



Proposals to introduce a Community Right to Buy – Assets of Community Value

London First Response

Introduction

1. London First is a business membership organisation with the mission to make London the best city in the world in which to do business. We represent the capital's leading employers in key sectors such as financial and business services, property, transport, ICT, creative industries, hospitality and retail.
2. We welcome the opportunity to respond to this consultation. It is right that communities have the opportunity to try and ensure that there are sufficient local assets to support community activities. However, such a right must be balanced with the legitimate interests of those who own land and assets. We do not currently feel that the consultation strikes the right balance. Our key points in response to this consultation are as follows:

- The “Community Right to Buy”, as outlined in the consultation document (and the Localism Bill), is a confused concept which seems to actually be promoting the “Community Right to Challenge”.
- The concept of the Community Right to Buy misunderstands that it is the use of an asset – the local post office service provided within a building, for example, - that is valued by the community not the asset itself. Yet the Right to Buy focuses on preserving the asset, which is merely just a conduit for the service.
- The Right to Buy is not required as communities already have the ability to protect assets under existing legislation and processes.
- Notwithstanding our fundamental concern with the Right to Buy, there are several procedural improvements that should be made to the process if introduced.

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Detail

Confusing the Right to Buy with the Right to Challenge

3. The consultation document appears to be confused about the purpose of the Right to Buy. The consultation states that:

The proposed Community Right to Buy scheme in England and Wales *applies to assets only (that is, land and buildings), not services*. Community groups may therefore be able to nominate a building to be listed as an asset of community value *but not the service that operates from within that building*. For example, a post office is a contractual service and whilst community groups may be able to nominate the building from which the postal service operates, this would not guarantee the continuation of the post office service but that this could be something for the community to take on separately if it so wished. This could also be the case with library services.¹

4. This clearly states that the Right to Buy is not about continuing a local service but about potentially acquiring an asset that is valued by the local community. However, the consultation then goes on to recommend that one way by which an asset of community value could be defined is through 'listing types of asset according to their *existing or past community uses*.'² Furthermore, the consultation asks if local authorities should have the power to remove an asset from the list if it is no longer considered to be of community value, and suggests that this scenario could occur due to '*a change in planning use* or the owner might be able to request de-listing as a result of a *change of circumstances*.'³
5. There is a clear contradiction at the heart of this policy; on the one hand stating that an asset of community value should have nothing to do with the use of the asset, but on the other hand suggesting that one of the ways of defining what an asset of community value is, is to consider existing or past uses and to then suggest an asset could be de-listed because of a change of use.
6. Arguably, the confusion relates to the fact that the purpose of the Community Right to Buy is unclear, unlike the Community Right to Challenge. The latter has a clear purpose - allowing communities to potentially run local services provided by the council. It appears that the Community Right to Buy is trying to also allow for what is already covered by the Community Right to Challenge, namely the opportunity for community groups to tender for the running of local services, hence the references to use of the asset.
7. The concept of the Community Right to Buy misunderstands that it is the use of an asset – the local post office service provided within a building, for example, - that is valued by the community not the asset itself. Yet the Right to Buy focuses on preserving the asset,

¹ Paragraph 1.28, page 22, Proposals to introduce a Community Right to Buy – Assets of Community Value: consultation Paper (emphasis added).

² Paragraph 3.2, page 30, Proposals to introduce a Community Right to Buy (emphasis added).

³ Paragraph 7.9, page 41, Proposals to introduce a Community Right to Buy (emphasis added).

which is merely just a conduit for the service. There is no reason why a building that is a community hall or a post office should forevermore be used for that purpose. This is not to say that the service isn't important. It may well be, and therefore such a service should be provided for, but it can be accommodated in any building. These services do not require such specialist features that another suitable building could not be found to house them.

8. The ability to preserve buildings is already covered by existing legislation and processes. For example, a building may have architectural merit, in which case the community can apply for it to be listed. The community could also, and perhaps more appropriately in this context, apply for a local listing. For underused assets and buildings owned by the public sector, there is the community asset transfer scheme which helps communities to make the most of such assets for the benefit of the community.⁴
9. There are a range of options already open to communities to protect buildings for various reasons. The introduction of the Right to Challenge will compliment these existing processes. The Right to Buy is a confused concept, which is not required, and will at best allow well meaning community groups to unnecessarily slow down the development process, and at worst, be used deliberately to try and stop development per se.

Other issues

10. Notwithstanding the comments above, should the government introduce a Right to Buy we have listed below a series of concerns with the procedural elements of the proposed system.

Unsuccessful community nominations

11. As part of the Right to Buy process, the Localism Bill requires local authorities to maintain a list of assets that have been unsuccessfully nominated for the listing process. Although a minor issue, this seems a waste of time and resource on the part of the local authority and no such requirement should be placed upon them.

Criteria for deciding what an asset of community value is

12. A local authority could, according to the consultation, consider if a nominated piece of land or a building constitutes an asset of community value if it 'furthers the social, economic, or environmental wellbeing or interests of the local community.'⁵ In accordance with the views expressed above, it seems difficult to justify how a building could match such a description as opposed to a service.
13. The consultation goes on to suggest some additional criteria local authorities could use to determine nominations. One being, 'evidence of the strength of community feeling supporting the asset being maintained for community use'.⁶ This is clearly an issue which

⁴ See www.atu.org.uk

⁵ Paragraph 3.7, page 31, Proposals to introduce a Community Right to Buy.

⁶ Paragraph 3.7, 4th bullet point, page 31, Proposals to introduce a Community Right to Buy.

goes to the heart of the proposition, as without strong community backing for a nomination an asset cannot fairly be said to be of value to the community. Therefore, to establish the level of community support and for a nomination to proceed, a petition containing the signatures of a set percentage of local citizens should have to be submitted with the application for nomination.

14. Land and buildings within areas already identified for redevelopment or regeneration should be excluded from being listed as community assets. In such circumstances the planning system already provides for consideration of what happens to these buildings, for example providing for their replacement within the new development through a s.106 agreement and or the payment of the Community Infrastructure Levy (where the latter is introduced).

Consultation with landowner

15. The consultation proposes that the local authority must, if possible, notify the owner(s) of the land before deciding to list a nominated asset. We agree with this proposal and see it as being essential to the design of any scheme that may emerge.
16. In responding to a decision to list a community asset, an owner should be allowed to cite 'any other material considerations' in making a case against a decision to list an asset.⁷ This is a widely accepted and understood concept in planning and development terms, and should lead to fairer decisions.

Role of the local authority

17. The role of the local authority in the administration of the proposed Right to Buy process is conflicted. A local authority will have both the ability to determine nominations and the ability to determine the outcome of an internal review (into the determination of the nomination), if one is requested by the owner. Whilst it is welcome that a review process is included, it cannot be right that the review is conducted by the same authority that made the original decision. The review should be undertaken by an independent authority to ensure the integrity of the process.

Compensation for landowners

18. We support the inclusion of a compensation process for landowners who have incurred costs directly incurred as a result of complying with the procedural requirements of the scheme. We would like this compensation process to include the cost to the landowner of a "lost" buyer of an asset.
19. This would be a scenario where a landowner has a purchaser lined up for the asset but is forced to wait before the asset is sold in order to comply with the Right to Buy process. However, no bids are forthcoming from community groups or the bid that is put forward is unacceptable to the landowner, and for whatever reason, the original purchaser decides

⁷ This would mean a fifth bullet point being added to the criteria listed in paragraph 9.3 of the consultation.

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to no longer buy the asset - this could be primarily because of the delay. The compensation scheme should therefore include the cost of a "lost" purchase.