

The Social Relations of Property: Motives, Means and Outcomes of the Community Right to Bid in England

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Abstract

This thesis discusses ownership as a governance issue and contributes to conceptualisations of property as an expression of wider social relations and vice versa i.e. how property impacts on social relations. This is pertinent given the advent of renewed attention to the (new)commons as a set of practices and is intrinsically linked issues of how rights are constituted, defended and challenged. Indeed, the collective right claims made via the Community Right to Bid (CRtBid) policy and Assets of Community Value (AsCV) mechanisms explored in the research do resemble discourses associated with the (new)commons and right to the city movements. Central to conceptualising property is consideration of claims to property that are often derived from conflicting value systems, which unsettle property in use and exchange from ‘owners,’ users and other third parties’ perspectives. This research describes how competing claims are reflected in stakeholder behaviours and motives, as well as in the means used and outcomes derived in practice. The empirical element of this thesis focuses on the CRtBid policy and AsCV regulations, enabled under the 2011 Localism Act in England. The CRtBid was introduced alongside a new localist approach to politics and planning, with a claim to recognise the socialities of property in planning decision making and opening new channels for alternative ownership of qualifying assets. The AsCV nominations and CRtBid were intended, and have been used by, communities, to increase local control of community assets. The findings indicate that the CRtBid policy largely emphasises market values and can lead to an unequal access to opportunities in protecting and purchasing assets. While such assets gain some status in planning terms, the protection afforded can be weak or indeed value may be effectively ‘lost’ through the process. Instead of enabling communities the policy can actually lead to the closing-off of rights claims while other mechanisms or avenues for communities may be more appropriate, as at least those other means do not operate through market logics and have some clearer democratic and equity-based attributes. This timely investigation of the CRtBid policy draws attention to a need to address issues in governing community assets in the public interest.

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This thesis is dedicated to my family.

Declaration

I confirm that this is my own work and the use of all material from other sources has been properly and fully acknowledged.

Tessa Jayne Lynn

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Acronyms

Assets of Community Value (AsCV)

Change of Use (CoU)

Community Asset Transfer (CAT)

Community Benefit Society (CBS)

Community Interest Company (CIC)

Community Interest Organisation (CIO)

Community Land Trust (CLT)

Community Right to Bid (CRtBid)

Community Right to Buy (CRtBuy)

Company Limited by Guarantee (CLG)

Compulsory Purchase Order (CPO)

Local Authority (LA)

Neighbourhood Development Plan (NDP)

Neighbourhood Forum (NF)

1. Governing the social relations of property

“It is for experience to determine how far or how soon any one or more of the possible systems of community of property will be fitted to substitute itself for the “organisation of industry” based on private ownership of land and capital. In the meantime we may, without attempting to limit the ultimate capabilities of human nature, affirm, that the political economist, for a considerable time to come, will be chiefly concerned with the conditions of existence and progress belonging to a society founded on private property and individual competition; and that the object to be principally aimed at, in the present stage of human improvement, is not the subversion of the system of individual property, but the improvement of it, and the full participation of every member of the community in its benefits” (Mill, 1848: pp.252-253).

John Stuart Mill recognised that numerous models of ownership were possible and that iterations of property ownership were in some measure reflections of the society in which it was sustained or amended. Given the importance of property in economic, environmental and social terms it is hardly surprising that conceptualising property has long been, and remains, a concern for political economists and philosophers. Some advocate that the market and private property is the most effective way of determining land use and the distribution of property rights, others perceive an over-reliance upon the market to determine property and cite the deleterious impact of markets and ‘private’ property to local communities, the environment, long term economic needs and societal progression.

Despite continued debate there has been a limited research effort exploring property rights in practice during recent years. This has led to a lack of empirical research about how the social relations of property are interpreted and how conflictual property claims are reconciled through policy. Therefore, this thesis focusses on a contemporary issue which highlights ongoing conflict over the role and application of property right variations in society. It is perceived that interventions made by government act to disturb existing ownership models through adjusting the social contract (see Chapter 2) and highlight how particular rights and responsibilities are sustained, challenged or reinforced. The following is an investigation into one example of governmental intervention which purported to resolve competing rights claims over property in England. Here, it is explored how property claims are recognised and resolved in practice, specifically through the Community Right to Bid (CRtBid) as enabled under the Localism Act (2011) in England. A fuller explanation of this is given in Chapter 3, but the purpose here is to introduce the context of social relations of property, community ownership and the relationship to localism and community rights introduced post-2011 in

England. A fuller exploration of the policy focus, underpinning theory and the primary research is provided in the chapters that follow.

The thesis reflects on the aims of the policy and stakeholder experiences of the CRtBid and grounds emerging research into ongoing theoretical debates. It is not only about the CRtBid and associated variants of (neo-liberal) localism, but also what this might mean for the ebb and flow of the social relations of property and the resolution of conflicting claims in a neo-liberalised planning environment. In doing so, this empirically-led critical account draws on a variety of data and is considered alongside debates regarding the latest manifestation of neo-liberal conceptions of rights and values (see Chapter 2). Policies, introduced alongside austerity measures, are observed as an attempt to govern through ‘community’ (Rose, 1996; and see Chapter 3) and to provide absolutist outcomes in an arena where iteration and contestation has continued for centuries.

In precis, what is uncovered here, is the struggle and extent to which a ‘localist’ policy interprets and seeks to ‘resolve’ the meaning and recognition of community value through the CRtBid. Particularly how or indeed whether the policy helps increase community involvement in property decision making. Furthermore, it seeks to identify if the approach addresses the problem of the closure (and the ‘absolute’ privatisation) of Assets of Community Value (AsCV) – of property that is in some measure recognised as contested; as sites of multiple values being expressed simultaneously. The CRtBid publicly aims to *protect* through the *purchase* of the asset and, by inference, the extinguishment of other current or future claims to ‘value’. Through the CRtBid, and other policies introduced via the Localism Act 2011, community ownership is advocated as a way of making businesses viable again. However, observations from literature on this latest form of “neoliberal localism” (see Chapter 3) raise the questions as to whether this is a policy that on the surface aims to empower ‘commoners’ to appropriate AsCV for the greatest societal good or if this is conditional on whether communities have the resources to ‘compete’ on the market and is another hegemonic adjustment to the social contract.

The central claim of this thesis is that social relations of property and associated collective claims to non-monetary values could be better managed through the development of commons-based approaches to the governance of community assets. Such an approach at least recognises the fluid and open-ended nature of property claims and social needs that, as Mill, identified over 150 years ago, are necessarily contingent. This chapter acts as a contextual overview of the problems identified within the literature and in practice, which are based around three key issues and are reflected in the research questions developed for this research.

