



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:	Noel James
Position:	Director
Name of organisation (if applicable):	Historic Towns Forum
Address:	PO Box 22, Bristol, BS16 1RZ
Email:	htf@uwe.ac.uk
Telephone number:	0117 975 0459

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 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 checked="" type="checkbox"/>	Unincorporated Association Umbrella Body

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

City	<input checked="" type="checkbox"/>	
London	<input type="checkbox"/>	
Urban	<input checked="" type="checkbox"/>	
Suburban	<input checked="" 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 checked="" type="checkbox"/>
No	<input type="checkbox"/>

If No, why not?

These matters are best determined locally; top down decisions would be unlikely to identify assets important locally.

Whether achieved through regulations or by local definitions, what constitutes a community asset should be linked to the planning policy framework set out in the LDF/Local Plan and in neighbourhood plans. These documents should include a strategy for promoting and protecting community resources backed up by development management policies.

Consideration must be given to the effect of excluding assets beyond the reach of local communities, which effectively penalises those living in high-growth areas with inflated land values. Yet such areas are often in need of community assets, providing access to facilities for those on low pay or suffering other forms of disadvantage.

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

Further comments:

These should not be rigidly prescriptive; some local discretion must be allowed and the usual rules of reasonableness should apply.

(b) Should these be set out in regulations?

Yes	<input checked="" type="checkbox"/>
-----	-------------------------------------

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

Further comments:

Only where necessary to ensure consistency, especially between adjoining Local Authorities.

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

If No, why not?

This could be very limiting, especially for communities in which both existing facilities and opportunities to develop new ones are scarce. It would also prevent communities from acquiring properties loved because of their nature, e.g. historic buildings and open spaces, rather than their use per se.

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 right should be extended to cover potential demolitions, especially where this may affect other 'community assets' in the form of buildings important to the historic environment, e.g. unlisted structures in Conservation Areas and buildings on local lists. See answer to Q3.

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

If No, why not?

See answer to Q3.

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?

Agree that allotments, sites of historic monuments and playing fields should not be excluded. Where such assets are covered by other legislation the most generous of any alternative provisions for acquisition should apply.

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?

Not a single individual, nor a community body that is not properly constituted. There needs to be a root in a shared view of a community need. If the system is to have credibility it is important to avoid frivolous and vexatious demands. There could be a link to the criteria under which a request can be made to prepare a Neighbourhood Plan.

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

List seems reasonable, but see 7 above. It makes sense not to define 'local connection' too tightly as local groups may need to consult and involve other bodies to make proposals.

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

Yes	<input checked="" type="checkbox"/>
-----	-------------------------------------

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

If Yes, what?

The framework for listing community assets should be linked directly to the LDF/LocalPlan and any Neighbourhood Plans. These will provide a strategy, policies and a development management framework supported by a robust evidence base for community assets.

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:

To ensure basic consistency, especially between adjoining local authority areas. But see 10(b).

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

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

Further comments:

There needs to be some local discretion to the information sought to reflect local circumstances and what emerges from the local authority's evaluation.

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

There is a need for evidence of the level of use and the potential for or absence of alternatives.

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?

On balance yes, there is a need for transparency and openness. However, this does raise concerns that the owner may take preemptive action to remove the asset. How is this to be addressed?

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 type="checkbox"/>

If Yes, what?

No view

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?

Parish or Town Council if this is not the nominator.

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 type="checkbox"/>

If Yes, what?

No view

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?

No, it remains an asset that should be protected. There is always the possibility that subsequent owners, including the non-owner/community purchaser, may need to dispose of the asset in future. This shows the importance of linking the list to protected assets in the framework set out in the LDF/Local Plan and Neighbourhood Plans, which will have the effect of ensuring longer term protection.

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:

But, only if it is justified by the evidence of a LDF/Local Plan or Neighbourhood Plan review.

Communities should not be put to the trouble and expense of repeatedly preparing evidence against, for example, an owner who is determined to have a property de-listed. Any regulations covering this should be drafted tightly.

