Community Rights: Where's the Evidence?

Abstract: *The Communities and Local Government Select Committee has reported back on its inquiry into Community Rights. The government has responded – using dodgy data to reward bad performance. What's the story?*

What exactly are Community Rights, and how are they supposed to work?

The Localism Act 2011 contains a suite of new community rights: **to bid** (for Assets of Community Value); **to challenge** (for the delivery of services); **to build** (local facilities and amenities); and **to reclaim** (derelict or unused public land). To help local groups take up these rights, the government has now allocated around £32m in funding. This is managed by the Social Investment Business (SIB) Group, through what its website describes as an 'engaged investor' approach. Locality, the government's neighbourhood planning franchisee, encourages take-up of the rights in terms of heroic enthusiasm.

Under the current arrangements, the **community right to bid** has three stages:

1. If a parish council or community group believes that a piece of land (such as a playing field) or a building (for example, a pub or shop) is important to an area's wellbeing or identity, it can ask the local authority to list it as an **Asset of Community Value (ACV)** for a period of 5 years.
2. If the council agrees, it means that if an ACV's owner wants to sell it, the community group has an initial 6 week period to express an interest in buying the ACV.
3. If the community group decides to proceed, it has a 6 month timescale, which includes the initial 6 week period, to put a bid together.

Note that this is a right for a community to *bid*, not to buy. At the end of 6 months, the ACV's owner is free to sell it to someone else, or not sell at all. Nor does listing an ACV force its owner to sell. Unless renewed, ACV status elapses after 5 years.

The number of buildings and plots of land likely to qualify for ACV bids across England is certain to run into hundreds of thousands. Yet recent evidence from the Department of Communities and Local Government (DCLG) shows that in the 3 years since the right became available, only 1,800 – of which some 500 are pubs - have been listed as ACVs. In only 122 of these cases has an impending sale resulted in local groups invoking the 6 month moratorium. And of these, just 11 ACVs have actually been bought by their communities.

The Coalition government created the **community right to build** to help local groups gain permission for development in their area without the normal planning process. This can cover homes, shops, businesses or community facilities. After gauging local support for the development, a community group must draw up a draft order for submission to the local authority, who then will forward it to an independent examiner. If the examiner is satisfied, the council will then hold a local referendum to decide if voters support the order.

It is clear that the right to build is even more complex than the procedures it is supposed to circumvent. Despite DCLG reporting that the right to build has raised 3,100 inquiries and 14,000 web hits on its site, only 8 applications have been made in England. Five were rejected by the

examiner, and just 3 have reached the referendum stage: none of the dwellings have so far been completed.

The **community right to challenge** allows 'voluntary and community groups', council employees and parish councils to express an interest in taking over a local authority service. This is also a three-stage process:

- The promoting group submits an Expression of Interest (EOI), showing how the proposal would meet the needs of service users and the suitability of the group to run it.
- The local authority must then either accept the EOI (with or without modification) or reject it.
- If the EOI is accepted, a standard tendering process follows. This means that other bodies, including private firms, are also allowed to bid.

Locality claims that awareness of the right to challenge "appears to be high amongst relevant bodies". But neither they, nor the DCLG, nor local councils monitor uptake. This is worrying, given the large sums of public money Locality receives to help community groups through the Coalition's localism maze. DCLG figures show that only 216 groups across England have received financial assistance from Locality, not specifically to challenge, but merely to *develop their capacity to bid*. (My italics.) This had resulted in just 51 EOIs by December 2014. To DCLG's knowledge, only 3 of these tenders have succeeded.

The **community right to reclaim land** was established in law back in 1980, but re-launched under the Localism Act 2011. Under this, local groups may ask the Communities Secretary to require certain public bodies to sell off their unused or under-used land. If the Communities Secretary decides that this land is indeed vacant or under-used and the local council has no plans for it, he will issue a notice requiring the public body to sell. However, the sale will be on the open market, with no first refusal to community groups. Last June, there had been 47 applications to use this right. But by September, only 2 of these were known to be 'under consideration'.

Put simply, the rights are in a right mess . . .

Statistics rarely speak for themselves: politicians make sure of that. But viewed alongside the very low take-up of neighbourhood plans, it's clear that only a tiny minority of England's communities are in any position to seek, let alone secure, the government's much-trumpeted community rights. Most people don't live in localities with properly constituted community bodies, or access to the right mix of skilled, influential support, to get the bureaucratic ball rolling.

Thanks to austerity, there's no guarantee that the resources needed to take up the rights will become or remain available – even for relatively advantaged communities. And there's always the danger of predatory 'oligarchies' like G4S using the rights, Trojan Horse-style, to partner community bids, as a lever for taking over public services and facilities for private gain. And as I have argued elsewhere, the neoliberal policy architecture within which these so-called rights are framed makes them convenient vehicles to outsource the focus of blame from government to local people.

The Committee Inquiry

Last year, the House of Commons Communities and Local Government Select Committee carried out its own inquiry into these rights. Last year, I submitted written evidence to the inquiry on behalf of

the National Coalition for Independent Action, who sponsor Localism Watch. On 2 December, I appeared before the committee to give oral evidence– sitting, ironically, alongside Locality's CEO and the SIB's Deputy CEO. Although 5 of the committee's 11 members are Conservatives, not one turned up for the session. It would be no exaggeration to say that the Labour and LibDem Committee members were underwhelmed by Locality and SIB's track record in promoting and securing these rights for communities – far less, by their representatives' inability to justify that performance on the day.