Firstly, this research has been pursued due to scant empirical evidence to affirm claims that the current institution fails to respond to competing property claims and that there is a prioritisation of economic over social relations of property. As such there is a need for research to ascertain what the implications of this might be and how governance practices might further respond. This leads to the first research question: ***RQ1: How has the CRtBid policy been utilised and interpreted and how are competing claims reflected in the outcomes?***

Secondly, community ownership is advocated as a way to increase the *lived* and *perceived* moments of places and the key challenge identified within the literature is that communities do not have the skills and resources to pursue it. However, very little is understood about the dynamics of this and what the prime motivators are for communities to pursue ownership or indeed utilise their community right. This leads to the second research question: ***RQ2: What are the dynamics of community 'ownership' effected through the CRtBid?***

Finally, the Localism Act (2011) has provided communities with new 'rights' in an attempt to resolve conflicting claims to property, however there is a lack of monitoring and evaluation that considers how effective these are in delivering government intentions and meeting community expectations. Therefore, this thesis reflects upon the data to draw out how these 'rights' should be strengthened to increase the significance of them in decision making. This leads to the final research questions: ***RQ3: What factors appear to prevent the effective use of the CRtBid?***

Various original contributions are made here, these include: linking the (new)commons with the well-established property rights literature and the social relations of property thesis. Together these form the basis for the empirical investigation where a further original contribution is made. Analysis of a national database created specifically by the author to inform the investigation, accompanied by an analysis of how stakeholders have defined 'community value,' provides an understanding of how the CRtBid has been utilised and interpreted. The third contribution is to theorise this episode of property rights intervention via the CRtBid, through consideration for how factors that prevent the effective use of the policy might be overcome.

Previously, there has been no land or property classification that responds to collective land use claims that aim to protect social values. Firstly, the analysis draws out what assets are important to community wellbeing and how community groups define the social relations that are important to them. Secondly, the responses of landowners are considered, how they have communicated with LAs and communities, and whether they have pursued appeals of the collective claim to community value on their property. In the past, landowners have been afforded a preference for appeal, where the

courts have been observed as being biased towards private property rights over and above collective claims (Singer, 2000a; Chandler, 2002; Schudson, 2011). Thirdly, under the CRtBid, the LA is involved in three elements of decision making; whether they *validate* the claims of community value; if planning departments *acknowledge* the ACV listing as material in responding to planning applications; and finally, if the ACV is a LA owned asset, how they *react* to a nomination and/or community bids.

A focus on pubs is logical, not only because of the peak in losses experienced within recent years and the pub being the most listed ACV, but they also provide a way of exploring the social relations of property and the blurry lines of public and private ownership. Public houses have been a part of British culture since the sixteenth century and have performed a vital function in both rural and urban communities (Oldenburg, 1999, 2001; Cabras and Reggiani, 2010; Muir, 2012; Ernst and Doucet, 2014; Sandiford and Divers, 2014; Dunbar, 2016). Their closure has been in steady decline since the 1980s, however half of the 21,000 pubs that have closed occurred after 2006 (Snowdon, 2014). It is a debateable issue as to the causes of the closures (Pratten and Lovatt, 2002; Pratten, 2010; Dunbar, 2016), with some claiming that the use value has declined. Through this analysis of the CRtBid, greater evidence is demonstrated as to the value of public houses via the AsCV nominations and additional insight into why public houses are still closing even after the LA has validated its community value. The following sections summarise the key contextual themes and introduce the key 'terms' and concepts.

1.1. The social relations of property

It has been recognised that the social dynamics of property is often overlooked and conflicting claims to property are downplayed. As a result, calls for an alternative approach to property analysis and policy have emerged, and have been around for some time (Becker, 1977; Reeve, 1986; Bromley, 1991; Christman, 1994; Singer, 2000b; Geisler, 2000). Under the classic liberal view of property, the primacy of possessive individualism and the 'rights' afforded to the title holder is assumed, yet has been challenged by many (Radin, 1849; Rawls, 1971; Christman, 1994; Waldron, 1998). Indeed, common rights act to provide a formulation that unsettles simple notions of private/public/community/open ownership (see Chapter 2). The neo-liberalisation of human life is argued to be the new normal with a range of actions and institutional arrangements being developed and applied that reflect the key characteristics of variegated neo-liberalisms discussed by Brenner et al. (2009). The neoliberal view, typically favours the market as the main method in determining outcomes, which involves regulatory restructuring, market-based policy making, and market driven

institutional reinvention (DeFilippis, 2004; Harvey, 2005; Treanor, 2005; Nijs, 2006; Geddes, 2011). It too is identified as seeking to resolve or simplify the complexity of common rights.

In response, such a situation has seen a resurgence of interest in the (new)commons and consideration for how a commons theory of value attempts to respond to perceived issues presented by neoliberalism. Central to a commons view of property governance is a commitment to social relations and commoning activity, with aims to empower commoners to form a culture and philosophy of collaboration and solidarity and favours a democratic form of localist approach to determining progressive outcomes (Stavrides, 2016). The introduction of the Localism Act and 'community rights,' may have suggested a shift to a more 'commons' based approach and increased opportunities for communities to 'commonify' property of social value. However, as this thesis shows, the governance of property, as currently influenced by the Localism Act, attempts to clumsily reflect social interest using market mechanisms.

It is claimed that the current institution of property rights is "not a sufficient base for policy analysis" (Davy, 2016: p143) because of its lack of consideration for the social functions of property (Renner, 1949; Foster and Bonilla, 2011). It is also perceived to have a negative effect on personhood (Radin, 1949) and human flourishing/justice (Soja and Borch, 2002). There is also the recognition that the terminology used within the legal system and the way property is discussed have been claimed to stifle progress and have significant impacts on the understanding communities have of property (Long, 2012). The literature warns that "conceptually, landownership is muddy and impure" and is often used as a "conceptual firewall" (Geisler, 2000: pp.65-6) intimating that caution is required in overlooking its complexity. This also embraces more expansive theories and frameworks regarding property rights and land use (Becker, 1977; Reeve, 1986; Bromley, 1991; Christman, 1994; Geisler, 2000; Singer, 2000b) and has given rise for different conceptualisations; for example; "progressive property" (Alexander et al., 2009) or plural and polyrational perceptions of property (Lefebvre, 1999; Geisler, 2000; Soja, 2010, Davy, 2016). The literature necessitates moving beyond the dichotomous views of property towards one which is based on a rich mix of instrumentalities (Ostrom, 1990) and a stress on 'property pluralism', (Geisler, 2000; Meinzen-Dick and Pradhan, 2001; Alexander, 2011). Although they differ in their conceptualisations, these authors have been seeking to rework or extend property theory to address the problems and limitations of the dominant individualistic and economic perspectives of private property rights and the impact this has on society. Increasingly there is a need for a new appraisal of how landownership, property rights and associated theory is marshalled, communicated and discerned through policy.

