

CA 07

Ymgynghoriad ar asedau cymunedol

Consultation on community assets

Ymateb gan: Ymddiriedolaeth Adfywio Meysydd Glo

Response from: Coalfields Regeneration Trust



**Ymddiriedolaeth
Adfywio Meysydd Glo
Coalfields Regeneration Trust**

ADEILADU FFYNIANT A CHYFLEOEDD | BUILDING PROSPERITY & OPPORTUNITY

Coalfields Regeneration Trust (CRT)

CRT welcomes this opportunity to engage with the Local Government and Housing Committee on their Inquiry into Community Assets.

Established in 1999 the Coalfields Regeneration Trust (CRT) is a national charity and social enterprise that is solely dedicated to building prosperity and opportunity in former mining communities across the UK. Since inception CRT has prioritised the protection and development of vital community assets and services and the creation of community owned businesses in some of the most deprived areas of the UK, working in long term partnerships to develop resilient communities and local economies for the future. Our mission statement is: "To create opportunities for social and economic growth, deliver a positive lasting impact and ensure former mining communities are not disadvantaged by the legacy of the past."

The Trust is a registered Charity in Scotland (SCO39277) and England and Wales (1074930) and Company Limited by Guarantee (3738566).

As a UK organisation CRT has office bases in Tredegar, Pontypridd, Barnsley, and Kincardine operating across 60 Local Authority areas providing support community empowerment, public and third sector engagement at various stages of an asset transfer journey in some of the most deprived communities in Wales, England and Scotland.

Community buildings and community spaces play an important role in bringing people together for health, social, well-being, education and recreation purposes. The importance of people being able to access local facilities was emphasised during COVID-19. Many community buildings are in public ownership and as Local Authorities seek to reduce costs these assets are now at risk of closure, particularly those within deprived communities where they may not generate sufficient income to be sustainable. Austerity measures have further been compounded by COVID-19, the energy and cost of living crisis and **urgent** work is required to recognise and safeguard our current community facilities. The importance of place is a key consideration of Planning Policy Wales for future developments – we should not lose sight of the importance of these physical and natural assets which exist now.

Response

1. Does the current statutory and policy framework empower communities in Wales to develop community assets?

Welsh Government have expressed a commitment *"to work with communities to help maintain local facilities that bring people together, including pubs, libraries, museums, greenspace, arts and leisure centres, helping communities take*

ownership of assets in their local area where this is the best option".¹ In 2015 the National Asset Working Group (NAWG) produced best practice guidance for Community Asset Transfer (CAT). This was updated in 2019 and published by Ystadau Cymru (previously NAWG). There is also the Protocol for Estate Co-Location and Land Transfer (2020) which focuses on disposal, transfer and shared use between public bodies but also recognises the important role of communities and assets which deliver well-being outcomes.

Our View

Whilst the commitment and guidance exists from Welsh Government, without regulatory requirement this guidance is not firmly embedded across all Local Authority areas which have resulted in regional disparities. Whilst we are aware that 'not one size fits all' and in the absence of a policy there could be a perception of greater flexibility, in our experience without open and transparent guidance it is reliant on individual officers to interpret and manage expectations of both parties and often take considerably longer.

As a minimum the current guidance needs to be expanded to include disposal of charitable land where a public body is seeking to discharge their duties. We are increasingly seeing asset transfers where public bodies do not realise that there are restrictions on use, or if a lease over 7 years has been negotiated then the asset may have to be disposed of according to Charity Law. One community group have been stuck with a Local Authority Legal Department for over 5 years! Others have failed to transfer wasting public and community time and resources which has resulted in the loss of community assets.

We also feel that the guidance needs to be proportionate, a small scale transfer for a community growing project should not require the same level of information and business plan as a leisure facility.

Recommendations

The implementation of legislation and a regulatory framework which provides clear, transparent and proportionate processes. The process for identifying the social value and return should also be included within the framework.

In the absence of legislative policy to include in the current CAT guidance information on the disposal of charitable land or assets which may be subject to charitable trusts or restrictions for use.

Playing Field Regulations 2015 require Local Authorities to consult with communities prior to disposing of part/all of a playing field.

