

# Community Right to Build Guidance Note 4

## Setting up a community group

February 2013



In order to develop your Community Right to Build Order, a community group will be needed to prepare and write the document. This group can be its own entity or as a parish council led steering group.

This guidance note explains the requirements of setting up a community organisation and their role within the process.

## Introduction

Within Herefordshire, a community group (also known as a community organisation) as well as a parish council can undertake a Community Right to Build Order. The community organisation's direct purpose is to improve the social, economic and environmental well-being of individuals living or wanting to live in a particular area.

Where a community group wishes to undertake a Community Right to Build Order, they will need the assistance of the parish council. This is because it is only the parish council who can apply to Herefordshire Council to designate a Neighbourhood Area.

If the Neighbourhood Area has not already been applied for the community organisation will require the parish council to do this on their behalf. The parish council can only designate one Neighbourhood Area for their parish, therefore it will need to take account of any Community Right to Build Order and any further Neighbourhood Development Plan requirements.

## How to set up a community group

Local residents need to decide how they want to work together and create a formal community group.

The Neighbourhood Planning (General) Regulations 2012 state that the community group must:

- Have at least 10 members, living in different addresses to each other and who live in the Neighbourhood Area;
- Be demographically representative of the Neighbourhood Area in which the Community Right to Build Order is proposed;
- Have individuals on the community group who live in the area so that they hold the majority of the voting rights within the group.
- Submit the Notification Form CRtB1 to the Neighbourhood Planning team for approval that your community group meets Reg 13 of the Neighbourhood Planning Regulations 2012;
- Prepare a statement that includes:
  - (i) That the community group will carry out its

activities for the benefit of the community in the area the Order will cover; and

- (ii) Indicating how it is proposed the community group's activities will benefit the community in the area the Order will cover.
- Provide that any assets of the community group may not be disposed of, improved or developed except in a manner which the community group consider benefits the community in the area the Order will cover;
- Provide that any profits from its activities may only be used to benefit the community in the area the Order will cover. The payment of profits directly to members or directors is not to be considered a benefit to the community in the area the Order will cover;
- Provide that in the event of the winding up of the community group or in any other circumstances where the community group ceases to exist, its assets must be transferred to another legal entity, which has similar objectives, for example, the parish council.

## Practicalities of setting up a community group

It is important to get the size of your group right. A small group can sometimes lack the breadth of experience or resources required whilst larger ones can lose focus. Whilst the regulations cover the minimum requirements (10 members), no maximum is set. Although it is advisable to keep the numbers below 15 people to help maintain focus.

Deciding on the skills and experience required within the community group would be a good starting point. Remember that enthusiasm and drive is just as important as skills, such as planning experience or project management.

When recruiting members to the community group to undertake the Community Right to Build Order, try to get a diverse range of skills involved and therefore avoiding people with similar skills or backgrounds, and try to incorporate residents from all of your community.

The selection process will be important and should be seen as open, fair and inclusive in order to ensure a greater degree of community

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support. You may like to involve your Ward member (County Councillor) in helping to develop the community group.

It is a good idea for everyone on the groups committee to have clearly defined roles, which will also enable the group to make the best use of resources. For example; a people person would be good at getting community support and organising consultation events, and a financial whizz would be good at keeping a control on the budget plan.

At an early meeting, try and develop a clear project plan, outline a working budget, set aims and objectives, and set guide timescales. It is important to keep up regular meetings throughout the development of your Community Right to Build Order. This will not only keep everyone abreast on the progress of the plan, but will also help to maintain enthusiasm at all times.

The community group will need to be well organised. They will need to delegate day-to-day tasks of organising events, editing drafts and producing the final Community Right to Build Order.

The community group should be able to:

- Consider the overall aims of the Community Right to Build Order;
- Set a project plan and monitor activities against the timetable outlined;
- Link the aims and objectives of the Order in a wider context (such as links with a Neighbourhood Development Plan covering the same area).

### **Relationship between the community group and parish council**

Both a parish council and a community group can produce a Community Right to Build Order. Where the parish council do not wish to undertake an order, but a community group would, a good working relationship between both will be essential. This is because it is only the parish council that can apply to the local authority to designate a Neighbourhood Area. A Neighbourhood Area needs to be designated

before a Community Right to Build Order can be undertaken.

