



## Localism Bill - “Community Right to Buy” (assets of community value) Supplementary briefing 6 July 2011

Following the discussion at Lords Committee on 5 July, Locality (representing over 600 leading community organisations across the UK) would like to ask the Committee to consider the following points:

### 1. Avoiding a disincentive for community uses

Several Lords have expressed concern that an unintended consequence of the proposals will be to discourage property owners from permitting occasional uses of their land or buildings for community purposes, eg sports activities. We understand this concern, and would also want to avoid such a consequence. We can see two possible remedies:

#### a) Our preferred approach: a focus on assets of potential community value

We do not agree with the narrow focus on assets that can be demonstrated to have community value in the past or currently. We think the measures should also be designed to stimulate the creativity and energy of local people to find *fresh solutions* to underused or failing assets. In particular circumstances, redundant warehouses, mills, railway arches, shops, offices, bank buildings, for example, as well as wasteland, can be and have been successfully converted into community assets of significant and lasting value. It would be up to the community to persuade the local authority that the potential to find fresh solutions for particular land or buildings is sufficiently strong and of significant community benefit for the asset to be listed. Refocusing on potential use would not only stimulate far more transformative community-led solutions, but also take away the requirement that previous community use should be the main determining factor in whether to list, and therefore significantly reduce the risk of discouraging property owners from allowing community uses on a voluntary basis.

#### b) Alternative approach: exclude assets where community value is ancillary

We strongly urge that our preferred approach is adopted. But if that were not the case, then we believe that the least damaging way forward would be to draw a distinction between assets of community value, which local authorities should list, and assets where the community value is ancillary, which local authorities should not list, as proposed by amendment 136ZBA. However, it must be made clear that the exemption should only apply where the community value is genuinely minor and incidental. If for example a piece of land is the *only* open space available for sports in a village or an urban neighbourhood, or if the land was used for events which were of *outstanding significance* for the community, even if occasional, or if current or previous use by the community was limited to certain days but on a *frequent basis* (every weekend for example), then in such cases the local authority should still have the powers to determine that it is an asset of community value, and that the community value is not ancillary, and include it on the list.

## 2. Length of the Moratorium Period

We are aware that there are different views about the length of the moratorium period. It is our firmly held belief, based on nearly twenty years experience of working with community groups to help them acquire community assets, and also helping public and private property owners transfer assets successfully, that the minimum length of the moratorium period should be six months.

Ideally we would like a longer period but we are aware of the need to balance different interests. Anything less than six months would tilt the balance much too far, and render these provisions of little or no practical benefit in the huge majority of cases, for even the most determined and capable communities.

Please see appendix b) of our earlier Lords briefing , on page 8 below, for more detail on this.

**Steve Wyler**  
**Chief Executive**  
t: 020 7336 9403 | e: [steve.wyler@locality.org.uk](mailto:steve.wyler@locality.org.uk)

**Locality**  
33 Corsham Street, London N1 6DR  
t: 0845 458 8336 | w: [locality.org.uk](http://locality.org.uk)

6 July 2011



## Briefing for House of Lords

Locality is the nationwide movement of communities ambitious for change. We have a membership of over 600 community organisations from across the UK. Our members are multi-purpose and community led, and include settlements, development trusts, social action centres and community enterprises. Our members have expertise in community asset ownership, collaboration, commissioning, social enterprise, community voice and advocacy. Our vision is for every community to be a place of possibility.

Locality has over twenty years of experience in supporting community groups to acquire assets, large and small, from public and private vendors, for the benefit of the whole community.

For many years our movement has been arguing for a ‘Community Right to Buy’ to be introduced in England. We believe the proposal for a Community Right to Buy in the Localism Bill, is an important and symbolic step forward and, if introduced effectively, has the potential to provide a very significant additional mechanism for community groups to acquire their own assets whilst increasing their confidence, independence, and capacity to deliver valuable services to local people.

Locality is aware of a number of misconceptions currently circulating about the Community Right to Buy proposals. We have developed this briefing to help inform the discussion on these proposals at the House of Lords, and to highlight the facts about how a Community Right to Buy can have real and positive benefits for communities across England.

### 1. Why the Community Right to Buy matters

The “Community Right to Buy” proposals in the Localism Bill, if introduced properly, will create very real benefits for many hundred of communities, rural and urban, affluent and deprived, across the whole country.

We believe that the proposals in the Localism Bill will achieve these benefits with the minimum of inconvenience to asset owners, and with effective safeguards against misuse of the powers.

Healthy viable communities are in the long term interests of all members of society, from public agencies, community groups, private landowners and service users. The Community Right to buy is a significant step in realising the aspirations of localism, the Big Society/Good Society, community regeneration, and social enterprise - aspirations which are to a high degree shared across the political spectrum.