On 2 February, the Select Committee published its final report and recommendations. It also launched a promotional YouTube video. Most of the footage was shot in a pub. As an 'innovative' move, the Committee held one of its sessions in the Ivy House, Nunhead. It's seen as the 'flagship' of the Community Rights programme, being one of the tiny number of ACVs that, thanks to an unusually well-resourced partnership, was eventually bought by the local community.

Select committee, select conclusions

Given the manifest failure of any of these rights to be widely known or accessed, let alone make a tangible difference community sustainability, the Committee's report is – to put it kindly - an opportunity wasted. It finds the system and those administering it to be basically sound, requiring just a few tweaks on the margins to eliminate the teething troubles.

As an example, the Report's headline recommendation is for the moratorium on ACV sales to be extended from six to nine months, as this "will give communities more time to develop the necessary skills and contacts to develop their plans and find funding". And it also believes that widespread public disenchantment with the local political process can be solved through more public money for capacity building initiatives, - such as those that Locality has been promoting with a distinct lack of success and at considerable cost.

Many of those who gave evidence to the Committee – myself included - said that the Right to Challenge was in itself confrontational and that tendering placed communities at a disadvantage against large, predatory undertakings. Government-imposed funding cuts on public bodies force more and more local services to be run down and outsourced, particularly in those communities least equipped to access the Right to Challenge. Yet the best the Committee can do is to recommend "both central and local government to look at ways to involve communities more routinely in the commissioning and delivery of local services."

Although the Report sees the Right to Build for the damp squib that it is, all it can suggest is for the existing procedures to be merged into the neighbourhood planning process and a vague appeal for more publicly-funded capacity building. And with the as-yet unclaimed Right to Reclaim, the solution is for "clearer definitions of the type of land local people can express and interest in and more information on where that land is and who owns it."

All in it together

Why such a lame set of responses and recommendations to rights that, by any reasonable standards, aren't worth the paper they're written on? Let's take a closer look at the quoted sources for the Committee's recommendations. Thirty-five organisations provided written submissions to the

inquiry, and 16 representatives, including myself, were called to appear in person. But only a select few of these made it into the text and footnotes of the Report.

Prominent among these is the heritage charity Civic Voice. It has established a group called the Localism Alliance, which although it has no dedicated website, claims to "represent over 200,000 individuals and nearly 10,000 grassroots organisations . . . (working) together to help their members and communities embrace the powers available to them" to have local assets listed as ACVs. Others frequently cited in the Report are the Plunkett Foundation, who support village shops and pubs, and the Campaign for Real Ale (CAMRA), who probably need little introduction for most Localism Watch followers. And the despite the rough ride they received at the Committee's oral hearing, the views of Locality and the SIB permeate the document. Not surprisingly, the Plunkett Foundation has welcomed the report and recommendations.

Why should this be so? A simple online search of these organisations reveals an extensive and complex set of organisational connections between them. CAMRA, Locality and the Plunkett Foundation are partners in the Community Pub Ownership campaign. Their representatives regularly appear on the same platform at seminars on community issues with government officials. Locality and the Plunkett Foundation run the Power to Change community network, offering "enterprise tips, news and useful updates topics including funding". And Civic Voice's Localism Alliance includes CAMRA and the Plunkett Foundation among its leading supporters. That perhaps explains why a disproportionate number of ACV listings have been pubs, and why the Select Committee arranged for one of its sessions to be held in the cosy ambience of the Ivy House.

Select Committees play an important role in the British Parliamentary system. They give backbench MPs, particularly those with little prospect of becoming ministers, a chance to hold the government and key organisations to account – or at least to vent their frustrations. But as BBC2's *Inside the Commons* series illustrates, backbenchers nearly always lose out to frontbenchers. As the May election looms, MPs' thoughts are more likely focused on how to retain their seats. When tasked with reviewing a set of cosmetic Community Rights, promoted on the government's behalf by organisations whose commitment to communities is equally cosmetic, the line of least resistance is to set out recommendations that are more cosmetic still.

After all, it's bad form to say nasty things about the folk who've just stood you a pint.

On 17 February, the government gave its response: a £6 million boost to the community rights programme. This includes 6 new contracts to its valued partners. Locality are right at the top of the list, and alongside them are Civic Voice and the Plunkett Foundation. As might be expected, a paean of mutual admiration from Locality's chief executive features in the government's press release. Communities Minister Stephen Williams said: "The 3,000 uses of the rights so far is proof that communities are revolutionising the way their neighbourhoods work and this further commitment will ensure the Community Rights movement goes from strength to strength."

No prizes for guessing that the government's reward for poor performance includes the presentation of statistics. The Minister's "3,000 uses", to put it bluntly, is a wind-assisted figure. It's been stretched to cover not just the tiny take-up of community rights discussed here, but the areas

that have begun the long and uncertain process of making neighbourhood plans. As I've already shown in Localism Watch, the number of such plans that have actually completed the process runs into dozens, not thousands: the overwhelming majority of neighbourhoods in England haven't even begun the process, and may indeed never do so. It all belongs to the world of evidence-free government that Zoe Williams describes so well.

High time, then, for community rights and their well-heeled purveyors to be brought bang to rights?

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