

# Community Right to Build Guidance Note 3

## A guide to procedures - Community Right to Build

January 2013



This guide has been produced with reference to the Neighbourhood Planning (General) Regulations 2012. It outlines the stages you will need to address in order to meet the regulation requirements during the production of your Community Right to Build Order.

This guidance is only concerned with the regulations and procedures a Community Right to Build Order is required to meet in order to reach adoption. Additional guidance notes are available to support and guide you through the various stages of producing a Community Right to Build Order.

## **Stage 1 – Notification of your community group to undertake CRtB and defining the Neighbourhood Area. (Regulation 5)**

When forming your community group you will need to ensure that the members of the group meet the requirements set out in the Neighbourhood Planning Regulations 2012. Details can be found in guidance note 4: Setting up a community group.

To ensure all requirements are met, notification form CRtB1 needs to be submitted to and approved by the Neighbourhood Planning team.

As Herefordshire is a fully parished county only town/parish councils may apply for a Neighbourhood Area. This designated area covers where a parish council can enact their Neighbourhood Planning powers. This can be to either produce a Neighbourhood Development Plan, a Neighbourhood Development Order or a Community Right to Build (CRtB) Order (via the parish council or community group).

You will need to identify whether there is a Neighbourhood Area covering the area that you wish to base your Community Right to Build Order on. You will need to contact the local parish council if you wish to produce a CRtB Order in an area without a designated Neighbourhood Area.

Parishes are encouraged to define their Neighbourhood Area in line with the parish boundary, however only part of the parish could be considered if this can be justified as reasonable. Please note, Neighbourhood Areas cannot overlap and a parish can only designate one Neighbourhood Area. However, more than one parish can combine together to create a joint Neighbourhood Area

- Proposals for a Neighbourhood Area will need to be accepted by Herefordshire Council before the Order can move to the next stage.
- Parishes can make an application to designate
- An application form is available to make this process simple. Applications should include an OS plan of the area to be included and a statement explaining why this area is considered appropriate.

- Herefordshire Council will publicise the application for a period of 6 weeks by putting up site notices in the parish and also on the web and outline how to make representations. (Reg 6)
- Following consideration of any representations received and consultation with the ward member, the decision on designating a Neighbourhood Area will be made at officer level by the Assistant Director (Economic, Environment and Cultural Services).
- Following the decision, Herefordshire Council will inform the parish council(s) and publicise Neighbourhood Areas on their website and within the Neighbourhood Area. This report will form the 'decision document'. (Reg 7)
- If the Neighbourhood Area is refused, Herefordshire Council will publish 'the decision document' outlining its reasons.

## **Stage 2 – Prepare the Community Right to Build Order**

Community Right to Build Orders (CRtB) can be about a wide range of site-specific projects that the local community want to see happen within their area. There are some simple steps which will need to be followed to ensure that your Community Right to Build Order meets the required regulations.

The community group should:

- Consult with the local community/interest groups/stakeholders and demonstrate views have been taken into account. A consultation statement detailing this will form part of the final submission. (Reg 22)
- Involve the ward member. Your local member will be able to provide an understanding of Herefordshire Council policy and resources and existing issues within the community.
- Liaise with the Neighbourhood Planning team for guidance and advice. This will ensure your CRtB Order is in line with the regulations and legislative requirements and conformity with planning policies.
- Use evidence and information to prepare CRtB Orders. This could be either from existing

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documents which form part of the evidence base for the Core Strategy or other documents which are available from Herefordshire Council. Alternatively community groups will need to prepare/provide any new evidence which is specific to their project

- Write and publicise the draft CRtB Order. (Reg 21)
  - The draft CRtB Order should be available locally for representations for 6 weeks.
  - Consultation should take place with consultation bodies as listed in schedule 1 of the Neighbourhood Planning regulations.
  - Consultation should take place with landowners or tenants of the land which is proposed to be developed under the Order.
  - It is suggested that a copy is sent to the Neighbourhood Planning team at this point. The team will check the CRtB Order is compliant with any legislative requirements and in general conformity with national planning policy and the Core Strategy and/or any other relevant development plan documents.
- Any amendments required to the CRtB Order should be made based on representations received during this 6 week consultation.

### **Stage 3 – Submission of final plan**

The final CRtB should be submitted to Herefordshire Council - Neighbourhood Planning team.

The submission should consist of (Reg 22):

- A map which identifies the land to which the CRtB Order covers.
- The proposed Community Right to Build Order.
- A consultation statement. Guidance is available to assist community groups on the requirements.
- A written statement explaining how the CRtB Order meets all the relevant legal and procedural requirements including a HRA/EIA (if applicable).

- A written statement detailing the enfranchisement right, if any, that the community organisation proposes are not exercisable and the properties or types of properties, in relation to which the enfranchisement rights are not exercisable. (Reg 28).

The CRtB Order will be published for 6 weeks for representations and the consultation bodies will be informed that the plan has been submitted (Reg 23). This will be undertaken by the Neighbourhood Planning team.

The team will check all these requirements have been met and recommend that the plan go forward to the examination stage, with final approval being given by the Director of Places and Communities or the Assistant Director (Economic, Environment and Cultural Services).

### **Stage 4 – Independent Examination**

Herefordshire Council will arrange and pay for an independent examination of the CRtB Order and supply the relevant documents to the examiner (Reg 24). It is anticipated that many examinations will be dealt with by written representation but some maybe via hearing or public examination depending on the circumstances.

Documentation will be supplied by the Neighbourhood Planning team to the examination including the proposal Order, any further documents that are required as part of the submission and a copy of any representations received during the publicity period.

The examiner will recommend either:

- The CRtB Order should move to a referendum.
- The CRtB Order should proceed to referendum following some minor amendments.
- The CRtB Order should be refused.

The Inspector's report will not be binding and Herefordshire Council (Director of Places and Communities or the Assistant Director of Economic, Environment and Cultural Services) will decide whether to proceed with the examiner's recommendation and notify the parish council or community group. The report and Herefordshire Council's decision statement will be

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published on the website and within the Neighbourhood Area.

## Stage 5 – Referendum

Once the CRtB Order is finalised and any suggested amendments have been made, Herefordshire Council will arrange and pay for a referendum of all those on the electoral roll within the Neighbourhood Area that the CRtB Order is covered by. These could also include those within neighbouring parishes if it is deemed appropriate where proposals will directly affect them, this recommendation will be made to the council by the examiner within their report.

The Neighbourhood Planning (Referendum) Regulations 2012 state that the question to be asked for the CRtB Order should be: **‘Do you want the development in the Community Right to Build Order for [insert name of Neighbourhood Area] to have planning permission?’**

Should the referendum result in more than 50% in favour (of those that turned out to vote, not of those on the electoral role in total) then Herefordshire Council must implement the CRtB.

## Stage 6 – Publicising the Community Right to Build Order

A made CRtB Order will be published on the Herefordshire Council website and will be available to view in Info centres, as well as a site notice at the site.

Copies of the decision for the CRtB Order will be sent to the parish(es) and/or community group and any person who asked to be notified (Reg 27).

Making the Order grants planning permission for the specified development and the development can go ahead.

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## **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