However, if you are a parish council wishing to undertake a Community Right to Build Order, you may wish to create a steering group who will be required to report back to the parish council on progress. In this case we recommend that you refer to our separate Guidance Note 28: Setting up a steering group under Neighbourhood Development Plans. Although written for undertaking a Neighbourhood Development Plan its principles, when read in conjunction with this guidance note, are similar.

### **What is the role of a community group**

The community group should ensure links between the parish council, the community and any professionals involved in the Community Right to Build Order are maintained and everyone has the opportunity to be engaged within the project.

In addition to areas already covered, the community group is likely to need to undertake other duties and responsibilities such as:

- Act as the main point of contact and provider of information for people living or working in the Neighbourhood Area to be covered by the Community Right to Build Order;
- Establish the necessary skills required to complete the Community Right to Build Order;
- Provide a forum for discussion and debate;
- Motivate the community to be involved throughout the making of the Order;
- Troubleshoot any conflicts raised;
- Assist in meeting the terms of the Service Level Agreement with Herefordshire Council;
- Assist in achieving a higher profile for the Community Right to Build Order within the local community and wider area;
- Maintain the energy and enthusiasm to ensure that whatever needs to be done, will be accomplished;

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- Identify ways of involving the whole community and gather the views and opinions of as many individuals, groups and organisations in the community as possible;
- Determine the types of survey and information gathering to be used;
- Be responsible for the analysis of the consultation material and use this in the production of your Community Right to Build Order;
- Obtain advice and information about relevant matters and policies;
- Prioritise actions, using the findings from the consultation process and information from other sources;
- Undertake and produce the complimentary material such as consultation reports, and environmental assessments;
- Maintain continual engagement with the Neighbourhood Planning team on progress, issues arising and outcomes from various stages of the Orders development;
- Build and maintain a relationships with the parish council and Ward member

### How to facilitate community group success

To help ensure a successful community group the members should:

- Take an active part in the meeting;
- Make positive proposals (when ideas are needed);
- Ask questions (if information is needed);
- Offer alternatives (to create agreement);
- Build on proposals (to cement group vision);
- Test ideas (not reject them out of hand);
- Explain opposition (not just flat rejection);
- Help others (to cement solidarity);

There are no sets of rules needed, however it is ideal that for the community group meetings there needs to be:

- A 'Terms of Reference' developed, a model example is contained within appendix 1;
- A chair or facilitator, through which all discussion is handled;
- An agenda, which discussion should follow;
- Someone to take notes, to be circulated later;
- Everyone should be clear at the end of each meeting what the recommendations to be taken forward, or work to be done prior, to the next meeting are;
- Ensure that discussions are for the benefit of the whole community.

### Legal requirements

The community group will be a legal entity that is recognised in law. Therefore the community group has the legal capacity to enter into agreements or contracts, assume obligations, and can be held responsible for its actions.

Setting up a formal legal structure to your community group is essential if a community group wishes to comply with the Neighbourhood Planning (General) Regulations 2012. There are various options available, but which is most appropriate for you will depend on what you are trying to achieve and the nature of your proposed development.

You can set up a company limited by guarantee or set up a company limited by guarantee with charitable status.

To learn more about this please refer to the 'my community rights' website at: [http://mycommunityrights.org.uk/wp-content/uploads/2012/04/LOCALITY-BUILD\\_STEP-2.pdf#page=2](http://mycommunityrights.org.uk/wp-content/uploads/2012/04/LOCALITY-BUILD_STEP-2.pdf#page=2)

### Terms of reference

Producing a simple 'Terms of Reference' for the group is advised. This should set out the purpose and remit of the group and the reporting, and decision making procedures.

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## **Steering groups for parish councils**

If you are part of a parish council led steering group undertaking the Community Right to Build Order, then the parish council should approve the Terms of Reference through a meeting.

The steering group's Terms of Reference should ensure that the parish council, receives regular written reports on progress. This is to ensure that any help, advice and guidance that might be required can be provided early on in the process and potentially make for a smoother process.

A model Terms of Reference that could be used is included within appendix 1.

## **Community Organisations not associated with parish councils**

If your Community Organisation is not a Steering Group of the parish council then it is up to your group if you wish to produce a Terms of Reference and the content within it.

