



Community Right to Buy

Consultation response form

We are seeking your views on the following questions on the Government's proposals to introduce a Community Right to Buy – Assets of Community Value.¹ **If possible, we would be grateful if you could please respond by email.**

Please email: crtbuy@communities.gsi.gov.uk

Alternatively, we would be happy to receive responses by post. Please write to:

Community Right to Buy Consultation Team
Department for Communities and Local Government
5/A3 Eland House
Bressenden Place
London SW1E 5DU

The deadline for submissions is 5pm on Tuesday 3 May 2011.

(a) About you

(i) Your details

Name:	Gemma Bradshaw
Position:	Policy Adviser - Communities and Transport
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¹ DCLG (2011) Proposals to introduce a Community Right to Buy – Assets of Community Value: Consultation paper.
see: www.communities.gov.uk/corporate/publications/consultations

(ii) Are the views expressed on this consultation an official response from the organisation you represent or your own personal views?

Organisational response	<input checked="" type="checkbox"/>
Personal views	<input type="checkbox"/>

(iii) Please tick the *one* box which best describes you or your organisation:

Voluntary sector or charitable organisation	<input checked="" type="checkbox"/>	
Local authority (i.e. district, London borough, county council)	<input type="checkbox"/>	
Parish council	<input type="checkbox"/>	
Business	<input type="checkbox"/>	
Landowner	<input type="checkbox"/>	
Land conveyancer	<input type="checkbox"/>	
Other public body (please state)	<input type="checkbox"/>	
Other (please state)	<input type="checkbox"/>	

(iv) Do your views or experiences mainly relate to a particular type of geographical location?

City	<input type="checkbox"/>	
London	<input type="checkbox"/>	
Urban	<input type="checkbox"/>	
Suburban	<input type="checkbox"/>	
Rural	<input type="checkbox"/>	
Other (please comment)	<input type="checkbox"/>	

(vi) Would you be happy for us to contact you again in relation to this consultation?

Yes	<input checked="" type="checkbox"/>
No	<input type="checkbox"/>

(b) Consultation questions

Section 3 – Definition of Asset of Community Value

Q1. Do you agree that the regulations should give local authorities the power to decide what constitutes an asset of community value based on a broad definition of 'local community benefit' and a list of excluded assets?

Yes	<input type="checkbox"/>
No	<input checked="" type="checkbox"/>

If No, why not?

The aim of the community right to buy is to shift the initiative to local people, to give them a chance to protect assets of community value. The definition should therefore be decided locally in a partnership between the local authority and the local community. Community involvement in defining 'community value' or 'local community benefit' is therefore essential to make this an open and democratic process.

There should be recognition that communities are diverse. From an equality perspective it is feasible that an asset may be of value to a section of the population, e.g. BME older people, but not to others. It will be important that in making these decisions that the local authority or parish council is mindful of its obligation under the equality duty to promote equality of opportunity and, perhaps even more importantly here, foster good relations between groups.

Q2. If yes, (a) do you agree with the factors listed above that the local authority should take into consideration when deciding whether a piece of land or building is an asset of community value?

Yes	<input type="checkbox"/>
No	<input checked="" type="checkbox"/>

Further comments:

Possible factor: Price or value

This factor could rule out a large number of buildings. It makes a number of assumptions about the transaction between the community group trying to purchase the asset and the property owner. For instance, it rules out any possible negotiation over future price. It also makes the assumption that the communities size and reach is

fundamentally limited.

Additional factor: Equality

There should be an additional factor added to this list to recognise the impact that listing assets may have on equality. There should be consideration of the extent to which the asset may have the potential to promote equality of opportunity or foster good relations.

(b) Should these be set out in regulations?

Yes	<input checked="" type="checkbox"/>
No	<input type="checkbox"/>

Further comments:

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Q3. We envisage that the definition of 'land of community value' would not include a piece of land or a building which the nominator suggests has a potential use as opposed to former or current use – do you agree?

Yes	<input checked="" type="checkbox"/>
No	<input type="checkbox"/>

If No, why not?

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Q4. Are there other areas that you believe should be explored further to strengthen the Community Right to Buy?

