EXPLANATORY NOTE

(This note is not part of the Regulations)

Chapter 3 of Part 5 of the Localism Act 2011 (“the Act”) makes provision for England and Wales in relation to assets of community value, and includes powers for the Secretary of State to make further detailed provision in relation to England. These Regulations, which apply to England only, contain those details and come into force at the same time as commencement of Chapter 3, Part 5 of the Act, to give effect to the assets of community value scheme.

Regulation 1 defines terms used in the Regulations.

Regulation 2 specifies ways in which a local authority must modify an entry on its list of assets of community value.

Regulation 3 introduces Schedule 1, which specifies types of land which may not be listed as an asset of community value.

(a)

Rule 93 was amended by S.I. 2005/1766 and S.I. 2008/1919.

(b)

Rule 94 was amended by S.I. 2008/1919.

(c)

Rule 217(3) was amended by S.I. 2008/1919.

(d)

New text of Schedule 4 was substituted by S.I. 2008/1919, and has subsequently been amended by S.I. 2010/671.

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Regulation 4 defines “local connection” in relation to land, which is a requirement for voluntary or community bodies which wish to nominate land for listing, and for community interest groups in relation to the moratorium rules applying to listed land contained in section 95 of the Act.

Regulation 4 defines “local connection” in relation to land, which is a requirement for voluntary or community bodies which wish to nominate land for listing, and for community interest groups in relation to the moratorium rules applying to listed land contained in section 95 of the Act.

Regulation 6 specifies information which must be included in a community nomination of land to be listed.

Regulation 7 requires a local authority to decide within 8 weeks whether nominated land should be listed.

Regulation 8 specifies people whom a local authority must inform when it is considering whether to list land, and regulation 9 specifies people to whom notice must be given when land is added to or removed from the list (in addition to those specified in section 91 of the Act).

Regulation 10 introduces Schedule 2, which contains the procedure to be followed by a local authority when it carries out a review of its decision to list land.

Regulation 11 gives an owner of land, including both the owner who requested the review and a subsequent owner of the land, the right to appeal to the First-Tier Tribunal against the local authority's decision on its review of its decision to list the land.

Regulation 12 sets out the requirements for a group to qualify as a community interest group, which under section 95(3)(a) of the Act may make a written request to be treated as a potential bidder in relation to the land.

Regulation 13 specifies that a community interest group may enter into a contract to buy listed land during a moratorium period, and introduces Schedule 3 which sets out types of disposal to which the moratorium requirements in section 95(1) of the Act will not apply at all (in addition to those set out in section 95(5) of the Act).

Regulation 14 gives an owner of listed or formerly listed land the right to claim compensation for loss or expense, incurred while the owner of the land, which would be likely not to have been incurred if the land had not been listed. It also sets out procedural requirements for making a compensation claim, and requires local authorities to give owners written reasons for decisions with regard to compensation.

The right to claim compensation does not apply to public and publicly funded owners of land specified in regulation 15.

Regulation 16 gives a person who has claimed compensation the right to require the local authority to review its decision with regard to that claim, and to give reasons for the review decision, and applies the procedural rules in Schedule 2 to compensation reviews.

Regulation 17 gives a person who has requested a compensation review the right to appeal to the First-Tier Tribunal against the local authority's review decision.

Regulations 18 to 20 contain provisions to safeguard against non-compliance by owners of listed land with the statutory requirements. Requirements regarding application for a restriction on the land register in respect of listed land, and for provision of an independent certificate of compliance to the Land Registrar in certain circumstances, are created by amendment to the Land Registration Rules 2003 ("the 2003 Rules").

With regard to entry on the land register of a restriction in respect of listed land, regulation 18 requires a local authority to apply in certain circumstances to cancel the restriction.

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Regulation 19 creates two duties applying to owners of listed land; firstly that an owner applying for first registration of the land (or a mortgagee applying for first registration on behalf of the owner) must at the same time apply for entry of a restriction on the land

register; and secondly that a person who has become an owner of the land following a disposal must inform the local authority of the disposal and provide ownership details.