## **Sources of further information**

<http://mycommunityrights.org.uk/community-right-to-build/>

<http://www.communities.gov.uk/communities/communityrights/righttobuild/>

<http://communityrights.communities.gov.uk/what-are-community-rights/community-right-to-build/>

for roles and responsibilities refer to HALC Hereford at: [www.halchereford.gov.uk](http://www.halchereford.gov.uk)

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## **Appendix 1 – Community Group Model Terms of Reference**

This is an example of a Terms of Reference you could use, which can be adapted to meet local circumstances.

### **Name**

The name of the organisation shall be the (name) Community Right to Build Order Group.

### **Purpose**

The purpose of the community group will be to improve the social, economic and environmental well-being of the area. In so doing, the group should:

- Investigate and identify support for the Community Right to Build Order.
- Set up a legal structure for the community group
- Take responsibility for planning, budgeting and monitoring expenditure on the Order.
- Liaise with relevant authorities and organisations to make the Order as effective as possible.
- Develop a good working relationship between themselves, the parish council, Ward member and Herefordshire Council.
- Identify ways of involving the whole community and gather the views and opinions of as many groups and organisations in the community as possible.
- Determine the types of survey and information gathering to be used.
- Be responsible for the analysis of the survey, the production and distribution of the final report.
- Identify priorities and timescales within an Action Plan, including the lead organisations and potential sources of project funding.

### **Membership**

The community group must:

- Have individuals who live in the area so that they hold the majority of the voting rights within the group.
- Include a statement:
  - (i) that the community group will carry on its activities for the benefit of the community in the Neighbourhood Area or a section of it; and
  - (ii) indicate how it is proposed the community group's activities will benefit the community in the Neighbourhood Area or a section of it.
- Provide that any assets of the community group may not be disposed of, improved or developed except in a manner which the community group consider benefits the community in the particular area or a section of it.
- Provide that any profits from its activities may only be used to benefit the community in the particular area or a section of it. The payment of profits directly to members or directors is not to be considered a benefit to the community in the particular area or a section of it.
- Provide that in the event of the winding up of the community group or in any other circumstances where the community group ceases to exist; its assets must be transferred to another legal entity, which has similar objectives.

- The community group should have at least 10 members, living in different dwellings to each other, who live in the Neighbourhood Area. Herefordshire Council advises the group has no more than 15 members.
- If a person wishes to cease being a member of the group, they will have to notify the chair or secretary in writing of their wish to resign.

### **Officers**

- At the first meeting, the community group will elect a Chairman, a Secretary, and a Finance Officer.
- Wherever possible the community group will also elect a publicity officer and a volunteer co-ordinator.
- Wherever possible all other members should have a specific role, to be agreed by the community group.

### **Meetings**

- The community group shall normally meet monthly (but every two months as a minimum), or as may be required.
- At least five clear days' notice of meetings shall be sent to members via the communication method agreed with, and appropriate to, each individual member.
- All notices of meetings must detail the matters to be discussed as well as the time, date and place of meeting to be held.
- Where necessary, matters shall be determined by a majority of votes of the community group members present and voting. In the case of equality of votes, the chair of the meeting shall have a casting vote.
- The secretary shall keep a record of meetings, and circulate minutes to group members not more than 14 days after each meeting.

### **Working groups**

- The community group may appoint such working groups, as it considers necessary, to carry out the functions specified by the community group, which may include:-
  - data gathering
  - consultations
  - making recommendations.
- The make-up and purpose of working groups will be regularly reviewed by the full community group.
- Each working group should have a nominated chair.
- Non-voting members can be co-opted in an advisory capacity following formal nomination and approval by the full community group.
- Working groups do not have the power to authorise expenditure on behalf of the community group.
- Working groups will be bound by the Terms of Reference set out for them by the community group.

### **Changes to the Terms of Reference**

- These Terms of Reference may be altered and additional clauses may be added with the consent of two-thirds of the community group present.



## **Dissolving of the community group**

- Provide that in the event of the winding up of the community group or in any other circumstances where the community group ceases to exist; its assets must be transferred to another legal entity, which has similar objectives.

**Community Right to Build guidance notes available:**

1. Producing a Community Right to Build Order
2. Getting started on your Community Right to Build Order
3. A guide to procedures - Community Right to Build Order
4. Setting up a community group
5. Funding a Community Right to Build Order
6. Environmental Impact Assessment
7. Glossary of terms

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