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?

This will need to be determined locally. At any event, the reasons for removal need to be spelt out fully for the purposes of transparency and

avoiding legal challenge or complaints to the ombudsman.

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 type="checkbox"/>

If Yes, what?

No view

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?

However, Local Authorities need some core guidance to ensure consistency, especially between adjacent areas where communities in different authorities may rely on the same assets.

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

If Yes, what?

Financial information relating to the viability of the asset and any hardship that may arise from a fettered disposal.

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

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

If No, why not?

There needs to be some flexibility in this. At present nobody knows the likely scale of this activity and dealing with a large number of reviews could adversely impact of the delivery of other high priority services.

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?

--

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?

But only if the nominator/community has the same right.

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

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

If Yes, what?

**Any material changes in circumstances surrounding the asset, including the creation of new assets and the emerging needs of the community.
The community should be allowed to challenge any assertions made by the owner and vice versa.**

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

Further comments:

This seems inevitable under the Human Rights Act.

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?

Appears to be reasonable. In some cases groups would hear of the opportunity before formal notification and may have contingency plans

for making a bid. This could be encouraged through neighbourhood planning.

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

If Yes, who?

Possibly explicitly identify cooperatives.

Consideration should be given to whether national special interest charities might be included to allow time for a local group to establish itself as a charitable or not-for-profit entity.

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?

6 months should be the minimum.

Community bodies will require time to get organized and put together robust bids. A period of less than 6 months would undermine the purpose of the proposal for many groups.

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:

This should be allowed, or relevant disposals might be frustrated by leaseholds entered into to undermine the process.

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?

It is not clear why some of the proposed exemptions have been included, e.g. the bankruptcy exclusion. Village pubs and shops regularly become vacant through bankruptcy and a community wishing to preserve a local service should not be frustrated by this exclusion.

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 type="checkbox"/>

If Yes, what?

No view

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?

But see Q29.

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

If No, why not?

--

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

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

If No, why not?

Only if the Local Authority is fully compensated and this is not an additional burden on declining local budgets.

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?

All owners should be compensated. Why should public bodies, already faced by declining budgets, be penalised?

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

No View

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

If No, why not?

--

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

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

If No, why not?

--

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

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

(b) If Yes, on what basis?

See Q 27.

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?

No view.

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?

A good practice guide, in up-dateable electronic form (web-based?), should be developed and revised in the light of robust research into experience across the country.

(c) Additional questions

Do you have any other comments you wish to make?

The HTF wishes to make four general comments:

1. More consideration needs to be given to how this will work across different areas with different characteristics. It is perhaps easy to see how the concept of a sole community asset at risk in a village may work, but it is less clear how it would be applied in urban and suburban areas. In such areas alternatives may be available and could be accessed by much of the community on foot or by bicycle and public transport. What would be considered an appropriate distance? Also do qualitative issues come into play, e.g. the type of shop.? Guidance on these issues will be required.

2. There is no recognition in the document that local communities and groups will usually need access to professional support, advice and training. The scope of these is wide, and could include: business planning, market research, consultation, negotiation, dealing with statutory consents, project formulation, writing funding bids, project management, setting up local trusts or other management bodies, recruitment. Who is to provide such support and how is it to be funded? Leaving aside the resource issues, there could be conflicts of interest if Local Authorities are expected to provide the support.

3. The question of capital costs needs to be addressed. Capital costs may include acquisition, planning, conversion works, equipment and so on. Some established local trusts have developed sustainable business models for local assets, often with public funding support to cover capital costs to get established. Most local groups will have very limited borrowing capacity, and match funding will often be required. Different lottery budgets may fund some of the works, though not usually the acquisition; and the Regional Growth Fund excludes many community projects. Funding for asset transfer is a key issue missing from the paper.

4. Use of the term 'listed assets' may cause confusion for local groups between listed community assets and Listed Buildings under the Planning (Listed Buildings and Conservation Areas) Act 1990 (referred to as assets in PPS5). A less ambiguous term should be sought.

END