Our View

A Local Authority is often balancing competing interests. In our experience consultation only takes place as part of the planning process for proposed end use of the land, rather than the impact of the loss of the playing field itself and a separate impact assessment. Particularly as many of the playing fields within

¹ Ystadau Cymru – Community Asset transfer Guide 2019-2020

communities may fall under education department which are an exception for these regulations.

Recommendation

To be effective and empower communities Local Authorities should be required to undertake a public consultation on the loss, or change of use, of all community accessed playing fields and following this produce an impact assessment before proceeding to planning consultation. If at this stage a percentage of objections relevant to the population size were received, or was objected to by one of the statutory consultees then this could automatically trigger a referral to Welsh Government – or an independent Land Commission if one existed - for an impartial decision. Often if a decision is called in at planning stage then it is reviewed in line with Planning Law rather than these specific regulations which should be a pre-requisite to planning.

Future Generations Act 2015: securing economic, environmental, social and cultural well-being of future generations. Working collaboratively with communities and securing assets for the benefit of future generations is a requirement under this Welsh legislation.

Our View

Unfortunately the Commissioner cannot act on behalf of individual asset transfers/communities and once an asset is lost then it is too late.

Recommendation

Using a community of interest or place based approach to establish loss of assets in a geographical area, or type of asset, can indicate a systemic issue which could trigger the Commissioner's involvement. Currently public bodies have a duty to report on the impact of their decisions and consider the longer term implications of any actions taken if this was expanded to include reporting on the current community assets available and the scale of asset transfers undertaken this will improve oversight and help inform a targeted approach and can be done within the public bodies current reporting framework.

It is a requirement for public bodies to register their assets on e-PIMS – if this was expanded to include assets of community value then this would give a more accurate picture of any patterns of loss within our communities. A public body will know which of their assets are currently used by communities and therefore have a community value. This will not include assets which the community may value which are outside of the public estate, however the potential to expand the database could be a consideration.

Socio Economic Duty 2020: Public bodies should aim to reduce the inequalities of outcome which result from socio economic disadvantage. 2019 research by Local Trust and Oxford Consultants for Social Inclusion state that “**places to**

meet, connectivity – both physical and digital – and an active, engaged community are vital to secure better social and economic outcomes for people living in deprived neighbourhoods.”² Greater access to community facilities will have better health, well-being and economic outcomes than deprived communities with less access.

Our View

The closure of a community building, the loss of a green space or playing field is often looked at in isolation and the cumulative effect of these losses can leave many communities with limited access to services and recreational opportunities which can mean that people are further isolated and financially worse off as they may have to travel to access services and facilities elsewhere. There is also disparity with access to public transport outside of towns and cities with many bus services no longer operating their less profitable routes further impacting on disadvantaged communities.

Recommendation

Using a place based approach to ensure that people have access to facilities within a certain distance of their home e.g. Future Generations Commissioner states that people should have access to Green Space within 4 minutes from their home. If facilities have to close then this included within an impact assessment and where identified additional resources allocated to ensure that the facility/green space is supported to be retained within the community – this could be additional funding, or resources for community capacity building.

Local Government Act 1972: General Disposal Consent (Wales) 2003 allows Local Authorities to dispose of land for less than market value providing they can justify a social value for the asset.

Our View

There is disparity on how social value is calculated we are aware of unincorporated groups who have taken on public assets such as parks, playgrounds and public toilets at market value with no means to generate income to maintain and operate the asset. This then goes against the best practice guidance which states that assets should be sustainable. Many others have rent review periods linked to the market value of the property therefore as groups refurbish their property this could increase their market value so dis-incentivises them to invest in their property. There have also been others where rent reviews will be linked to income generation – again dis-incentivising groups to thrive.

Recommendation

To assist Local Authorities establish social value there are tools available e.g. The Social Value of Community Asset Transfers (CAT): Bristol and Bath CAT Social Value and Financial Savings Calculator 2019. If a legislative framework was introduced the process to calculate social value should be included to ensure a consistent approach.

² 2019 Local Trust and Oxford Consultants for Social Inclusion (OCSI) Left Behind? Understanding communities on the edge.

Although community assets are often linked to service delivery we are concerned to see Service Level Agreements (SLA) tied into a lease which may invalidate the lease. We have also seen many leases where the Local Authority divest themselves from the responsibility for an asset, yet wish to retain control and will insert clauses which would be considered unreasonable for the private sector.