Accordingly, many express the limitations of these perspectives of private property rights and the negative impact on societal progress. Scholars often advocate a form of social relational approach to property (see Section 2.2), as such the framework presented by Singer (2000b) forms part of the theoretical framework of this thesis. The framework states that distributive issues are central to property law and that property rights are recognised as relational, and often conflictual. Recognised as both an individual entitlement and a social system, rights of owners are recognised as having obligations as well as rights and should be limited by non-property rights (Singer, 2000b). As such, cases such as community groups ‘squatting’ to open up vacant community assets, and societal problems of the lack of housing and homelessness, alongside disasters such as the Grenfell Tower, demonstrate undisputable examples of where the current institution of property fails to meet social needs and highlights concern for how much of a reliance upon the market should there be to determine social outcomes, or whether at all.

The questions remaining, therefore, not only relate to how actors understand and respond to property in practice, but the impact of the institutional and political influence on the governance of these responses and to what extent and justification should there be intervention to create, protect and sustain social value. As property is social relational, it is complex, pluralistic, constantly evolving and often highly conflictual. If governance practices do not adapt accordingly, it can have detrimental effects in dividing communities over present concerns or future considerations. This thesis responds to the ongoing necessity to identify and evidence how the current institution of property influences responses to the social relations of property. In doing so, it identifies specifically how policy may influence these responses, and what impact this has on governance of assets of community value. Particularly, this is an empirical investigation on the CRtBid introduced via the *Localism Act* (2011: Part 5, Chapter 3) and the *Assets of Community Value (England) Regulations* (2011) – part of the ‘community rights’ provided in the legislation. Although much critique is to be found on the Localism Act (2011), which, aside from Neighbourhood Planning, shows little evidence or monitoring of the outcomes of these community rights.

The following, before providing a thesis overview, focuses on specific contextual issues that are investigated within this thesis through exploring the role of property in communities and providing further details on the introduction of ‘community rights.’

1.2. Community and property

Land and property lose their meaning and value without reference to people and their needs and priorities. There are no commons without community, and vice versa, and as individual wellbeing is

often dependent upon the social relations of property, where common spaces are identified as both relational and relative, and the modalities of access to common resources are negotiated (Harvey, 1973; Stavrides, 2016). The application of the term ‘community’ is considered as a combination of two elements, as referred to in the work of Etzioni (1996: p127);

“a) A web of affect-laden relationships among a group of individuals, relationships that often crisscross and reinforce one another (rather than merely one-on-one or chainlike individual relationships).

b) A measure of commitment to a set of shared values, norms, and meanings, and a shared history and identity-in short, to a particular culture.”

This study refers to an alternative form of ownership – i.e. group ownership that sits between individual private and wider public ownership. This resonates with parallel ideas concerning group citizenship that identifies a meso-level of citizenship between the individual and national (Stevenson, 2001). Community assets, as referred to in this thesis, are understood to mean physical assets, such as land and buildings, as opposed to assets that may refer to ‘capacity,’ and are understood to be formed by the relational value systems underpinning these spaces. How relationships and values are defined depends upon the access and use of property, which has long been a consideration. Especially since the enclosure of the commons has long been perceived as being a key factor in the destruction and fragmentation of communities (see the works of John Clare, 1793–1864, also in Thirsk, 1967; Thompson, 1991). Alongside modern-day austerity (De Angelis, 2007), pressure is on community organisations to take more responsibility for their communities and has translated into a drive towards community ‘ownership.’ However, as private and public organisations have been forgoing a period of estate ‘rationalisation’ (in monetary terms) it could be an ideal opportunity for community organisations to purchase or manage assets they value (Dobson, 2011). The governmental motivations for community ownership appear to be to “make the asset viable again” (Department for Communities and Local Government (DCLG), 2011b: p14), as community organisations are considered to be able to access support and grants that private and public structures wouldn’t be able to access. The ownership of community assets by local non-profit organisations are considered to be a more democratic approach to property, with greater impact on community well-being and resilience (DCLG, 2006, 2007; Quirk, 2007; DTA, 2008; Blume and Hillman, 2011; Dobson, 2011; Locality, 2017). The validation of contemporary rights claims may be increasingly locally determined through community rights and neighbourhood planning but are also impacted by national discourse. Namely through a drive towards community ownership and action, which has often translated to a ‘de-responsibilisation’ to the market

and is in turn reproduced through neo-liberal policy. Considering that community ownership is considered the most impactful in terms of wellbeing and resilience, one would assume that this would be more evident in practice. There is currently no comprehensive land registry or national monitoring of policies that encourage alternative forms of ownership. In addition, there is no record of how the CRtBid is effective in increasing the success of alternative forms of community ownership and management of community assets.

1.3. Localism and community 'rights'?

Advocated by some as a progressive move towards community involvement in place governance, the latest pursuit of localism has been critiqued from a variety of perspectives in recent years. There has been a focus of concerns empirically and analytically from different perspectives, including, for example; neighbourhood planning (e.g. Davoudi and Madanipour, 2015; Parker, Lynn and Wargent, 2015, 2017; Brownill and Bradley, 2017). This thesis draws on these critical perspectives and the original contribution made here lies in concentrating on localism and planning by drawing upon the property rights literature. The literature on community (collective or group) rights are often expressed as 'claims' to resources or values that it claims for its own over and above the individual (Howard, 1992; Harris, 1996), and have been expressed as 'third generational rights' (Waldron, 1987) or as a right to the commons or the city (Lefebvre, 1968; Purcell, 2005; Brown, 2007; Harvey, 2008). These can therefore be interpreted as a claim to the social relations of property to be protected for common good. The way in which the CRtBid was introduced by the government entices those engaging to believe that the social relations of property will be considered greater in the decision makings of those who have greater bargaining power. There are two elements to the policy: the nomination of an ACV and a 'right' to be informed the ACV is on the market and to activate a 6-month moratorium. The underlying intentions were to provide a mechanism for communities to be able to protect locally important community assets (DCLG, 2013) and increase prospects of controlling assets and services, by levelling the playing field and being given a fair chance to bid (DCLG, 2011c; 2012). The policy was also considered to increase opportunities for communities to have a say in what happens to the ACV if they are put up for sale (Secretary of State for Communities and Local Government, 2015). However, to understand why this proliferation has not translated to a more convincing shift towards an increasing recognition of the social relations of property, and the pursuit of the development and appropriation of the commons, it seems sensible to question the policy discourse itself. To what extent the policy is an effective 'community right' and how it responds to policy intentions and community motivations is not currently understood due to very little monitoring of the impact of the policy. What is highlighted here, are the dynamics that surround the challenges and opportunities that community

groups recognise in using CRtBid and identifies there is a missing mechanism that might reinforce and improve the effectiveness of the 'community right' in responding to community claims.

1.4. Structure of the thesis

Chapter 2 identifies conflicting considerations of property through exploring how private rights in property have formed by providing a historical context of rights and the social contract. Also, tethering the literature on the (new)commons with more established literature on the social relations of property, a critique of the neoliberal perspective of rights and values is provided. A review of the literature on different types of enclosure and the tragedy of the anti-commons provides insight into why the (en)closure of community assets is occurring.