Yes	<input checked="" type="checkbox"/>
No	<input type="checkbox"/>

If Yes, what?

The community right to buy is triggered only when the asset comes forward for sale. However, by putting the asset on the lists of assets of community value the community have shown they have an interest and stake in the future of this asset. Therefore they should be consulted when there is a major change to this asset, notably demolition or through planning change of use.

The individuals that put the asset on the list (the 'nominator') should be

notified before a change to the asset is planned. In addition, there should be an opportunity for negotiation when different options for the future of the asset can be considered. The property owner would still have the final say in the same way as they do in the community right to buy process, but it would give the time and opportunity for the community to negotiate a better outcome.

Q5. Do you agree that all residential property should be excluded from being listed as an asset of community value, except where the accommodation is tied to the asset of community value or is integral to the working of the asset?

Yes	<input checked="" type="checkbox"/>
No	<input type="checkbox"/>

If No, why not?

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Q6. Are there other types of land or buildings that should be excluded from being listed as assets of community value?

Yes	<input type="checkbox"/>
No	<input checked="" type="checkbox"/>

If yes, what?

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Section 4 – Ways in which assets may be nominated and listed

Q7. Do you agree that the nomination process should be open to any group or individual and that they should have a 'local connection'?

Yes	<input checked="" type="checkbox"/>
No	<input type="checkbox"/>

If No, why not?

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Q8. How else could an individual or group be defined as having a 'local connection'?

While the principle of having a local connection is important to ensure the community right to buy is used for community value rather than other needs, the nomination process should not be too restrictive. It should be as open as possible to the local community.

The definition of 'within a specified proximity' is an important part of the local connection definition, which needs to be considered carefully. For instance, people do not stop using a post office because they live or work in another council boundary. The asset would have a community value to them even though they do not meet the local connection criteria, because they are outside of the specified proximity.

Q9. Are there other process(es) by which an asset of community value should be listed?

Yes	<input type="checkbox"/>
No	<input checked="" type="checkbox"/>

If Yes, what?

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Section 5 – Information to be included in community nominations

Q10. Should (a) the regulations specify the minimum information that should be included in a community nomination?

Yes	<input checked="" type="checkbox"/>
No	<input type="checkbox"/>

Further comments:

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(b) Or should this be left to the local authority's discretion?

Yes	<input type="checkbox"/>
No	<input checked="" type="checkbox"/>

Further comments:

In order for the process to be inclusive and attract wide community

involvement it should be a simple nomination process.

Q11. If you think the regulations should specify the contents of a community nomination, is there other information that should be included?

Section 6 – The procedure for listing assets

Q12. Do you agree that owners should be informed before the local authority makes a decision whether to list the asset or not?

Yes	<input checked="" type="checkbox"/>
No	<input type="checkbox"/>

If No, why not?

Q13. Should the local authority be required to follow any other procedures when deciding whether to list an asset?

Yes	<input checked="" type="checkbox"/>
No	<input type="checkbox"/>

If Yes, what?

As mentioned in response to earlier questions, local authorities should consider this procedure in line with the public sector equality duty.

Section 7 – Notification about inclusion and removal of a listed asset

Q14. Is there anyone else (other than the owner, occupier and nominator) the local authority should inform of inclusion or removal of a community asset from the list?

Yes	<input type="checkbox"/>
No	<input checked="" type="checkbox"/>

If Yes, who?

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Q15. Is there other information (other than that listed in paragraph 7.3) that should be included in the notification of inclusion of an asset on the list?

Yes	<input type="checkbox"/>
No	<input checked="" type="checkbox"/>

If Yes, what?

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Q16. Do you agree that an asset should be removed from the list of assets of community value once the local authority knows that it has been sold as a result of a relevant disposal?

Yes	<input type="checkbox"/>
No	<input checked="" type="checkbox"/>

If No, why not?

The community value is based fundamentally on existing or previous use and therefore the asset would continue to be of community value and should stay on the list. The sale of the asset does not necessarily mean that it will be owned by the community. Future sales should present an opportunity for communities to try and purchase the asset, which means that the asset.