Example of unreasonable clauses:

1. *The tenant is not to assign, sublet or **hire** out the whole or any part of the property without written consent from the Landlord's Estate Officer.*
2. *The tenant is not permitted to assign, underlet, charge or share any part of the demised premises without Landlords prior written consent.*
3. *The tenant must notify us of any media or political events happening from the premises. At least 1 weeks notice is required to the site manager (if applicable) or Head of Corporate Estates {Local Authority}. To fail to do so will invalidate this lease agreement.*
4. *Improvement of the pitch facilities with the ability to obtain any appropriate grant funding subject [to] prior discussions and written approval from the Councils Estates Department.*
5. *Within two months after the end of each year of this lease the Tenant shall deliver to the Landlord a certificate given by a professionally qualified accountant which shall confirm the amount of Gross Income receivable by the Tenant during the immediately preceding year of this lease by reference to the applicable payment rates and the amount of electricity generated, exported and sold. If that certificate discloses that the Gross Income for that year is greater than the Minimum Second Rent the Tenant shall pay to the Landlord the difference between the Gross Income for that year and the Minimum Second Rent within ten working days of the date of the relevant certificate.*

Recommendation

The examples provided are from Local Authorities which have CAT policies in place that recommend working in partnership with voluntary organisations. We would therefore recommend a package of training to support local authority officers involved in asset transfer to ensure that the principles of community empowerment is understood and embedded.

We would recommend that service delivery and income generation is kept separate from lease agreements which should just focus on the property.

Sharing Best Practice

Rhondda Cynon Taff County Borough Council established a community asset transfer group for the voluntary sector which involved a number of development agencies, funding bodies and local authority staff. The group would meet on a quarterly basis in a community building which had recently been transferred. The

third sector organisation who had taken on the asset was invited to provide an honest account of their journey and invited them to make recommendations for improvements and identify any areas for further support.

CRT chair and provide secretariat support to a CAT group in Blaenau Gwent comprising of Local Authority, development support agencies and representatives of national governing bodies these meetings provide an opportunity to discuss support requirements, opportunities and share learning.

White Paper Reforming Local Government: Power to Local People 2015
Local Government and Elections (Wales) Bill 2020 allows for greater transparency of Local Government decision making and encouraging communities to get involved.

Our View

At the consultation stage for this Bill it was suggested that communities should be given notice when assets of a certain value were under consideration for disposal – advertising these assets and encouraging communities to consider future use could have provided greater potential for collaboration and innovation.

Although advertising on a ‘window of opportunity’ is included within Ystadau Cymru CAT guidance in practice this rarely happens. Many Local Authorities may identify a ‘surplus’ asset and then identify and approach a potential anchor tenant directly. In this situation the tenant will often fear if they do not take it on their organisation/services will be at risk therefore starting with a power imbalance and often a fractious/distrusting relationship. Local Authorities should also consider whether it is within the power and objects of the community group to take on and manage an asset and whether advertising widely would encourage more people within the community to consider a wider range of uses for the community asset helping the asset to meet a community need and potentially becoming more cohesive and sustainable.

Recommendation

To follow CAT Guidance and advertise assets – whether identified by a community organisation, or local authority as surplus to requirements – on a ‘Window of Opportunity’ which is then widely circulated through elected representatives, social media and third sector support organisations.

2. To what extent does the Community Asset Transfer scheme promote and support effective development of community assets?

Our View

When communities express an interest to safeguard an asset which is at risk in their community then we should have processes in place to facilitate and encourage this. When an asset transfer is done well they provide communities with opportunities to protect valued local spaces, maintain local services, strengthen partnership working and can help build a vibrant local economy. We have the framework for doing this with the Future Generations Act, Power to Local People and Best Practice Guidance on Community Asset Transfer (CAT). If a group is undertaking a CAT then they have to consider how they are meeting a

community need, what social value they are providing and how they will become sustainable which may require them to diversify services or re-consider how they operate.

Case Study

Dyfed Road Bowls Club have recently taken on a long term lease on their pavilion and green from the Local Authority. Since doing so they have opened up their facilities for a local tennis and cricket club and become a hub for daytime well-being activities with residents from nearby sheltered accommodation and now have a kitchen, providing volunteering opportunities and training. The income raised from diversifying their activities has enabled them to become financially sustainable. The CAT process has therefore ensured that a community facility is retained and that it is meeting a wider community need and will be available for future generations.