Chapter 3 reviews the literature on politics and planning from the context of governing the social relations of property. The purpose here is not to provide a complete account of the literature, but rather to provide the necessary context and institutional framework required for understanding how CRtBid is 'situated' in terms of planning, localism and other related policies. This chapter introduces the literature on planning, considers its role in value-prioritisation, as well as how this links with the literature on collaborative planning and coproduction. This is followed by an introduction to the Localism Act and planning reforms and a critique of post-2010 localism. The context is developed by reviewing the literature on the importance of community assets, such as pubs, and the benefits of community ownership. The following section provides details on similar policies related to the CRtBid; land and building classifications, Compulsory Purchase Orders, Community Asset Transfer and the Scottish Community Right to Buy. The final section provides the details of the policy documentation relevant to the CRtBid and ACV regulations.

Chapter 4 describes the methodology. In doing so, further theoretical framing is deemed necessary to tie the literature together by reflecting upon neo-institutionalism and researching property, and relational methodologies. The conceptual framework provides an illustration of the research themes, questions and aims, as well as a summary of the justification of the focus of both the CRtBid and public houses. Finally, the overview of the research design provides the details of the scoping interviews, policy review, database collection, textual analysis of the nomination forms submitted by community groups, the online community and LA surveys and landowner interviews.

Chapter 5 analyses the stakeholder account of the CRtBid as developed in this research. This chapter is, with consideration of the research questions, structured around the logical themes identified within the analysis of the findings. Under the theme *social relations of property: community rights and value*,

the extent to which the policy is used is demonstrated by providing an overview of the database is considered first, along with an illustration of the outcomes at the different stages. This is followed by an analysis of the landowners' reaction to a nomination and a summary of the data on the appeals against a nomination. Then the three roles of LAs are considered; validation, acknowledgement and response to community value. *The dynamics of community 'ownership' of ACV* are considered, with insight into the opportunities and challenges of community ownership, followed by a discussion of the data on the use value of pubs and a reflection on the motivations of communities. Finally, the motives, means and outcomes of the CRtBid and ACV status is summarised, through summarising the factors that prevent effective use of the CRtBid and ACV nomination. This is followed by the suggestions made by survey respondents.

The final chapter provides the conclusion and synthesis of the thesis. Beginning with a summary of the main findings followed by responses to the research questions, recommendation and prompts for future research. The conclusion leads to reflections on what this research means for future governance of community assets.

2. Interpreting the social relations of property

"We often think of property as some version of entitlement to things: I have a right to this thing or that. In a more sophisticated version of property, of course, we see property as a way of defining our relationships with other people. On such versions, my right to this thing or that isn't about controlling the "thing" so much as it is about my relationship with you, and with everybody else in the world"
(Rose, 1990: pp.27-28).

As our relationships are in part defined by our access to and use of property and are limited by how property is 'controlled' or governed, many have expressed a view that our current institutional arrangements relating to the use and governance of property fail to interpret and respond to this social relational perspective of property in practice. This view has been endorsed by a variety of scholars, including Henri Lefebvre and his three 'spatialities' (Lefebvre, 1968) and those exploring and producing the (new) commons and the rights to the city literatures (Marshall, 1950; Ostrom, 1990; Purcell, 2005; Wastl-Walter, Staeheli and Dowler, 2005; Brown, 2007; Harvey, 2008; Hardt and Negri, 2009; Attoh, 2011). It is evident that (conflicting) ontological assumptions, as well as moral worldviews, have significant impact on the construction and maintenance of the distribution of rights and responsibilities in property. This has far-reaching societal implications and has impacts at a local scale too, as Hefner argues, "economic change is never just a matter of technological diffusion, market rationalisation or 'capitalist penetration'... [but] it is also a matter of community, morality and power" (1990: p2). Taking this point of connection as a cue for this research it is possible to approach considerations of property taking in a perspective that embraces the implications, potential and limits to 'community' and property, and how these are conceptualised and operationalised through existing institutional arrangements and policies. Commencing with an understanding of how rights in property are formed, this chapter also explores how the trajectory of rights formulations has been influenced by the 'neoliberal' context that has become dominant since the 1980s in the UK (DeFilippis, Fisher and Shragge, 2006) and has been influencing political, economic and social life. The importance of setting out this context here is related to recognising that, where neo-liberalist policy is being promoted, it is important for researchers to consider how rights are likely to be conceived, and critically, what impact policies have in changing public responses to property rights claims. As rights allocations tend to reflect socio-cultural value systems (Geels, 2004), the evolution of the social contract is also influenced by the way values are perceived and responded to and impacts the distribution of rights generally and in relation to property specifically.

Beginning with an overview of the evolution and contestation of the social contract and how this has affected rights in land, this chapter outlines the basis of the theoretical context for the thesis. A summary on how rights and property rights are 'defined' within the theory is also set out in Section 2.1. Through uniting the (new) commons literature with the longer standing literature on property rights and the social relations of property, Section 2.2 provides a critique of the neoliberal conceptualisation of property. This section also highlights issues with an increasingly privatised social contract and associated reifications of rights. Section 2.3 presents theory from the commons literature as it relates to types of enclosure and the tragedy of the anti-commons; which can assist in explaining the extent of the (en)closures of community assets, such as pubs (see also Section 3.2 on community assets).

2.1. Context: Land, property and rights

It is appropriate to consider the historical context of conflicting claims to property. As one of the first environmental laws to reform corrupt or 'unjust' governance of natural resources, the Forest Charter of 1217 provides an early example of a mechanism to reconcile competing claims to property. Alongside the Magna Carta (1215), the Forest Charter became part of the foundation regarding the evolution of the social contract in England by enforcing law and established norms with the aim of ensuring just relations and to protect the commons. The importance of protecting the commons was based upon providing spaces that were legally reserved for peasants to use and tend to in common (Neeson, 1993) so that it would be available to all within a defined community. Although it is important to note that most common land was not 'open,' it was summarised recently by Springer, Birch and MacLeavy (2016: p273) that they

"became the backbone of peasant life; a shared space to grow vegetables, graze animals and hold festivals, markets and meetings... [they were seen as being] for the reproduction of society and social life outside the market and the direct authority of social elites."

It was during this time (pre-16th century), that property was rarely spoken of in terms of land but instead in relation to goods and animals, "one did not say 'this is my property,' as the term is used now. Rather, one said 'I have property in it' or 'the property of it is to (or with) me'" (Seipp, 1994: p33). In this sense, manorial property "was understood in highly relational, conditional and localised terms" (Blomley, 2016: p599). The absurdity of one person owning part of the earth exclusively, has been long considered (Rousseau, 1754) and although it is still actively debated today (cf. Steinberg, 1995; Shoard, 1999; Linklater, 2014), there has been a change in the way property and ownership is considered today.