Regulation 19 creates two duties applying to owners of listed land; firstly that an owner applying for first registration of the land (or a mortgagee applying for first registration on behalf of the owner) must at the same time apply for entry of a restriction on the land register; and secondly that a person who has become an owner of the land following a disposal must inform the local authority of the disposal and provide ownership details.

Paragraph 2 of Schedule 4 to these Regulations adds a new rule 27A to the 2003 Rules. This requires an owner of listed land applying for first registration of the land in the land register to apply at the same time for a restriction in Form QQ to be entered in the register. The same duty applies to a mortgagee applying for first registration in the owner's name. At the same time the applicant for first registration must provide with the application a certificate by a conveyancer that any conveyance of lease of the land while it was listed did not contravene section 95(1) of the Act.

Paragraph 3 of Schedule 4 amends rule 93 of the 2003 Rules (which specifies persons who have a sufficient interest to apply for a restriction) by adding a local authority which has listed land and is applying for a restriction to be entered in the register, and a mortgagee who has applied for first registration and for a restriction to be entered with respect to the charged land.

Paragraph 4 of Schedule 4 amends rule 94 of the 2003 Rules (which specifies when an application for a restriction must be made) by adding that where a local authority has listed land, an application for a restriction in Form QQ must be made either by the local authority (unless such a restriction already exists) or in accordance with new rule 27A (by the owner or mortgagee).

Paragraph 6 of Schedule 4 adds the wording for new Form QQ to Schedule 4 of the 2003 Rules (standard forms of restriction) , and paragraph 5 makes a consequential amendment to rule 217.

Regulation 21 provides that a non-compliant disposal will be ineffective, except where the owner making the disposal, having made all reasonable efforts to find out if the land was listed, was unaware that this was the case at the time of the disposal.

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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.

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2012 No. \*\*\*

LOCAL GOVERNMENT, ENGLAND

The Assets of Community Value (England) Regulations 2012

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APPENDIX A



*Your council working for you*

# **COMMUNITY RIGHT TO BID**

Communities PDG update

Richard Wyles

# Outline

- The provisions give local groups a right to nominate a building or other land for listing by the LA as an asset of community value.
- Ensure that when a listed asset is to be sold, local community groups are given a fair chance to make a bid to buy it on the open market
- Nothing further will happen unless and until the owner decides to dispose of the asset

# Nominating an asset

- Open to parishes, community organisations and constituted neighbourhood forums
- The LA will have 8 weeks to make a judgement about whether the asset meets the definition as set out in the Act
- If the asset is nominated then the LA must place the asset on a list and notify all parties
- The owner has a right to appeal if they choose by an internal review process

# Nominating an asset

- If the LA does not agree that the asset should be listed they must place it on a list of assets called 'nominated but not listed'
- Once an asset is listed nothing further will happen unless and until the owner decides to dispose of it
- If the owner does decide to dispose, then they must notify the LA of their intention

# Moratorium

- Once the owner has notified the LA there is then a 6 week period to allow community interest groups to make a written request to be treated as a potential bidder
- If none come forward then the owner can sell after the 6 week period has elapsed
- If a request is forthcoming then a full 6 month moratorium will operate. During this period the owner may continue to market but cannot exchange contracts (unless to the community group)
- After the moratorium period the owner is free to sell to whomever they choose and at whatever price

- The provisions do not restrict in any way who the owner of a listed asset can sell their property to, or at what price.
- However they do put a requirement on the owner to notify the LA if they are choosing to sell the asset and the provisions do place time restrictions on the disposal process

# List of assets

- The LA is required to maintain 2 lists – those of nominated assets and those of assets nominated unsuccessfully
- They are to be published publically and made available to all
- Assets to be listed for a period of 5 years
- Section 88 defines ‘an actual current use of the building or other land that is not an ancillary use furthers the social wellbeing or social interests of the local community, and it is realistic to think that there can continue to be non-ancillary use of the building or other land which will further the social wellbeing or social interests of the local community’
- Exemptions include: residential property (including gardens, outbuildings and other associated land, residential caravan land

# Listing review

- An owner has the right to request the LA review its listing decision (<8 weeks from the notification date)
- To be reviewed by an officer who did not take part in the decision to list
- Owner may make representation in writing or orally – review to be undertaken within 8 weeks
- The owner and the LA will bear their own review costs

