

From 'Localism Bill: Neighbourhood Plans and Community Right to Build Impact Assessment'
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THE COMMUNITY RIGHT TO BUILD

Background

The planning system can frustrate the ability of communities, particularly rural ones, to see the development that they want brought forward. Reforms to the planning system will provide a toolbox of options for bringing forward development proposals depending on what best suits their own needs: the conventional planning application route; neighbourhood planning, which will give people greater ownership of plans and policies that affect their local area; and the Community Right to Build where communities want to bring forward specific small scale development where the benefit of development will be retained by the community, for the community, through a streamlined, light-touch neighbourhood planning process.

Recognising that Community Right to Build schemes are likely to be small scale development, and that proposals will be for specific development proposals, where the community wants to maintain the benefit of the development for the community, proposals will follow a streamlined neighbourhood planning process (a Community Right to Build Order). The key differences will be that schemes will be subject to lighter consultation requirements; will not be subject to the same level of examination; and there will be less of a role for local planning authorities to approve schemes. Community groups therefore can use this new tool to take forward small scale developments that have local backing (more than 50 per cent of the community in a referendum), even where the local authority is opposed. Community Right to Build will apply to all areas, urban and rural, but is most likely to be relevant in rural areas, where communities seek additional affordable housing or shops or facilities to support rural life.

Community Right to Build schemes will be able to be brought forward by community groups established as a corporate body by members of the local community. (The definition of communities will follow the approach to neighbourhood areas in neighbourhood planning.) This will ensure that proposals are community-led and that there are arrangements to manage the benefit from development for the community. We envisage that the type of community led developments brought forward through Community Right to Build will be small-scale (e.g. 5-10 homes). Schemes eligible to use the streamlined neighbourhood planning process will be limited in size and should not be able to exceed 10 per cent of existing development over a 10 year period.

The type, quantity and design of development to be built will be for the community group to decide. It will be for the community to identify suitable land, finance and development options, including any long term management and maintenance arrangements. Community groups taking up the Right to Build may also want to make use of the proposed Right to Buy and Right to Challenge as part of their proposals (e.g. acquiring land or buildings or running community services). Schemes which require an Environmental Impact Assessment are likely to have a significant impact in terms of Habitats Regulations will not be eligible for Community Right to Build.

On receipt of a Community Right to Build Order, applications local planning authorities will need to confirm that the application is valid, including that it is from a community group, it does not cover excluded development (e.g. which would require an Environmental Impact Assessment) and is within acceptable development thresholds (i.e. not exceeding 10 per cent over 10 years). Valid Community Right to Build Order

applications will then be assessed by an independent examiner, nominated by the community organisation promoting the proposal in agreement with the local planning authority, and appointed by the authority. The independent examiner will assess:

- The proposal against national policy
- Whether the proposal is in general conformity with strategic policies in the development plan for the area
- Whether an order would breach or is otherwise compatible with EU obligations,
- Whether the proposal is consistent with convention rights for human rights and
- The geographical extent of the referendum

The independent examiner's report will be binding for the local planning authority with the exception that the local planning authority is able to consider modifications in order to ensure EU obligations are not breached, that it is compatible with convention rights, and the extent of the referendum.

If the independent examiner recommends that a referendum is held, the council must hold a referendum. Where more than 50 per cent of those who vote in the referendum vote in favour the local planning authority will have a duty to approve a Community Right to Build Order giving planning approval for the proposed scheme. The Community Right to Build Order gives approval to build, but in the same way as all other planning approvals, community groups will still need to acquire land to be able to take forward development as well as meeting any other consent regimes (e.g. building regulations).

Support arrangements will be put in place to help community groups that wish to bring forward Community Right to Build schemes, potentially including seed-corn revenue funding for community groups to help them develop proposals, as well as a range of practical advice and signposting community groups to existing centres of expertise.