However, not having a **proportionate scheme** can restrict the development of a community asset e.g. a small parcel of land required for community growing should not have to produce a 5-10 year business plan and require a group to become incorporated. A management agreement rather than a lease may then be considered proportionate.

Recommendation

A proportionate approach to an asset transfer which reflects both the type of asset and the period of transfer. This ensures effective use of resources for both the community group and the Landlord.

3. What are the barriers and challenges faced by communities in taking ownership of public or privately owned assets, including finance and support services?

At the time of this response our communities are facing an **energy and cost of living crisis** which is presenting additional challenges to an already difficult situation. The services which operate from many of our community facilities address a social need at the same time these assets, which are still recovering from COVID-19, are now facing a significant increase in energy costs. This may escalate the closure of community facilities our concern is that this will be at a dis-proportionate rate in more deprived communities. Voluntary organisations looking to retain these assets may find it even more difficult to provide a business plan and cash flow forecast which will show sustainability in the short term and therefore may not acquire the asset or the funding required to open.

Our view

- Dedicated CAT funding and support not available in most Local Authority areas.
- Disadvantaged communities often lack human as well as funding resource, they are also not able to raise the same funding through crowd source funding or community shares within these communities.
- Community buildings in areas of high deprivation are often used to provide valuable services such as food banks and other activities which

they are not able to generate an income from, this means that they will struggle to be sustainable and will either not be considered for transfer, or will remain at risk.

- Insufficient resource within third sector support agencies to provide capacity building. There are good examples of where this works well but resources to support capacity building do not meet the scale of need, particularly in deprived communities.
- Lack of consistency across Local Authority areas and between Local Authority departments.
- No CAT policy or process – or where it does exist, less flexibility for different types of asset e.g. small scale community growing projects.
- Estates Team prioritising assets for market value, or assets which are in a poor state of repair.
- No clear guidance on measuring social value impact.
- Lack of Local Authority staff/resources.
- Not completing Impact Assessments and consultations in accordance with guidance.
- Considering community assets in isolation rather than a place based approach.
- Insufficient information available on some assets e.g. running costs.
- No central register of publically owned assets of community value.
- No central register of publically owned assets available for community asset transfer.
- No 'right to bid' or 'right to buy' for assets of community value.
- No community right to reclaim disused land owned by public bodies.
- No dedicated funding pots for community asset transfer in Wales. Can access from Department of Levelling Up Housing and Communities however this has to be matched 50% and is retrospective so groups have to spend the money first and then claim – this is a barrier to most organisations – particularly in more deprived communities.

In September 2015 a consultation on community assets closed and a number of recommendations were considered which will help overcome some of these issues <https://gov.wales/written-statement-assets-community-value-0>

4. Lessons beyond the Welsh border?

It has been identified in the 2020 Bevan Foundation report: Productive community assets: generating the benefits and the more recent Institute of Welsh Affairs 2022 Our Land: communities and land use, that Wales falls behind the rest of the country in relation to powers related to community ownership. However, lessons should be learnt from our neighbouring UK countries on how effective this legislation is. The 'Community Right to Bid' in England allows communities to register an Asset of Community Value (ACV) and when that ACV is available for sale/disposal then there is a process in place to ensure that a community have time to submit an interest – 6 months is not long enough in most cases for a community to organise themselves, and get together a financial package to enable them to do this – and a right to bid is not the same as a right to buy.

Scotland have far more powers and established processes in place along with funding support either through their Scottish Land fund or Community Empowering Communities Fund and a 'Community Right to Buy'.

Summary of Recommendations

Implementation of legislation and a regulatory framework

To introduce legislation which provides clear, transparent and proportionate processes to include the process of measuring social value. In the meantime to include within the guidance the process for disposal of charitable land/assets.

Identify communities in need – placed based or communities of interest

Although each Local Authority may keep a record of assets which have been transferred to a community organisation there is no overview of scale of transfers and/or loss of facilities in a particular area to identify need for targeted support and capacity building. This could include the loss of certain types of facilities e.g. libraries, bowls clubs which generally find it difficult to demonstrate sustainability. It is recommended that further research is required to ensure resources are targeted effectively and to help inform policy.