- If the owner is not satisfied with the outcome of the internal review they have the right to refer to Tribunal
- Compensation – private owners may claim compensation for loss and expense incurred through the asset listed or previously listed. This will include a claim arising from a period of delay in entering into a binding agreement to sell which is wholly caused by the interim or moratorium period
- Costs of compensation payments under £20K will be met by the LA but some funding will be made available via the New Burdens funding

**REPORT TO COMMUNITIES P.D.G.**

**REPORT OF:** Head of Legal and Democratic services

**REPORT NO:** LDS082

**DATE:** 22<sup>nd</sup> November 2012

<b>TITLE:</b>	COMMUNITY RIGHT TO BID	
<b>KEY DECISION OR POLICY FRAMEWORK PROPOSAL:</b>	KEY DECISION	
<b>PORTFOLIO HOLDER: NAME AND DESIGNATION:</b>	Councillor Paul Carpenter - Portfolio Holder for Governance and Communication	
<b>CONTACT OFFICER:</b>	Lucy Youles – Head of Legal and Democratic Services – <a href="mailto:l.youles@southkesteven.gov.uk">l.youles@southkesteven.gov.uk</a> ; <a href="tel:01476406105">tel:01476406105</a> Richard Wyles – Head of Finance – <a href="mailto:r.wyles@southkesteven.gov.uk">r.wyles@southkesteven.gov.uk</a> ; <a href="tel:01476406210">tel:01476406210</a>	
<b>INITIAL IMPACT ANALYSIS:</b>	Carried out and Referred to in paragraph (7) below	Full impact assessment Required: No
<b>Equality and Diversity</b>		
<b>FREEDOM OF INFORMATION ACT:</b>	This report is publicly available via the Your Council and Democracy link on the Council's website: <a href="http://www.southkesteven.gov.uk">www.southkesteven.gov.uk</a>	
<b>BACKGROUND PAPERS</b>	Localism Act 2011 <a href="http://www.legislation.gov.uk/ukpga/2011/20/part/5/chapter/3/enacted">http://www.legislation.gov.uk/ukpga/2011/20/part/5/chapter/3/enacted</a> Non-statutory Guidance <a href="http://www.communities.gov.uk/publications/communities/righttobidadvicenote">http://www.communities.gov.uk/publications/communities/righttobidadvicenote</a> Empowering Communities: making the most of local – A Councillor's Guide <a href="http://locality.org.uk/wp-content/uploads/Empowering-communities-making-the-most-of-local-assets-a-councillors-guide.pdf">http://locality.org.uk/wp-content/uploads/Empowering-communities-making-the-most-of-local-assets-a-councillors-guide.pdf</a>	

## **1. RECOMMENDATIONS**

It is recommended that the Communities Policy Development Group consider the provisions of the Localism Act 2011 and the non-statutory Guidance relating to the Community Right to Bid (Assets of Community Value) and consider the provisions for a draft procedure to include:

- The form in which an application can be made to include an asset on the list. See draft form A attached to this report
- The content of an entry in the list – see draft form B attached to this report.
- The meaning of a voluntary or community body.
- The meaning of asset of community value.
- The conditions that have to be met for a person to have a local connection sufficient to represent a voluntary or community body with a local connection.
- The procedure to be followed to decide whether or not an asset should be included on the list. . A draft list of criteria is attached at Form C attached.
- The procedure to be followed in connection with a review and claim for compensation relating to a decision to include an asset on the list.

## **2. PURPOSE OF THE REPORT**

The purpose of the report together with the presentation to be made is to inform Members of the provisions relating to the community right to bid sufficient for Members to consider the issues listed in the recommendations above. A presentation relating to the right will be made to members at the meeting.

## **3. DETAILS OF REPORT**

The Community Right to Bid is one of a number of new rights for communities introduced by the Localism Act 2011. The Community Right to Bid came into force on 21 September 2012 following the publication of the Assets of Community Value (England) Regulations. The Community Right to Bid is commonly known as the assets of community value scheme. The scheme gives communities the opportunity to identify assets of community value and have them listed, and when they are put up for sale communities are given time to raise finance and bid for them. The right to bid impacts on all public bodies, either as local authorities required to administer the scheme or as land owners of land that may be nominated as an asset of community value. This report relates to this authorities duty to maintain the list of community assets.

