

COMMUNITY RIGHT TO BUILD ORDERS

WHAT IS THE COMMUNITY RIGHT TO BUILD?

The Community Right to Build is a new way for communities to choose where and when to build homes, shops, businesses or community facilities. Communities can build family homes to sell on the open market, provide affordable housing for rent, sheltered housing for elderly local residents, or low cost starter homes for young local families struggling to get on the housing ladder. They could even utilise disused farm buildings to convert into homes.

The type of development that takes place is entirely what local people decide their community needs. The Community Right to Build will help communities to gain planning permission for the developments they want to see go ahead. The benefits of these developments, such as profits, will be managed by a community organisation for the community.

The Community Right to Build is part of the Government's drive, through the Localism Act 2011 to give communities more power to help shape the way their areas look and develop in the future through neighbourhood planning. To deliver the Community Right to Build, the act has created a new community-led neighbourhood planning tool called the Community Right to Build Order.

WHAT DOES A COMMUNITY RIGHT TO BUILD ORDER DO?

The Community Right to Build Order is a special type of order that allows local communities to grant planning permission for development on a specific site in a neighbourhood area. The order is aimed at delivering small scale development (in comparison to the size of the settlement), and should not exceed any limits placed on it. The Localism Act 2011 does not set out exactly what these limits are, but they tend to relate to the area covered by the development and the type of uses expected on the site. A useful rule of thumb is that a Community Right to Build Order should only allow for a settlement to expand by 10% over a ten year period. As mentioned above, the type of development could vary from housing to

businesses to community facilities – it all depends on what the community needs and wants. Development that needs an Environmental Impact Assessment or would take on an international nature conservation site would not be able to take place.

WHO CAN PREPARE A COMMUNITY RIGHT TO BUILD ORDER?

Unlike Neighbourhood Plans or Neighbourhood Development Orders, any community organisations or groups, not just a town/parish council or neighbourhood forum, can create a Community Right to Build Order. To be eligible to develop a Community Right to Build Order in a particular neighbourhood area, the community organisation or group must consist of 10 members all of whom must live in that neighbourhood area in separate homes to each other. When an order is proposed at least half of the organisation's members must live in the area. The organisation must also exist to further the economic, environmental and social well-being of the area in question, and any profits made as a result of Community Right to Build Orders must be used for the good of that community, not for private gain.

HOW LONG WILL IT TAKE TO PREPARE A COMMUNITY RIGHT TO BUILD ORDER?

It will be up to individual areas to decide on the pace at which they wish to progress their Community Right to Build Orders. It will depend on the level of work required to prepare the order including time needed for evidence gathering and consultation.

CAN MORE THAN ONE COMMUNITY RIGHT TO BUILD ORDER HAPPEN IN THE SAME NEIGHBOURHOOD AREA?

Yes. There are no restrictions on the number of Community Right to Build Orders that can be put forward in a neighbourhood area. The only exception to this is where the development, or site of the development proposed is the same (or substantially the same) as one already under consideration. If this happens, the council can decline to consider a proposal. Otherwise, a Community Right to Build Order can be put forward at any time, including at the same time as other Community Right to Build Orders.

WHAT IS THE STARTING POINT FOR A COMMUNITY RIGHT TO BUILD ORDER?

The starting point is to set up and formally designate a "community organisation" that will take forward the Community Right to Build Order. As already mentioned this could be a town/parish council, neighbourhood forum or any other local community organisation or group. To be designated, they should be able to meet the requirements for a "community organisation". If a Community Right to Build Order is proposed in an area not formally designated as a "neighbourhood area", this will need to be agreed with the council at the same as applying for "community organisation" status. An application form is available. All proposals for "community organisation" status and neighbourhood area status will be published to allow comments to be made, before the council decide upon the application.

WHAT HAPPENS ONCE COMMUNITY ORGANISATION STATUS IS DESIGNATED?

Once the "community organisation" is established work can begin on putting together the Community Right to Build Order. Once the community have completed a draft order, they need to consult on it. The Neighbourhood Planning regulations require the community organisation undertake extensive consultations on the draft order with their community and the wider area. The draft order should be publicised and consulted upon in a way that brings it to the attention of those living, working or running a business the neighbourhood area. The consultation period for people to make comments on the draft order should last for a period of six weeks, starting on the day that it is first publicised.

A number of other bodies must also be consulted including the Historic Buildings and Monuments Commission for England (English Heritage), anyone who would normally be consulted on a planning application, any statutory consultee, North Lincolnshire Council, any adjoining town/parish council, and any neighbourhood forum. A list of the statutory consultees is set out in Annex 1 of the council's guide to developing neighbourhood plans. This list also includes voluntary bodies whose activities benefit all or any part of the relevant area and bodies representing the following interests in the relevant area: racial, ethnic or national groups, religious groups as well as bodies representing disabled persons. Others that should be consulted are those who own, or are tenants on the land covered by the proposed order. Once this consultation period is over, the community organisation should examine the comments received and where appropriate amend the draft order before submitting it to North Lincolnshire Council.

WHAT SHOULD BE SUBMITTED TO THE COUNCIL?

Once the Community Right to Build Order is amended and finalised, it should be submitted to North Lincolnshire Council for consideration. The community organisation must submit the following:

- A copy of the proposed Community Right to Build Order
- A map showing the area of land covered by the proposed order
- A consultation statement setting how the community organisation has involved the public and other bodies in the process of preparing the order including who was consulted together with a summary of their responses and how they have been dealt with.