A significant change to the social contract and governance of land began with informal agreements to enclose small pockets of land. This evolved into an official process, whereby a total of 5,265 Enclosure Acts, which were passed between 1604-1914 and related to just over a fifth of the area of England, c6.8 million acres (Houses of Parliament, 2018). The enclosures led to the view of land as property and was considered by some as necessary to simplify the social relations in land and resolve the “unremediable entanglements or intermixtures of interest of severall [sic] persons in the same Common” (Hartlib, 1653: pp.3–4). Contemporary research has since implied that the communal management or ownership of common pool resources leads to exhaustion and environmental degradation, through Garrett Hardin’s (1968) notable paper on the *Tragedy of the Commons*. His premise has strengthened neoliberal thinking and advocates the invisible hand of the market as the most efficient regime for progress and environmental protection. However, it was criticised for its lack of clarification on defining the commons, which prompted Hardin to clarify in his later paper on the *Tragedy of the Unmanaged Commons* (1994). Also, as counter research to the original thesis demonstrated, a variety of common systems are successful (Ostrom, 1990; McKean, 1992). Rather, it is suggested that “the real problem here, as in Hardin’s original morality tale, is not the commons per se, but the failure of individualised private property rights to fulfil common interests in the way they are supposed to do” (Harvey, 2012: p75). The impact of the enclosures had a pernicious impact on the poor, as it “made them strangers in their own land” (Thompson, 1991: p184) and has led to a concentration of power in the hands of a few, rather than many commoners (Ravenscroft et al., 2013, see also poetry from John Clare (Bate, 2004)). Enclosure is considered further in Section 2.3, however the brief insight into the historical context above demonstrates that the social contract has evolved from one which protects collective claims to land, but in an attempt to reconcile the complex claims to land, to a more individualised relation with land and privatised social contract. Considering this thesis focuses upon a national policy which attempts to adjust private property rights by claiming to respond to collective ‘claims’ to social value, the following section provides the context for understanding rights and different interpretations of ‘property’ and ‘community’ rights.

2.1.1. The formation of rights

This thesis focusses on the relationship and co-existence of property and community rights and an overarching question which appears simultaneously mundane and radical is “how do things come to be owned?” (Rose, 1985: p73). This is a ‘puzzle’ for anyone addressing property due to the variety of contrasting notions that determine how legal possession is formed. As referenced above, social contract theory has been an important element of Enlightenment-era philosophical debates (i.e. during the 17th and 18th centuries) and remains as important as it did then (seen through the works of

philosophers such as Mill, Hobbes, Locke, Rousseau, Proudhon, Hume and latterly Rawls). The neo-classical philosophers could not agree on the specifics of this with them developing their own strands of thought as to what forms a social contract and how this relates to land. However, broadly speaking it is a notional abstract agreement struck between people. It is within the social institutions, such as property, that the social contract is brokered or controlled, with the aim of forming a functional society. The cornerstone of what is termed the social contract is the way rights are allocated. As individual and collective rights concern a moral or legal entitlement to own or do something, it can be discerned how this has substantially influenced contemporary thinking. A right is made ‘real’ on the basis of the collective to recognising and substantiating a claim to a property benefit stream (Bromley, 1991; Parker and Doak, 2012). Therefore, they are derived from and conditional upon citizenship (Harvey, 2007) and, is often based on whether there is enforcement of title by political power. Citizenship thus becomes an active condition of struggling to make rights real (Phillips, 1991). Over time rights have evolved and are constantly contested, which in doing so recreates citizenship (Trudeau, 2012) through a renegotiation of the social contract that legitimises government intervention.

An overarching right can be formed on the basis of a number of different rights or ‘entitlements,’ which are ultimately based on a web of social relations. In considering legal rights and their formation, Hohfeld, (1913) claimed that these ‘entitlements’ form from one, or a combination of four basic rights, which can form an overarching right (Wenar, 2005), such as a property right. The matrix (Figure 1) illustrates that on the surface one person having control over a thing (almost always involving a resource or object) can appear simple. However, it also demonstrates the webs of relations amongst people and how interconnected their actions are. It is recognised that Hohfeld’s matrix “raised awareness of the complexity of the social relations that are involved in any given instance of property relations” (Pedersen, 2010: p163). Rather than ‘simplify’ or deflect claims, alongside a suggested need for a theory of justice to conceptualise and interpret these rights in practice, Waldron states that “to take rights seriously means to be aware of what is distinctive and controversial about a claim of a right” (Waldron, 1987: p2). He categorises rights into three ‘generations’ (Waldron, 1993); first generation rights or liberty rights are based on the privilege of citizenship, which includes aspects of life such as the right to free speech, to religious beliefs, and some wider human rights. Second generation rights embrace socio-economic rights, which include rights to housing, living wages, and

Right	Liberty	Power	Immunity
Duty	No-right	Liability	Disability

Figure 1: Hohfeld’s matrix (Hohfeld, 1913)

are linked to the increased involvement of a welfare state. Third generation rights are labelled here as 'solidarity' rights and are associated with people (as collectives), groups and communities. By outlining Hohfeld and Waldron's categorisation of rights it can be discerned that property rights can take different forms, they are inherently intertwined with and dependent upon relationships with others, and rights claims can take the form of liberty, socio-economic or solidarity rights.

As recognised above, rights evolve alongside citizenship, therefore the processes of acquiring and maintaining rights are as important as the rules that are used to justify claims (Benda-Beckmann and Benda-Beckmann, 1997). There has been much debate surrounding the challenges involved in defining 'collective rights' (Sanders, 1991; Hartney, 1991; Green, 1991; Narveson, 1991). They can be viewed as "independent ... of the state and the temporality of the law and state" (Linebaugh 2008: p45) and are broadly defined as "a claim that reasserts the value of the traditional community over the individual" (Howard, 1992: p83). Others recognise the specificity of the claims to 'own' or 'protect' common goods or values (Howard, 1992). For instance, as recognised above, Waldron classifies them as third generational rights which involves seeking the protection of the communal goods of "fraternity, solidarity, co-operative production, conviviality, language, culture and tradition" (1993: p358). Harris expresses them as "social, ethical, and spiritual bonds which unite a spontaneously-evolved community to the resource it collectively claims for its own are infinitely variable" (Harris, 1996: p117). Furthermore, collective or group rights have been considered with regards to the commons (Ostrom, 1990; Brown, 2007) and expressed as a 'right to the city' (Marshall, 1950; Harvey, 2008; see also Section 2.2.2). Customary local and collective rights can be strengthened by centrally determined laws and policies, which can provide platforms for disadvantaged groups to leverage bargaining power when negotiating and legitimising their claims to resources (cf. Lynch, 1991; Benda-Beckmann and Benda-Beckmann, 1997; Pradhan and Meinzen-Dick, 2010). Here, law or policy can be perceived as an intermediary or a 'resource' that can be used by those making a claim to property to legitimise their claims (Benda-Beckmann and Velde, 1992). To succeed in enacting a right, signals a territorial claim to others, as well as reifying the actions in property and the social relations that define and sustain it (Rose, 1994; Peters, 1994; Blomley, 2004). However, as rights can also be localised interpretations of a national policy (Parker and Doak, 2011), the way in which local actors interpret and respond to policies which may support collective or customary rights and differ across the country.