The legislative provisions determine that it is for each local authority to make its own provisions on the form and contents of the list of community assets subject to the criteria set out in the Localism Act and the Regulations.

The matters listed in the recommendation are referred to in the Regulations and the non-statutory guidance. This Council must consider its process for considering applications to include a property on the list of community assets, its process for considering reviews and the process for considering applications for compensation. The determination of any application will involve technical property, legal and financial consideration. It is proposed that the consideration of applications to include properties on the list and applications for

compensation be delegated to the Property Development Manager in consultation with the Head of Finance and the Head of Legal and Democratic Services. It is proposed that applications for a review of any decision be considered by the Strategic Director - Corporate Focus in consultation with the relevant portfolio holder. Any delegation will be reported to the Constitution Committee

**4. OTHER OPTIONS CONSIDERED**

The Council has no other alternative but to make provision for the management and administration of the process to consider applications for properties to be included on the list of assets of community value.

**5. RESOURCE IMPLICATIONS**

It is proposed that the management and administration of the process relating to this right is provided within existing budget provision.

**6. RISK AND MITIGATION**

Risk has been considered as part of this report and any specific high risks are included in the table below:

Category Risk	Action / Controls
Delay in consideration of applications	Delegation to officers to consider applications immediately on receipt

**7. ISSUES ARISING FROM IMPACT ANALYSIS**

To be considered following determination of the process to be adopted

**8. CRIME AND DISORDER IMPLICATIONS**

None

**9. COMMENTS OF FINANCIAL SERVICES**

**10. COMMENTS OF LEGAL AND DEMOCRATIC SERVICES**

The Council must put in place robust processes to consider applications made in respect of this right. Consideration of applications will involve technical application of strict criteria determined by the legislation and guidance. Application must be determined in accordance with time limits determined by the legislation.

The legislation permits each authority to set its own regulations relating to the issues detailed in the recommendation of this report

**11. COMMENTS OF OTHER RELEVANT SERVICES**

## **12. APPENDICES:**

Form A – draft form of application.

Form B – draft list for properties to be included on the list

Form C – draft criteria for consideration of applications to include a property on the list.



<p style="text-align: center;"><b>SOUTH KESTEVEN DISTRICT COUNCIL</b></p> <p style="text-align: center;"><b>ASSETS OF COMMUNITY VALUE – THE COMMUNITY RIGHT TO BID</b></p> <p style="text-align: center;"><b>NOMINATION FORM</b></p>
--

**Section A: About your organisation**

**A1 Organisation's name and address**

Name of organisation*
Address including postcode

*\*full name as written in your constitution or rules (if appropriate)*

**A2 Contact details**

Name
Position in organisation
Address including postcode
Daytime telephone no.
Email address
How and when can we contact you?*

*\*by email or phone, and days of the week and/or times of day you would prefer*

**A3 Type of organisation**

Description	Put a cross against all those that apply	Registration number of charity and/or company (if applicable)
Neighbourhood forum		
Parish Council		
Charity		
Community interest company		
Unincorporated body		
Company limited by guarantee		
Industrial and provident society		

**A4 Number of members registered to vote locally** (unincorporated bodies only)

In the case of an unincorporated body, at least 21 of its members must be registered to vote in the South Kesteven district. If relevant, please confirm the number of such members. If they are registered to vote in the area of a neighbouring local authority, rather than in South Kesteven, please confirm which area that is.

**A5 Local connection**

Your organisation must have a local connection, which means that its activities are wholly or partly concerned with the administrative area of South Kesteven District Council or a neighbouring local authority. In some cases this will be obvious, eg. a parish council in South Kesteven, or an organisation whose activities are confined to the district. Your local connection may not be obvious, please explain what your organisation's local connection is.