- A statement setting out and explaining how the proposed order meets the basic conditions for making a Community Right to Build Order. Among the details that should be covered in the statement are how the order relates to national planning policy and guidance, how it would contribute towards achieving sustainable development, how it relates to local planning policy, how it meets the requirements of European obligations, and how it meets any other conditions applied to the proposed order. Also, the statement should, having special regard to the desirability of preserving any listed building or its setting or any features of special architectural or historic interest that it possesses, explain why it is appropriate to make the order. For conservation areas, the statement should, having special regard to the desirability of preserving or enhancing the character of the conservation, set out why it is appropriate to make the order.
- Details of any enfranchisement rights which the qualifying body proposes should not be exercisable, and the relevant properties.

WHAT ARE ENFRANCHISEMENT RIGHTS?

Enfranchisement rights relate to the right of those living in leasehold properties or social housing to acquire the freehold (i.e. full ownership) of their homes. For a Community Right to Build Order, the community organisation can propose that some of these rights may not be exercisable. If this is the case, the details of which rights are not exercisable and to which properties or types of properties they are not exercisable. This could be used in the case of affordable housing to ensure that it remains affordable in perpetuity.

WHAT HAPPENS AFTER THE DRAFT ORDER IS SUBMITTED?

Once the draft order is submitted, North Lincolnshire Council must publicise it for a period of six weeks to allow further comments to be made. The proposed order will be made available on the council website www.northlincs.gov.uk and brought to the attention of the wider community by appropriate means of publicity. Information regarding where and when the order can be inspected together with details of how and when to make representations should also be published. A statement highlighting the fact that anyone who has previously made a response can request to be notified when the council makes its decision on the order. Following the six week consultation period, the draft order and accompanying documentation will be submitted for examination.

HOW DOES THE EXAMINATION PROCESS WORK?

After consultation is completed and the draft order checked, we will make arrangements for an independent examination. This includes appointing an examiner (with appropriate qualifications and experience) who is independent of both the council and the community organisation. They will be appointed in agreement with the community organisation. The examination will be undertaken through the written representations process. However, the examiner may choose to hold public hearings. The purpose of the examination is to assess whether or not the order meets the requirements set out in legislation.

Following examination the examiner will publish a report recommending either:

- that the draft order is submitted to a referendum
- that modifications are made and the modified order submitted to a referendum, or
- that the proposal is refused.

The examiner may not recommend submission to referendum if they consider that the proposal does not comply with national policy (i.e. the NPPF), or if they consider that the proposal does not comply with the development plan. A proposal must therefore be in general conformity with the strategic policies contained in the local development plan.

WHAT HAPPENS ONCE THE EXAMINER'S REPORT AND RECOMMENDATIONS ARE RECEIVED?

Once the examiner's report and recommendations are received, the council must abide by their conclusions. If the examiner recommends a proposed Community Right to Build Order is refused, the council has no discretion to take it forward to a referendum and it must be refused. Likewise, if the examiner recommends the Community Right to Build Order is taken forward to a referendum, the council must do so. The only modifications that the council is allowed to make to the order are ones to ensure that it complies with European Union obligations and would not breach any convention rights.

The council have to publish the examiner's report and recommendations alongside details of the council's decision on the order. The council have to publish them on our website and bring them to the attention of the

wider community as well as advertise details of where and when they can be inspected.

HOW DOES THE REFERENDUM PROCESS WORK?

The council are responsible for organising and holding the referendum on the Community Right to Build Order. To achieve a positive result, and ensure that the council adopted the order, more than 50% of those voting must vote in favour.

WHO CAN VOTE IN THE REFERENDUM?

Anyone who lives in the referendum area, and is registered to vote in council elections is entitled to vote on the Community Right to Build Order.

HOW IS THE COMMUNITY RIGHT TO BUILD ORDER ADOPTED?

Under the Localism Act 2011, the council can “make” or “adopt” a Community Right to Build Order if more than half of those voting in the referendum have voted in favour of it. In terms of timescale, the order should be “made” as soon as possible after the result of the referendum is known.

Once the order is “made”, the council must publish a document setting out their decision and reasons for making the decision along with details of where and when it can be viewed, and send a copy of the decision to the community organisation. Anyone who wished to be notified of the council’s decision should be contacted.

In relation to publicity after making an order, the council is required to publish the finalised Community Right to Build Order along with details of where and when it can be viewed on its website and bring it to the attention of the wider community by appropriate means. Also anyone who wished to be notified when order is made should be informed and given details of where and when they could inspect it.

WHO WILL PAY FOR A COMMUNITY RIGHT TO BUILD ORDER?

It will be up to the town/parish council or neighbourhood forum to pay for the preparation of a Community Right to Build Order. The council will only pay for the independent examination and the referendum, as well as provide technical advice and practical support.

WHAT IS THE ROLE OF NORTH LINCOLNSHIRE COUNCIL?

The council have a duty to provide technical advice and support to communities producing a Community Right to Build Orders. It also has to:

- Agree the composition of, and formally designate, neighbourhood forums (where appropriate);
- Agree the boundary of the area to be covered by the neighbourhood area designation;
- Check the contents of the order against the policies of the council’s local plan;
- Organise the check by an independent examiner into a Community Right to Build Order before it can be voted on in a local referendum;
- Organise the referendum; the order will need to get majority support;
- Adopt the Community Right to Build Order and bring it into force.

COMMUNITY RIGHT TO BUILD ORDER – PROCESS