The e-PIMS register of assets could be expanded to include those of community value which could then help identify any areas of concern.

Support a community asset network to deliver general support and training across the sectors and share best practice.

Since 2017 CRT has also created and supported regular multi agency community asset transfer groups pulling together public sector, community sector support agencies and sporting governing bodies to help support the scale of asset transfer of facilities in targeted local authority areas of high need with poor social infrastructure. We have also hosted and facilitated a number of community asset transfer workshops with key speakers including Ethical Property Foundation, Geldards Solicitors, funders, energy efficiency providers and third sector support agencies. It is recommended that this work is replicated in areas where resources are limited to further build the capacity of the sector.

Steady and long term investment:

- **Investment in local capacity building – empowering community ownership**

Development support required for both pre and post asset transfer. Since 2018 we have been contracted by a Local Authority to deliver CAT support to groups in Bridgend, South Wales. BCBC have a dedicated CAT Officer. The contract between

CRT, Cwmpas and BCBC includes: organisation health checks; governance support; feasibility; business planning; financial forecasts and developing fundraising strategies. They also have a specific fund allocated to support capital refurbishments post transfer. This level of support is not available in other regions. CRT would recommend additional similar resources to enable organisations to build their capacity.

CRT would also recommend that post transfer support is provided which will include training and support in land registry requirements, property management, statutory compliance, energy efficiency, measuring outcomes, monitoring requirements, publicising their project and sharing best practice. Post asset transfer support is critical given the cost of living and energy crisis pressures being faced by voluntary organisations

- **Further targeted investment in deprived communities**

We know that the scale of loss of community facilities effects those areas which are most deprived (OCSI, 2019). The additional unprecedented challenges of climate change³, COVID-19⁴ and the cost of living crisis will have a further disproportionate effect on deprived communities. We need to identify and target public investment. A tool for mapping areas with poor social infrastructure has been done in England but not yet in Wales and Scotland <https://ocsi.uk/left-behind-areas/>

- **Capital and revenue funding for communities.**

Prior to an asset transfer taking place communities require specialist technical and legal advice to ensure that they are making an informed decision for their community and their organisation. Unfortunately very few funders allow for professional fees such as: solicitors; conveyancing; building condition surveys; energy efficiency surveys; asbestos reports; HR (TUPE) support; fire risk assessment; health and safety risk assessments; property management training; accountancy support and pitch surveys. CRT would recommend revenue funding for professional fees attached to any potential community asset transfer support or capital funding programme.

Although we are aware of capital funding available through the Communities Facilities Programme this fund is not specifically for Community Ownership. The Community Ownership Fund (COF) administered by the Department of Levelling Up Housing and Communities is available in Wales, however this is retrospective funding and only for 50% of the costs. Organisations – particularly those in deprived communities – are not in a position to meet these costs therefore are being left further behind. The key barriers to accessing COF is community capacity, the ability to match fund or to have funding retrospectively. More work is needed to ensure that our communities benefit from levelling up funding.

Designated Land Commission and Fund

We recommend that a separate Land Commission and fund is established to improve

³ Joseph Rowntree Foundation 2014. Climate Change and Social Justice: an evidence review

⁴ Sheffield Hallam University – The Centre for Regional Economic and Social Research 2021. The Impact on Coronavirus Crisis on Older Industrial Britain.

access to public land where the land will be used for community growing, increasing biodiversity or establishing community owned renewable energy projects. These are key priorities for Welsh Government and communities can help Welsh government achieve their goals.

The Land Commission could also then hold a register for assets of 'common good' such as public parks, playing fields, monuments, playgrounds. A register and regulations already exist for areas of common land. There would be a specific process for disposing or changing use of these assets.

If approved (currently open consultation <https://gov.wales/coal-tip-safety-wales-white-paper>) there is proposed to be a supervisory authority for former coalfield sites and an asset register which could be incorporated into a Land Commission regulatory body.

Introduction of a 'Community Right to Buy' abandoned, neglected or detrimental land.

If a community right to buy process was established this would empower communities to improve the areas where they live and work.

Response submitted on behalf of the Coalfields Regeneration Trust by:

NATALIE SARGENT

Development Manager, Wales

The Coalfields Regeneration Trust

Date: 21st June 2022