FORM A

**A6 Distribution of surplus funds** (certain types of organisation only)

If your organisation is an unincorporated body, a company limited by guarantee, or an industrial and provident society, its rules must provide that surplus funds are not distributed to members, but are applied wholly or partly for the benefit of the local area (ie. within the administrative area of South Kesteven or a neighbouring local authority). If relevant, please confirm that this is the case, and specifically which area this applies to.

**A7 More about your organisation**

What are the main aims and activities of your organisation?

**A8 Your organisation's rules**

<b>Please send us a copy of the relevant type of document for your organisation, and put a cross in the next column to indicate which one this is</b>	<b>X</b>
Memorandum and Articles of Association (for a company)	
Trust Deed (for a trust)	
Constitution and/or rules (for other organisations)	
Terms of Reference	

FORM A

**Part B: About the land or building(s) you are nominating**

**B1 Description and address**

What it is the land or building used for?
Name of premises (known locally as)
Address including postcode

**B2 Map or Sketch plan**

Please include (here or on a separate sheet) a sketch plan or map identifying the land. This should show:-

- The boundaries of the land that you are nominating
- The approximate size and position of any building(s) on the land.
- The names of any roads bordering the site.

FORM A

**B3 Owners and others with an interest in the building or land**

You should supply the following information, if possible. If any information is not known to you, please say so.

	<b>Name(s)</b>	<b>Address(es)</b>
Names of all current occupants of the land		
Names and current or last known addresses of all those owning the freehold of the land (ie. owner, head landlord, head lessor)		
Names and current or last known addresses of all those having a leasehold interest in the land (ie. tenant, intermediate landlord, intermediate lessor)		

**B4 Why you think the building or land is of community value**

Note that the following are not able to be assets of community value:-

- A building wholly used as a residence, together with land “connected with” that residence. This means adjoining land in the same ownership. Land is treated as adjoining if it is separated only by a road, railway, river or canal.
- A caravan site.
- Operational land. This is generally land belonging to the former utilities and other statutory operators.

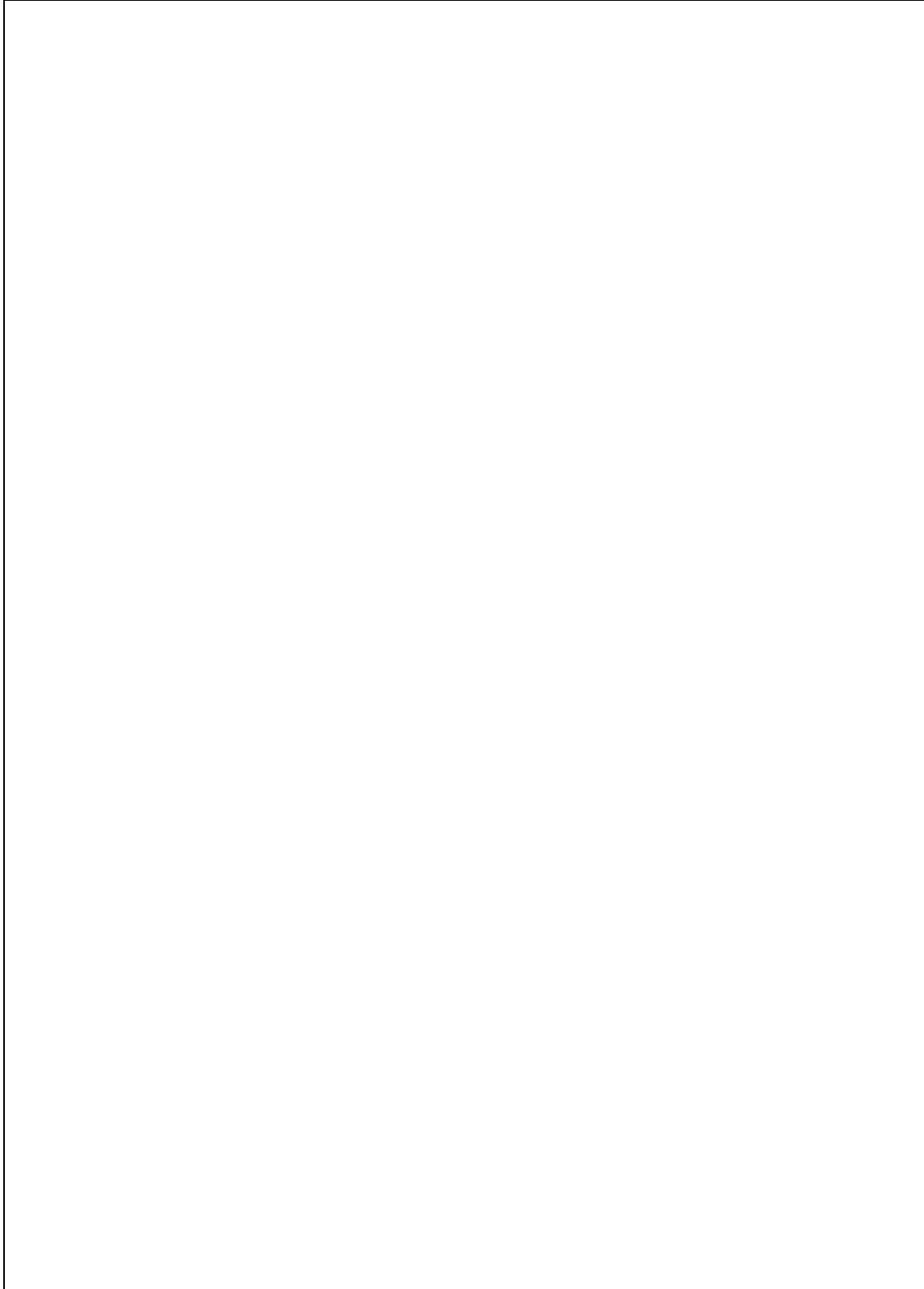
Does it currently further the social wellbeing or social interests\* of the local community, or has it done so in the recent past? If so, how?