Q17. Should local authorities be able to remove an asset from the list if it is no longer considered to be of community value?

Yes	<input type="checkbox"/>
No	<input checked="" type="checkbox"/>

Further comments:

<p>The community value is based fundamentally on existing or previous use and therefore the asset would continue to be of community value. It is difficult to see what change would occur that would lead the local authority to deem it as no longer being of community value.</p> <p>As suggested in the response to question 4, the people that nominated the asset as having community value should be notified before any significant change to the asset is planned.</p>
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Q18. Is there other information that should be included in the notification of removal of an asset from the list of assets of community value?

Yes	<input checked="" type="checkbox"/>
No	<input type="checkbox"/>

If Yes, what?

The notification should come before the removal of an asset from the list. The local authority should not make this decision in isolation, but after taking representations from the nominator and property owner.

Q19. Are there other ways (in addition to those listed in paragraph 7.11) in which an unknown landowner, or an owner whose current address is not known, might be contacted and notified that their land has been included on or removed from the list of assets of community value?

Yes	<input type="checkbox"/>
No	<input checked="" type="checkbox"/>

If Yes, what?

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Section 8 – Content and publication of the list of assets of community value and the list of land nominated by unsuccessful community nominations

Q20(a). Do you agree that local authorities should decide the most appropriate ways to publicise the lists and bring them to the attention of the community and other interested parties, beyond what is set out in the Bill?

Yes	<input type="checkbox"/>
No	<input checked="" type="checkbox"/>

(b) If not, what further requirements should be set out in regulations?

Publication of these lists needs to be in print and online, in a format easily understandable and useable by communities. 60% of over 65s have never used the internet, which means alternative formats must be available. This will be required for compliance with the public sector equality duty.

Section 9 – Right of appeal for landowners

Q21. Do you agree with the suggested period (28 days) for requesting an internal review?

Yes	<input checked="" type="checkbox"/>
No	<input type="checkbox"/>

If No, why not?

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Q22. Is there any other information (in addition to what is listed in paragraph 9.3) the owner should provide?

Yes	<input type="checkbox"/>
No	<input checked="" type="checkbox"/>

If Yes, what?

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Q23. Do you agree with the proposed timescale of 6 weeks for the local authority to complete the internal review?

Yes	<input checked="" type="checkbox"/>
No	<input type="checkbox"/>

If No, why not?

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Q24. Do you agree that the review should normally be undertaken by an officer in the local authority who is equal in rank to or more senior than the officer who took the decision to list the asset and who was not involved in the original decision-making?

Yes	<input checked="" type="checkbox"/>
No	<input type="checkbox"/>

If No, why not?

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Q25. Do you think that the landowner should be entitled to an oral hearing as part of the internal review?

Yes	<input checked="" type="checkbox"/>
No	<input type="checkbox"/>

If Yes, in what circumstances?

Any oral hearing should allow for both the landowner and the nominator to have their points of view heard (see response to question 26).

Q26. Should anything else be included in the internal review process?

Yes	<input checked="" type="checkbox"/>
No	<input type="checkbox"/>

If Yes, what?

The review should take equal representation from the property owner and nominator. The appeal system should encompass both views and be able to mediate the arguments to find a fair and transparent conclusion.

Q27. Should formal provision be made for landowners to appeal to a court or tribunal if they are dissatisfied with the outcome of the local authority's internal review?

Yes	<input type="checkbox"/>
No	<input checked="" type="checkbox"/>

Further comments:

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Section 10 – Length of the windows of opportunity and protected period

Q28. Do you agree with the proposed length of the interim period (6 weeks)?

Yes	<input type="checkbox"/>
No	<input checked="" type="checkbox"/>

If No, why not?

This is an extremely short timescale to make an important financial decision such as this.

Q29. Are there any other kinds of groups that should be allowed to make a request to be treated as a potential buyer during the interim window of opportunity period, thereby triggering the full period?

Yes	<input type="checkbox"/>
No	<input checked="" type="checkbox"/>

If Yes, who?

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Q30. Do you prefer option (a) 3 months; or option (b) 6 months; or option (c) other?

