

CHAPTER 10

Community rights



**‘High Bickington CPT is
a leading example of
Localism in action’**

Councillor Andy Boyd, Devon County Council

Community Rights

The Coalition Government wants to shift power from Government to communities and in the Localism Act 2011 introduced new powers for communities to take control. This includes the Community Right to Build, Community Right to Bid and the Community Right to Challenge, all of which have come into force. Each of these rights present additional opportunities for communities, including Community Land Trusts, to take over local assets, develop new homes or other assets or deliver local services as social enterprises.

A brief introduction to each of the Rights and how they may be taken up by CLTs is set out below. However, these are new initiatives and how they will work in practice is yet to be seen.

More information is available from the Department for Communities and Local Government website: www.communities.gov.uk and from My Community Rights at www.mycommunityrights.org.uk.

Community Right to Build

Community Right to Build is a way of helping communities gain planning permission for the new homes, shops or businesses that they want to see in their local area. Where a CLT's proposal has sufficient support from the local community the Community Right to Build may be a useful way to deliver the proposed development without having to go through the normal planning application process. **Most crucially for CLTs, the Community Right to Build includes an exemption from leasehold enfranchisement, and thereby it enables the CLT to deliver permanently affordable homes.**

An existing or new community organisation can take up the Community Right to Build and can work with partners, including a housing association, or go it alone. The community organisation can take a number of legal forms but it must be set up to further the social, economic and environmental well-being of the local community. CLTs readily meet the criteria for using the Community Right to Build.

As set out in Chapter 7 Land and Planning, the Community Right to Build is part of Neighbourhood Planning, introduced in the Localism Act. This means that Community Right to Build schemes must be within a defined 'neighbourhood area'. If a neighbourhood area has not been agreed, a community organisation that wants to take forward the Community Right to Build will need to agree a neighbourhood area with the local planning authority, usually the local council.

To take up the Right to Build the CLT will need to develop its proposals in the usual way, following the steps set out in Chapters 1 – 7. However, there will need to be an even greater focus on community engagement. Under the Community Right to Build, the CLT is required to have carried out certain publicity and community consultation to give everyone in the community a chance to comment on the proposals.

The proposal will then need to be written up as a Community Right to Build Order. The Order must:

- generally be in line with local and national planning policies
- be in line with other laws (like EU laws or the Human Rights Act 1998)
- only be for small-scale development and for a specific site

It will also need to make sure that certain specialist bodies, like the Highways Agency, have the chance to comment on the proposals.

The Order is subsequently submitted to the local planning authority and checked by an Independent Examiner. If the Order is accepted it will then go to a referendum, organised by the local planning authority.

People living in the neighbourhood area who are registered to vote in local elections will be entitled to vote in the referendum. For the proposals to get the go-ahead, more than 50% of the people who vote must support it. If the CLT achieves that verdict, it can then proceed with development and the stages set out in Chapters 8 onwards.

Advice and support on the Community Right to Build is available from My Community Rights at www.mycommunityrights.org.uk

Community Right to Bid

In neighbourhoods there are buildings or amenities that are the heart of community life, such as local shops, a pub, community centre or a library. The closure of these facilities can have a devastating effect on the vitality of the local community as well as people's livelihoods.

The purpose of the Community Right to Bid is to give community groups or eligible bodies extra time to put together a financial proposal to acquire these local assets as community assets if, and when, they come on to the market.

Under this right local authorities are required to maintain a list of 'assets of community value' and community organisations, such as CLTs, can nominate suitable private (e.g. shops and pubs) or public assets (e.g. library buildings). The assets can be and are classified as of 'community value' if they 'further the social well-being or social interests of the local community'. When the asset comes up for sale, the Localism Act introduces a delay or 'moratorium' to give a eligible community organisations time to prepare a bid.

It is important to stress that the right for a community group to bid for an asset does not place any legal obligation on the owner to accept the bid. The owner can sell to whoever they choose at a price agreed by the buyer. However, the extra time could be valuable in allowing the community time to prepare a bid and raise the necessary finance.

It also provides CLTs with an opportunity to build an asset base and potentially a source of income to support further work of the CLT.

The Asset Transfer Unit is the leading source of information on asset transfer. See www.atu.org.uk More information, advice and support on the Right to Bid is available from My Community Rights at www.mycommunityrights.org.uk

Community Right to Challenge

Community groups and social enterprises already provide local services that are valued by the community. What the Community Right to Challenge does give to community groups, parish councils and local authority employees is the right to express an interest in taking over and running a local authority service. The local authority must consider and respond to this challenge and, where it accepts the challenge, run a procurement exercise for the service in which organisations, including the organisation that challenged the service, can bid.

A CLT may consider using this power to set up a social enterprise to deliver a service to their community.

More information, advice and support on the Right to Challenge is available from My Community Rights at www.mycommunityrights.org.uk