Could it in future further the social wellbeing or social interests\* of the local community? If so, how? (This could be different from its current or past use.)

\*These could be cultural, recreational and/or sporting interests, so please say which one(s) apply.

**B5 How could the building or land be acquired and used in future?**

If it is listed as an asset of community value, community interest groups and others (not just limited to your organisation) will get the opportunity to bid for it if it comes up for sale. Please set out how you think such a group could fund the purchase of the building or land, and how they could run it for the benefit of the community.



**Section C: Submitting this nomination**

**C1 What to include**

- The rules of your organisation (question A8).
- Your map or sketch plan (question B2).

**C2 Signature**

*By signing your name here (if submitting by post) or typing it (if submitting by email) you are confirming that the contents of this form are correct, to the best of your knowledge.*

Signature

**C3 Where to send this form**

You can submit this nomination:-

- **By post to:** Head of Legal and Democratic Services, South Kesteven District Council, Council Offices, St. Peter's Hill, Grantham, Lincolnshire NG31 6PZ or
- **By email to:** [l.youles@southkesteven.gov.uk](mailto:l.youles@southkesteven.gov.uk)

**SOUTH KESTEVEN DISTRICT COUNCIL**

**Evaluation Criteria for the consideration of Assets of Community Value - to be considered only when all the relevant information has been received from the nominator and other interested parties**

<b>PART A NON-DISCRETIONARY CRITERIA</b>
<p><b>A1. Is the nominating organisation an eligible body to nominate?</b></p> <p>The types of organisations eligible for making a nomination are currently defined in Regulation 5 of the Assets of Community Value (England) Regulations 2012 as below:</p> <ul style="list-style-type: none"> <li>(a) a body designated as a neighbourhood forum pursuant to section 61F of the Town and Country Planning Act 1990(b);</li> <li>(b) a parish council;</li> <li>(c) an unincorporated body— <ul style="list-style-type: none"> <li>(i) whose members include at least 21 individuals, and</li> <li>(ii) which does not distribute any surplus it makes to its members;</li> </ul> </li> <li>(d) a charity;</li> <li>(e) a company limited by guarantee which does not distribute any surplus it makes to its members;</li> <li>(f) an industrial and provident society which does not distribute any surplus it makes to its members; or</li> <li>(g) a community interest company</li> </ul>
<p><b>A2. Does the nominating body have a local connection to the asset nominated?</b></p> <p>“Local Connection” is defined in detail in Regulation 4 of the Assets of Community Value (England) Regulations 2012.</p>
<p><b>A3. Does the nomination include the required information about the asset?</b></p> <p>This is set out in Regulation 6 of the Assets of Community Value (England) Regulations 2012 as follows:</p> <ul style="list-style-type: none"> <li>(a) a description of the nominated land including its proposed boundaries;</li> <li>(b) a statement of all the information which the nominator has of— <ul style="list-style-type: none"> <li>(i) the names of current occupants of the land, and</li> <li>(ii) the names and current or last-known addresses of all those holding a freehold or leasehold estate in the land</li> </ul> </li> </ul> <p>And;</p> <ul style="list-style-type: none"> <li>(c) a clear map showing the location of the property with an indication of the extent of the land included in the nomination</li> </ul>
<p><b>A4. Does the asset meet the definition of asset of community value and is not</b></p>

