

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:	Steve Humphrey
Position:	Director, Planning, Transport and Leisure
Name of organisation (if applicable):	Tonbridge and Malling Borough Council
Address:	Gibson Drive, Kings Hill, West Malling, Kent ME19 4LZ
Email:	steve.humphrey@tmbc.gov.uk
Telephone number:	01732 876256

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 type="checkbox"/>	
Local authority (i.e. district, London borough, county council)	<input checked="" 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 checked="" type="checkbox"/>	
Suburban	<input checked="" type="checkbox"/>	
Rural	<input checked="" 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 checked="" type="checkbox"/>
No	<input type="checkbox"/>

If No, why not?

--

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:

<p>The local authority should not be placed in a position of making judgements about the value of property and its potential affordability by community groups. If the scheme is to be implemented then that is a matter for local groups to consider.</p>

(b) Should these be set out in regulations?

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

Further comments:

<p>The other matters listed should be clearly set out in regulations to avoid doubt in the application of the scheme.</p>
--

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?

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

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

If Yes, what?

The consultation paper suggests the possibility of changes to planning legislation to protect registered community assets from demolition. Such a move could complement the proposals in the consultation by providing certainty of retention during the 'window of opportunity'. But importantly such proposals should ONLY be considered subject to no further compensation burden on local authorities and it being absolutely recognised that applications for demolition of a community asset could be properly justified, on application, by other material planning considerations that could outweigh the community value of retention.

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?

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?

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

If No, why not?

Whilst local connection is paramount and should be defined as far as possible to avoid uncertainty, consideration should also be given to quality criteria to determine the essential ability and inclination of groups to advance a nomination in the interests of the local area

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

See Q9 above

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?

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:

If any scheme is to be implemented it is important that the element of doubt is removed as far as possible in terms of information provision.

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

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

Further comments:

See a above

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

A clear statement of intent as to the purpose of the nomination in terms of future use and evidence to demonstrate both proposals of the group and capability/practicality of implementation

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 type="checkbox"/>
-----	--------------------------

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

If Yes, what?

--

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

If Yes, who?

The appropriate Parish or Town Council if it is not the nominating group

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?

--

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

If No, why not?

--

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

Further comments:

It is important to recognise that a permitted change in planning use or redevelopment could result in the original asset no longer being justified for inclusion

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

If Yes, what?

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?

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

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

--

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?

--

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?

--

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 checked="" type="checkbox"/>

If No, why not?

See Q 24 below

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

If No, why not?

There may be cases where the matter is of considerable local concern, controversy and public interest to make it a matter appropriate for elected members to determine.

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?

If such a hearing is requested by either party then provision should exist for a public hearing.

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

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

If Yes, what?

--

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:

--

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

If No, why not?

If the proposals are to be implemented this seems reasonable

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?

--

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 checked="" type="checkbox"/>
Other	<input type="checkbox"/>

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

If the proposals are to be implemented then it follows that a period of 6 months is reasonable for a group to organise itself and attract funding. Any shorter period would seem to constraint the opportunity to do this.

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?

--

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:

Partial occupation would appear reasonable but in respect of this aspect of the scheme it should be judged on the merit of the individual case in hand.
--

Q33. Are there other disposals (in addition to those listed in paragraph 11.4) that should be exempt?

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

If Yes, what?

--

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

If Yes, what?

Sale to a local authority

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

If No, why not?

See Q 34

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 checked="" type="checkbox"/>

If No, why not?

The arrangements for compensation must be fair and reflect the loss of 'normal' property rights. Consequently compensation should be considered for loss of contractual arrangements and other related matters.

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

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

If No, why not?

Although maintaining and administering the assets register is proposed be a duty of local authorities, compensation for loss as a result of the procedure is a proposed burden entirely unrelated to the direct responsibilities of local authorities and could lead to significant pressures on already overburden local authority resources

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

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

If No, why not?

There seems to be no reason for distinguishing between private and public ownership.

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

See above

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

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

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

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

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

If No, why not?

Compensation should not be a matter for local authorities

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

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

If No, why not?

See Q 40 above

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

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

(b) If Yes, on what basis?

See Q 40 above

Section 13 – Enforcement of the regulations

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

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

If Yes:

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

Unless an enforcement process is included the proposals, if implemented, would be toothless. The method proposed through the civil courts between parties seems appropriate rather than for local authority involvement.

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

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

If Yes, what?

--

Section 14 – Support and Guidance

Q46. What support would be most helpful?

N?A

(c) Additional questions

Do you have any other comments you wish to make?

END