Appendix A provides further details of the benefits of the Community Right to Buy proposals, but in brief we see the benefits as follows:

- The Community Right to Buy will allow assets that local people really care about to be used successfully for community benefit - creating possibilities for pubs, village shops, community centres, job-creating workspace, affordable housing, sports and arts facilities, community gardens, allotments, and so on.

- Sometimes it will be about saving and safeguarding a particular facility for the future - the community taking on the last pub in a village for example. In other cases it will be about transforming and combining services and facilities, often turning blight into benefit - for example a disused building which could in community hands provide the basis for a combination of activities, such as a community meeting space, a training centre for young people, a health clinic, office space for social enterprise start-ups.

We know from several hundred examples across the country just how successful this approach can be - it is one of the great British success stories of recent years. The Community Right to Buy will give communities the chance to do a lot more of this, in many more places, in the coming months and years.

## 2. Misconceptions about the Community Right to Buy

It is important to clarify that the term 'community right to buy' is in fact a misnomer. The provisions in the Bill:

- **Do not force a sale.**
- **Do not give community groups right of first refusal if land or buildings come up for sale (unlike the legislation in Scotland).**
- **Do not force landowners to sell to any particular bidder.**

In fact, the proposals in the Localism Bill are very limited. In essence they will create a listing of 'assets of community value' and a window of opportunity for community groups to bid for assets on the list, if they come up for sale.

Local authorities, as the democratically accountable local bodies, will determine which assets should be on the list. If an asset is listed, when the owner decides to sell, there will be a moratorium period of a few months, to allow community organisations time to prepare a bid proposal and raise finance. Moreover, to minimise inconvenience, during the moratorium period there will be a cut off point so that if no community groups have registered interest in the first few weeks, the owner can proceed with a sale in the normal way without waiting to the end of the full moratorium period.

Specific misconceptions that Locality would like to highlight include:

- **Inconvenience to landowners**  
For those exceptional assets where the local authority has determined there is real community value, there will simply be a short delay of a few months in the selling process - or only a few weeks if there are no expressions of interest. We believe that this is an acceptable delay to achieve the potential benefits for the community and also for landowners, as it could in fact result in a higher demand for the purchase of their property.
- **A disincentive to allowing community use on a voluntary basis?**  
The Country Land and Business Association (CLA) claims that the provisions in the Bill will act as a disincentive for landowners to allow access to the community to their property on a voluntary basis. One example they gave us was of a landowner who allows villagers to use land on his estate for occasional games of cricket. The CLA claims that, in cases like this, if a pattern of community use were established the property would be more likely to be listed as an 'asset of community value'.

We think that this problem is wildly exaggerated by the CLA. The factors which the local authority should take into account should be wide-ranging (as indeed the draft guidance indicates) and as indicated above should in our view include not only previous or current community use of property, but also potential use - for example a piece of wasteland which could be converted into a children's playground, or a disused warehouse which could become offices for start-up social enterprises. If local authorities were required through regulations to consider the full range of possible uses, any previous occasional voluntary generosity by a landowner would be by no means the sole or principal determining factor in deciding whether to list an asset.

- **The length of the moratorium period**

The CLA has suggested that, if the provisions do go ahead, the moratorium period should be reduced to a mere three months in total. As they must be aware, the effect of this would be to make nonsense of the entire provisions. All the evidence we have from the last twenty years of supporting community groups to acquire assets, large and small, from public and private vendors, is that even six months is a very tight timeframe for community groups to confirm their interest, assess viability, raise the finance, and deal with any legal or other complications, and that three months, in nearly all cases, is completely impossible. See appendix B for more detail.

- **Lifetime transfer?**

The CLA have told us a primary concern is that the provisions in the Bill would hinder 'lifetime transfer', whereby landowners hand down their property from generation to generation by means of transfer during the landowners' lifetime, thereby avoiding inheritance tax if property is transferred at least seven years before the owner dies.

In fact, as the CLA well knows, the provisions would certainly not prevent lifetime transfer. They would merely create an additional time period for a community organisation to make an offer, which could of course be rejected. So if landowners wanted to avoid inheritance tax they could still do so, and would merely need to be aware that in practice seven years and six months would need to elapse before they die, if the moratorium period were to be six months.

Moreover, it should also be noted that transfer through inheritance is already specifically excluded in the provisions.

- **Attack on property rights?**

Finally, the CLA also expressed the view that the provisions are a fundamental attack on property rights, because they represent a barrier to the right of a landowner to sell property.

We have to say we do not agree. The provisions only create a short delay. And in fact, in some cases the effect should be helpful to landowners, by increasing rather than diminishing the number of potential purchasers, because community groups will have time to prepare a bid.

## **Conclusion**

So, in conclusion, we hope the House of Lords will take a larger view, of the wider community and public benefits which will be produced by the Community Right to Buy proposals, and will not allow the narrow views of a vested-interest minority to derail these proposals, which mean so much to so many communities across the country.