<p><b>one of the categories that cannot be assets of community value as set out in Schedule 1 of the assets of Community Value(England) Regulations 2012, as summarised below:</b></p> <ol style="list-style-type: none"> <li>1. A residence together with land connected with that residence</li> <li>2. Land in respect of which a site licence is required under Part 1 of the Caravan Sites and Control of Development Act 1960</li> <li>3. Operational land as defined in section 263 of the Town and Country Planning Act 1990.</li> </ol>	
<p><b>IF “YES” TO ALL OF PART A MOVE TO PART B IF “NO” TO ONE OR MORE OF PART A, INFORM NOMINATOR THAT NONINATION IS INELIGIBLE. PLACE ON LIST OF UNSUCCESSFUL NOMINATIONS.</b></p>	
<p><b>PART B - ESTABLISHING THE NON-ANCILLARY USE THAT THE APPLICATION IS BASED ON</b></p>	
<p><b>B1. Is the current or recent use which is the subject of the nomination an actual and non-ancillary use?</b></p> <p>NOTE 1: A working definition of “recent past” is “within the past three years”</p> <p>NOTE 2: A working definition of “non-ancillary” is that the use is not providing necessary support (e.g. cleaning) to the primary activities carried out in the asset, but is itself a primary, additional or complementary use.</p>	
<p><b>If the current or recent usage that is the subject of the nomination is actual and non-ancillary, go to PART C</b></p> <p><b>If not, PLACE ON LIST OF UNSUCCESSFUL NOMINATIONS</b></p>	
<p><b>PART C – Determining whether the use furthers social wellbeing or social interests</b></p>	
<b>Criteria</b>	<b>Weighting</b>
<p><b>C1. Who</b> benefits from the use?</p> <p>Does it meet the social interests of the community as a whole and not simply the users/customers of the specific service?</p> <p>Who will lose if the use ceases?</p>	25%
<p><b>C2. Is</b> any aspect of the use actively discouraged by the Council’s Policy and Budget Framework?</p>	25%
<p><b>C3. Why</b> is the usage seen as having social value in the context of the community on whose behalf the application is being made?</p>	25%
<p><b>C4. How</b> strongly does the local community feel about the usage as furthering their social interests?</p>	25%
<p><b>If the above meets a minimum scoring of 55%, go to Step D</b></p>	

<b>PART D – Realism of future usage</b>
<b>D. Is it realistic to think (for “current” uses) there will continue to be social use of the building or other land or (for “recent” uses) that it is realistic to think that there will be community use again within the next five years?</b>
D1. Has the building/land-take/space/legal requirement for this usage changed significantly since its initial use so that the asset is not fit for purpose?
<b>IF NO to D1 above, PLACE ON REGISTER OF ASSETS OF COMMUNITY VALUE</b>
<b>IF YES to D1 above, go to D2</b>
D2. Could the asset be made fit for purpose practically and within reasonable resource requirements and within timescales?
<b>IF YES to D2 above, PLACE ON REGISTER OF ASSETS OF COMMUNITY VALUE</b>
<b>IF NO to D2 above, PLACE ON LIST OF UNSUCCESSFUL NOMINATIONS</b>