The liberal interpretation of citizenship has developed into the entrepreneurial or responsible citizen. However, since the late 1990s the focus on a rights-based or democratic approach to development, via forms of participation, has been categorised as a citizenship right and a prerequisite for the

formation of other rights claims (Ferguson, 1999). Accordingly, it is suggested that there is a lesson in “being attentive to the reality that at times the realisation of one right is contingent on the existence of another” (Nyamu-Musembi, 2002: pp.18-9), which includes the right to right-claims or the “right to have rights” (Isin and Wood, 1999: p4). In some jurisdictions, the right to ‘protest’ could be classed as a citizen right and forms part of a subcategory of ‘jostle’ rights, namely rights to be able to contest the rights and responsibilities of others (Parker, 2001). These indicate the type of rights and privileges afforded as well as by whom, although they may not be universal or provide the same kinds of benefits to the individual.

Some have critiqued the rights-laden political discourse (Glendon, 1991) due to perceptions of it being socially regressive to focus on ‘rights.’ In *Rejecting Rights*, Bedi (2009) highlights the ubiquitous nature of rights discourse, how it affects our freedom and can constrain democratic debate. It is also suggested that “rights problematically distract us from considering the rationale on which the state acts” (*ibid.*: p7). Furthermore, a ‘reliance’ on a rights rhetoric is identified as problematic because of how it can be interpreted politically and culturally, and through simply focusing on the individual at the detriment to considering the place of an individual within a community. Therefore, in terms of property rights, it is suggested that “it does not matter whether we begin from a natural rights or social construct understanding of property, our ultimate goal is to achieve that set of institutional and property relations that promote the greatest cultural and societal, and thus individual, good. A rights rhetoric will not achieve that goal” (*ibid.*: p7). This suggests that often the political nature and linguistic appropriation of ‘rights’ can divert from socially progressive routes to defining the best allocation of property rights and thus access to the social relations of property.

In summary, the social contract defines the way rights are formed and maintained and is identified as becoming more neoliberalised and localised through the latest form of localism (see Section 3.1.2). However, as expressed in Chapter 1, the property rights literature is complex, and alternative approaches to property analysis and policy have been debated. While a full account is not feasibly provided here (see also Section 4.1 on the limitations of property research), the following section aims to summarise the debates around defining property rights and whether non-owners have property rights. The remainder of the chapter is also infused with references to the wider property rights literature as relevant to this study.

2.1.2. Property relations and ‘rights’

Even after the enclosures, property is commonly discussed as being best conceptualised through the conflict that occurs within property, between entitlement and obligation (Singer, 2000b), individual

and community (Long, 2012; Underkuffler, 1990), human and nonhuman relations (Steinberg, 1995), belonging and exclusion (Keenan, 2010) and within the ethics of sociality (Alexander, 2009). Property has been defined as a social institution which could simply be considered as “the concept of a system of rules governing access to and control of material resources” (Waldron 1988: p31). Property rights can also be perceived as claim rights (Becker, 1977; Munzer, 1990). The duty of others not to ‘interfere’ with the property is referred to as being what makes the property right to exclude a ‘claim-right’ (in the Hohfeldian sense). Here, the right to use is perceived not as a claim-right but a privilege, the right to use puts no obligations on any one else but freedom for owner. In applying Hohfeld’s matrix to property rights, Attoh (2011: p671) states that it demonstrates;

“claim rights (that confer duties on others not to trespass), liberty rights (that allow proprietors to do what they want on their property), powers (to sell or gift property), and immunities (i.e. from state confiscation).”

A crucial clarification here is that property is not just simply a relation between the owner and property (Christman, 1994). Although economic movements lack this understanding, Hohfeld and the legal realist movement label property as a set of legal relationships rather than with things, indicating that the relation is amongst people regarding land, not between people and land (Hohfeld, 1913). Debate can be found within the property rights literature about whether there are ‘bundles of rights’ that form an overarching right (e.g. Hohfeld 1913, Waldron, 1988, 1993). Based on a neoliberal philosophy (see Section 2.2), Singer identifies that there is “a strong presumption that the right in question is alienable in the market-place, and conversely, that non-alienable interests do not count as property rights” (2000a: p83). However, there are a complexity of multiple property rights claims that are often held by non-owners which are enacted through behaviour, presence and absence (Parker, 2001; Parker and Ravenscroft, 2001) and can be held by non-owners. Also, Geisler and Danecker highlight that “land use regulation is a collective property right in the bundle of individual property rights... In other words, the bundle of rights held by private owners has a shadow bundle of public rights accompanying it” (2000: p70). This also is recognised within Honoré’s list of ‘standard incidents of ownership’ (1961) that form bundles under the umbrella of property rights. These include the right to possess, the right to use, the right to manage, the right to the income, the right to capital, the right to security, the rights or incidents of transmissibility and absence of term, the prohibition of harmful use, liability to execution, and the incident of residuality (Honore, 1961). This ‘bundle’ conceptualisation can be deployed to depict the flexibility of property rights, as more than one person can hold a piece or ‘stick’ of the property right. However, even when many of the sticks in the bundle

has been distributed, the owner is still the owner (Honoré, 1961). In practice, 'non-owner' rights are often regulated by the state, such as the 'right to roam' in England and Wales, or the right not to be excluded from a public building, or private business. Property rights are also made up of individual and group rights claims to a variety of resources and, can be classified as use rights and control rights. For example, rights to undertake an activity on land, and decision-making rights to regulate or control resource use (Schlager and Ostrom, 1992; Benda-Beckmann and Benda-Beckmann, 1997).

In providing an introduction to the rights and property rights literature, this section has formed the foundations for interpreting whether policies such as the CRtBid (details provided in Section 3.3), which involves rhetorical claims to be a 'community right,' are legitimately regarded as socially progressive or produce neoliberal outcomes. In order to identify such facets, the following section provides a critique of neoliberal perceptions of rights and values, through drawing on the social relations of property literature (as applied to property rights) and the (new)commons literature. This forms part of the foundations of the theoretical framework used to underpin this thesis.