## **3. Further information**

If you would like any further details, including case studies or evidence to support this briefing, please contact:

**Steve Wyler**

**Chief Executive**

**t:** 020 7336 9403 | **e:** [steve.wyler@locality.org.uk](mailto:steve.wyler@locality.org.uk)

**Locality**

33 Corsham Street, London N1 6DR

**t:** 0845 458 8336 | **w:** [locality.org.uk](http://locality.org.uk)

June 2011

## Appendix A : Benefits of a Community Right to Buy

We are strongly in favour of the new community right to buy. For many years we have been arguing for something like this to be introduced in England, following the experience of Scotland.

In Scotland the legislation is over-burdensome (it has been considerably simplified in the version proposed for England). However, combined with financial support from the Big Lottery Fund and others, as well as effective practical assistance to community groups from bodies such as Highland and Islands Enterprises, hundreds of community purchases of land and buildings have been achieved, to the point where over half of the Western Isles are now in community ownership, resulting in a revival of rural economies, expanding populations after generations of decline, and renewed confidence and pride.

In England, in the absence of this legislation, progress has been slower, but nevertheless the 400 community groups in Locality's membership in England, over many decades, have acquired and developed over £600m of assets, from private and public sources.

Many of these assets were previously liabilities: disused buildings, empty wasteland. Some were schools, libraries, town halls, offices which has become redundant. In 2007 the government commissioned a report from Barry Quirk, Chief Executive of Lewisham Council, and local government efficiency advisor to Government, on the risks and benefits of community asset transfer.<sup>1</sup> His conclusion was highly influential - that as part of good portfolio management by public bodies, the option of community asset transfer should be considered, and that while there are risks, they can, and have been, successfully managed. He also drew attention to the potential long term benefits for community of successful community asset ownership, in economic, environmental and social terms.

Programmes to promote community asset transfer followed, and the Asset Transfer Unit was established, managed by Locality in partnership with others including the Local Government Association. The appetite from community groups was extremely strong, and in 2010 the Asset Transfer Unit estimated that 1,000 community asset transfer schemes were being attempted across England.

There are many success stories, as can be seen on the Locality website [www.locality.org.uk](http://www.locality.org.uk) and the Asset Transfer Unit website [www.atu.org.uk](http://www.atu.org.uk), ranging from the early pioneers like the Westway Development Trust which took over 40 acres of derelict land under the A40 in West London, to create a thriving community, to the Hudswell Community Pub in North Yorkshire where local villagers bought a failing pub in 2010 and have safeguarded a vital community resource.

However, a major impediment has been a lack of a window of opportunity, to allow time for community groups to bid for key assets in their neighbourhood, before they are sold on the open market - and often key assets of huge community significance have slipped through their fingers as a result.

The Community Right to Buy is therefore an important practical and symbolic step forward. If introduced effectively, it has potential to provide a very significant additional mechanism for community groups to acquire their own assets whilst increasing their confidence, independence, and capacity to deliver to local people.

---

<sup>1</sup> Making Assets Work: the Quirk Review of community management and ownership of public assets, CLG, 2007.

## Appendix B: the length of the moratorium period

We are very aware that the length of the moratorium period should strike the right balance between the interests of property owners and the challenges facing community groups. We think a sensible way forward is that the moratorium period should be a minimum of six months, with the option for the local authority to extend for up to a further six months, if the circumstances of individual cases require this.

We have been working with community groups on community asset transfer from both public and private property for nearly twenty years and our experience is certainly that three months would be wholly inadequate for this purpose, and even six months is too short in some situations. For a community organisation to express an interest, establish a viable business model, undertake detailed feasibility work, including surveys and searches, deal with any technical or legal or planning complications, develop partnerships (if necessary), and not least raise the necessary finance (often a mix from grant funders, public funds, donations or community shares, bank finances, loans from social lenders), our experience that even six months is a very short time in most cases, even where there is dedicated assistance available:

- A total of 38 community groups, in partnership with their local authority, applied to the Community Asset Programme in Autumn 2007. The programme, funded by the Office for Civil Society and managed by the Big Lottery Fund, facilitated an asset transfer of a piece of land or a building, from local authorities to community organisations. The programme provided financial assistance and specialist tailored support which was delivered by the DTA. The organisations were required to submit a capital delivery plan to the Big Lottery by October 2008. This included requirements to draw up a partnership agreement with the local authority, to find match funding, obtain planning permission and to go through a business planning process. Of the 38 organisations that began the programme, 36 organisations were able to submit their capital delivery plan by the deadline (ie within 12 months) but only two of these were able to develop their plan within six months.

Based on this and similar experiences we are convinced that for this power to work, the window must be at least six months, and that the local authority should have the option, where it proves necessary and is clearly in the public interest, to extend the window to a twelve months period.