3 months	<input type="checkbox"/>
6 months	<input type="checkbox"/>
Other	<input checked="" type="checkbox"/>

If 'other', how long should the full window of opportunity be?

The moratorium must be a minimum of 6 months – this must be explicit and not left to local councils to determine. There should be room for negotiation to extend these timescales. For instance, provision for an extended moratorium (e.g. for 12 months) where community groups can demonstrate good progress.

Q31. Do you agree with the proposed length of the protected period (18 months)?

Yes	<input checked="" type="checkbox"/>
No	<input type="checkbox"/>

If No, why not?

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Section 11 – Exempt disposals and permitted sales within the full window of opportunity

Q32. To what extent should we allow for cases of partial occupation (as set out in paragraph 11.3)?

Comment:

There should be consideration of multiple-use of buildings. The regulations and guidance should take this into account.
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Q33. Are there other disposals (in addition to those listed in paragraph 11.4) that should be exempt?

Yes	<input type="checkbox"/>
No	<input checked="" type="checkbox"/>

If Yes, what?

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Q34. Are there other circumstances (in addition to those in paragraph 11.6) under which sales should be permitted within the window of opportunity?

Yes	<input type="checkbox"/>
No	<input checked="" type="checkbox"/>

If Yes, what?

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Q35. Do you agree with the list of groups in paragraph 11.7 that could be eligible to purchase an asset during the window of opportunity?

Yes	<input checked="" type="checkbox"/>
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No	<input type="checkbox"/>
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If No, why not?

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Section 12 – Compensation for landowners

Q36. Do you agree with the proposal in paragraphs 12.3 and 12.4 (that compensation should be based on costs incurred as a result of the procedural requirements of the scheme)?

Yes	<input type="checkbox"/>
No	<input type="checkbox"/>

If No, why not?

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Q37. Do you agree that compensation claims should be considered and paid for by the local authority?

Yes	<input type="checkbox"/>
No	<input type="checkbox"/>

If No, why not?

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Q38(a). Do you agree that only private landowners should be entitled to claim compensation?

Yes	<input type="checkbox"/>
No	<input type="checkbox"/>

If No, why not?

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(b) What do you think the definition of 'private landowner' should be?

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Q39. Do you agree with the proposed time limit of 90 days for making a compensation claim?

Yes	<input type="checkbox"/>
No	<input type="checkbox"/>

If No, how long do you think the time limit should be?

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Q40. Do you agree with the proposal in paragraph 12.8?

Yes	<input type="checkbox"/>
No	<input type="checkbox"/>

If No, why not?

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Q41. Do you agree with the proposal in paragraph 12.10?

Yes	<input type="checkbox"/>
No	<input type="checkbox"/>

If No, why not?

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Q42(a). Should landowners be entitled to appeal against a local authority's decision about compensation?

Yes	<input type="checkbox"/>
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No	<input type="checkbox"/>
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(b) If Yes, on what basis?

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Section 13 – Enforcement of the regulations

Q43. Do you agree that an enforcement regime is required?

Yes	<input type="checkbox"/>
No	<input type="checkbox"/>

If Yes:

Q44. Do you have any comments on the process of enforcement?

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Q45. Are there alternative approaches to enforcement that you would propose?

Yes	<input type="checkbox"/>
No	<input type="checkbox"/>

If Yes, what?

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Section 14 – Support and Guidance

Q46. What support would be most helpful?

The regulations must provide everyone with the support they need to engage. The community right to buy is not simple to use. It will first require an understanding of how the right to buy works and the limits to implementing it. If they decide to attempt to purchase an asset there are a range of skills needed, such as setting up a community organisation; business planning;

property law; access to capital funds.

We believe that, at the very least, local authorities should be required to publish guides on new community powers. This should be taken further to provide access to the training and skills to support communities through this process.

There should be further consideration of the capacity building packages needed to make this an inclusive community right, reaching out to socially excluded older people.

In addition to this detailed feedback should be provided to unsuccessful bidders after the process so that agencies can learn lessons for the future.

(c) Additional questions

Do you have any other comments you wish to make?

END