2.2. A socio-relational critique of neoliberal rights and values

The context for neoliberalism can discern and anticipate the philosophical ramparts that influence and are identifiable in times and situations where neo-liberalist policy is being promoted. How rights are likely to be conceived, and crucially what role they may legitimately play in influencing responses to property rights claims are important here. As a response to the failings of "embedded liberalism," the rise of neo-liberalism began by Thatcher's government in 1975, which involved devolution to the market, deregulation, privatisation, and the outsourcing and competition within public services (thus increasing privatisation in services). Actions were based upon reducing dependency on the welfare state by taking responsibility of their lives or become 'active' and 'entrepreneurial' citizens (see Kearns, 1995; Cochrane, 1993). The meanings associated with neoliberalism have been, and remain, contested and overlapping (Geddes, 2011), with it being perceived as a collection of tools, techniques and technologies of governance (Foucauldian schools of thought), or a strategy of the ruling class to build the power of capital and economic progress (Marxist schools of thought). Brenner, Peck and Theodore (2010) have explored the geographies, modalities and pathways of neoliberalism in response to the tendency within the literature to focus on the capitalist approach, historical materialist political economies and governmentality approaches, which are perceived as underplaying or misreading the variegated nature of the processes involved.

However, dominant classical liberal views of property have been scrutinised by many due to the lack of consideration for the social relations of property (Duguit, 1911; Cohen, 1954; MacPherson, 1978;

Li, 1996; Blomley, 1998; Singer, 2000; Munzer, 2001; Pedersen, 2010; Foster and Bonilla, 2011; Davy, 2016). Having clear implications for the treatment of social problems, Marx stipulated that “the real nature of man is the totality of social relations” (cited in Allison, 1975: p96). Also, as “place is indispensable; all human activity must occur somewhere” (Logan and Molotch, 1987: p17), there is clear justification for property being as “thought of *in the first* instance as social” (Picciotto, 2003, p281). The social relations of property are considered as being in constant negotiation (Blomley, 1994; Meinzen-Dick and Pradhan, 2001; Brown, 2007), “where ideas about the most legitimate moral claim to a property right can be transformed as society changes” (Brown, 2007: p636). Furthermore, literature on property values often fail to consider that value is coproduced, as Ramirez (1999: p50) highlights; “value is not simply ‘added,’ but is mutually ‘created’ and ‘re-created’ among actors with different values. These multiple values are ‘reconciled’ or ‘combined’” and are therefore coproduced. Furthermore, it is suggested that applying a framework of “coproduction [it] helps to understand the full complexity of places and helps to broaden the scope of the possible answers. Space serves as a medium and as an integration frame for human activities” (Albrechts, 2012: p56). The framework presented by Singer (2000b) involves a variety of overlapping considerations to discuss crucial elements of property that the classical models of ownership fail to consider or manipulate to pursue individualistic and neoliberal agendas. In subsequent work, Singer and Mulvaney (2017: p24) also recognise the importance of democratic values;

“the property system requires identifying minimum standards for property relationships that are compatible with democratic values, and thereafter defining and interpreting property rights accordingly.”

This later insight, combined with the previous model presented by Singer (2000b), is illustrated in Figure 2. This perspective considers that as space is *perceived*, *lived* and *conceived* (Lefebvre, 1991) and property is social relational, as are the rights and claims associated. This demonstrates that property rights are not just a product of a simple relation, but complex, formed by overlapping bundles of rights and rights-claims. Property rights and the legal framework for rights is a site of contestation due to often conflictual relations between people with different interests and motivations, and who are often striving to see different values valorised. This contested nature can be due to the conflict between the (actual and claimed) use and control of resources. Therefore, in the name of social order, if not distributive justice, they require limitation, which limits owners and others to recognise that property is not simply an individual entitlement but also a social system to which they have obligations. What is always in flux and subject to debate is the extent that these rights should be

limited and by whom. Property rights therefore, comprise of not only individual entitlements secured in law but are a dynamic social institution. As such the social relational model of property recognises rights as being central to helping adjust and respond to distributive issues and recommends that property law recognises this in order serve society well. Therefore, an increased recognition of the obligations that owners have is required for an increased social responsibility to progress beyond the reliance upon the market to distribute vital resources.

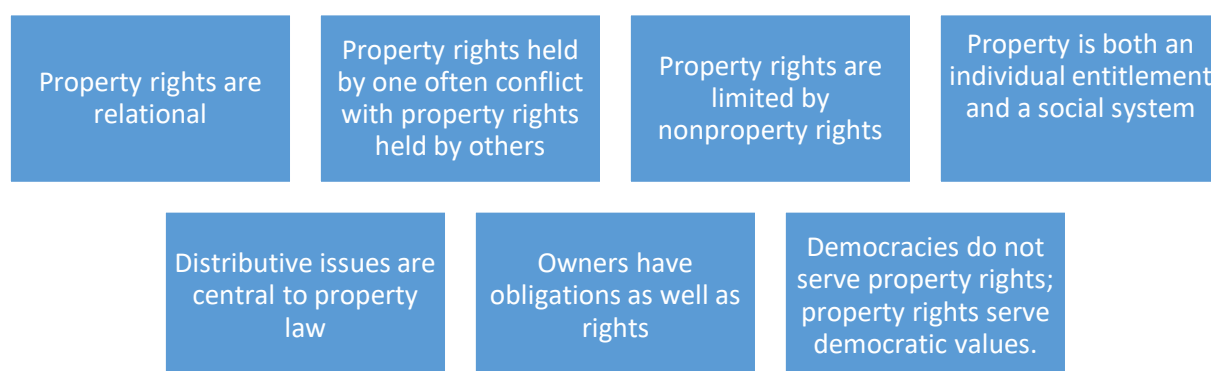


Figure 2: The Social Relations of Property. Adapted from Singer (2000b: p15-17) with added element based upon authors reading of Singer and Mulvaney (2017: p24).

Central to theories on the (new)commons, although not often explicitly expressed within the literature, is an understanding of property as social relations. Within the classical theories of property rights, ‘common property’ has been characterised as open access, having no defined property rights, and is often viewed as being an extensive resource for all (Thompson, 1991), where one is able to gain access without the permission of any. Others have defined the commons as “a scheme of universally distributed, all-encompassing privilege... that is opposite to [private property]” (Michelman, 1982, cited in Geisler and Daneke, 2000: p9). Scholars exploring the commons now, are moving from a stance or focus on identifying whether the ‘commons’ is a feasible model, towards a renewed focus on what mechanisms need to be in place for such alternative models to succeed. The commons here are perceived to be “an unstable and malleable social relation” (Harvey, 2012: p73) between social groups which have real or perceived social and/or physical environments deemed necessary for community to thrive. This broad conceptualisation raises questions again as to how land and property is governed and has potential to challenge the foundation of ownership through perceiving “space-as-commons,” (Stavrides, 2016: p261), where the social practices of commoning take place. Commoning is viewed as “a set of practices and relations that hints towards

a different kind of social values and priorities” (ibid.: p264). This conceptualisation also links with Lefebvre’s concept of spatial practice (Lefebvre, 1991). Therefore, in pursuing the commons, Pedersen (2010: p204) recognises that there is

“a measure of commitment to a set of shared values, norms and meanings, and a shared sense of history and identity to a particular culture... What binds us together is our common values, emerging, as they do, from common action, co-habitation, communication, sociality.”

Such ‘core values’ required for a ‘decent society’ are also at the core of Etzioni’s *The New Golden Rule: Community and Morality in a Democratic Society* (1996). This range of literature on the commons and community signifies that community is defined by the health of the commons and vice versa (Cnaan and Milofsky, 2007). In summary, viewing property as commons in this way involves a shift of focus from property as exclusion to property as belonging (Keenan, 2010), as entrance as opposed to exit (Peñalver, 2005), where commoners act collectively, taking the shared and social values of property as the intrinsic priority.

Having introduced neoliberalism, the social relations of property perspective and the (new)commons literature, the following sub-sections now consider how values, rights and claims are understood from these perspectives and what the implications are.

2.2.1. The reification of rights

As introduced above, the social contract in land has evolved from a commons-based, resting on reciprocity, to a formulation that reflects a neoliberal philosophy. Central to this evolution is the conception of markets and individualism as being the primary determinants of value and rights allocations. This sub-section aims to draw out the core philosophies of neoliberalism and (new)commons in relation to how property rights are perceived. It also considers issues raised regarding distributive justice and that through the reification of rights by simplifying, categorising and commodifying, the concern is that rights can often be dependent upon having access to resources required to substantiate them is raised.

Neoliberal responses to fundamental questions about the purpose and role of people in society form from an understanding that individualistic private property rights distributed and exchanged through markets and regulated by the government are often advocated as the most efficient way of managing property (Treanor, 2005). At the core of this philosophy is the privilege of the life of entrepreneurs and owners (Chandler, 2002) and rather than responding to rights of equality and social justice (Schudson, 2011), the political process is perceived as focusing on empowered individuals, and if

necessary take their case to judicial and executive, as opposed to looking to parliament. To create a rigid and stable environment for private interests to thrive, policymakers aim to consolidate rights through law in order to ensure property rights are 'well-defined' (Meinzen-Dick and Pradhan, 2002: p1) - where change is often restricted (Bromley, 1991). The traditional ownership model of property "makes regulations of property appear inherently suspect. It presumes that when property rights are limited by government regulation, an evil has been effectuated" (Singer, 2000b: p7). Wilson and Hart (2001) suggest that some owners are only like to embrace change if it is not compromising their motivations and values associated with the property.

In contrast, a philosophy of the commons is based on a culture of reciprocity and solidarity, where people are considered as commoners reproducing social relations of property. Similarly, as expressed by Stavrides (2016: p272), this philosophy stems from;

"forms of collaboration and solidarity that decentre and disperse power. Collaboration in solidarity asks individuals not simply to work together on equal terms and to share equally the products of commoning but also to be formed as subjects of sharing."

The rights of commoning can therefore be perceived as;

"the collective performing of actions involving the use of things... it is guided by norms and values that are common... It is in the shared attention that is paid to a resource that the commoners' relationships are formed. And the forming of relationships is also the forming of values – the learning of a common language. In this sense, commoning is recursive: it both makes and is made by shared values" (Pedersen, 2010: p206).

In relation to these observations, it is suggested that "in all fairness and justice, it is the owner who should have to justify the harms her property use causes those ostensible nonowners" (Singer, 2000b: p18) or for that matter, non-use. This overview has highlighted the conflict in perceptions about the distribution of rights, our role in society, the obligations of owners, and how they interrelate and influence the rights associated with the access and use of land, and thus, our relationships.

It is commonly held that a broadly neoliberal view perceives owners as having power without obligation. However, this has been identified as creating situations where non-owners are required to justify why, for example "equality as a value justifies taking or interfering with established property rights" (Singer, 2000b: p7). Therefore, these values need to be defended in order for them to be considered by law or society (Rose, 1994; Massey, 2005). However, doing so relies upon having access to the skills and resources to express or persuade owners that their claim should be considered or to

take ownership of property, often meaning that they have to purchase and consume their rights (Ravenscroft, 1998; Isin and Wood, 1999). This relates to a broad view of the obligation norm, where it is stated that everyone should have access to the resource to be able to acquire property appropriate to autonomy and personhood (Rawls, 1971; Radin, 1993; Dagan, 2007). It is suggested that this requires a philosophy based on distributive justice, where “the ultimate objective... is to give people what they need in order to develop the capabilities necessary for living the well-lived life” (Alexander, 2009: p768, see also Peñalver, 2009: p880) and to be able to act as moral agents. These issues were specifically recognised within a review of the Agricultural Tenancy Reform, where;

“commodification of land, with the promotion of rights largely without responsibilities, at the expense of both the resources and the people to which they ostensibly relate. At the core of this deviance is the continued promotion of the dichotomous role of the consumer, or post-citizen, at the centre of sumptuary law. While carrying the responsibilities associated with civil and political rights, namely to maintain the primacy and exclusivity of property rights, post-citizens’ (tenants’) enjoyment of social rights are largely limited to those which they can purchase in an apparently free, but actually highly regulated, market” (Gibbard et al., 1999: p277).

In this sense, ‘post-citizenship’ occurs through the shift of citizenship based on the social contract to a privatised or capitalised one (see Ravenscroft, 1998; Turner, 1986; van Steenberg, 1994), where rights are reified through the market.

In summary, the neoliberal approach to property may be perceived variously as a “violation of the social contract” (Linebaugh, 2008), a “devaluation of morality” (Etzioni, 1993) and “practical anti-humanism” (Lemke, 2001). These expressions are based on reviewing the impacts that the underlying philosophy of privileging entrepreneurs and owners, where a privatised social contract and the reification of rights is celebrated. Rather, understanding property as a manifestation of social relations brings to the foreground how property rights impact and shape the progression of societies and communities (Bourdieu, 1977; Giddens, 1979; Li, 1996). This understanding also impacts the formation of normative assertions regarding the desirability and operability of commons and the practice of commoning, ensuring inclusivity via solidarity. At the heart of conflicting property claims are different perspectives and meanings associated with property values, which is considered next.

2.2.2. The valorisation of values

At the core of conflict over property is an understanding that particular types of value judgements, between value in exchange and use – primarily for a single user/owner, fundamentally impact the way

in which values are prioritised in decision making. The aim of this sub-section is to draw out these debates. Neoliberal forms advocate a reliance on the market to determine land use and values, through what has been termed the Demsetzian (Demsetz, 1967) or “investment” model (Singer, 2006) where landowners’ decision making is identified as being superior to that of collective/public deliberation (Peñalver, 2009). Based on a neoliberal philosophy, the expectation is that landowners are “rational” and motivated by the desire to maximise wealth or focus upon exchange-value-maximisation (Solum, 2006; Diamond and Vartiainen, 2007; Peñalver, 2009). Value in this neoliberal sense has been;

“regarded as a morally neutral attribute arising from the natural workings of free and independent individual agents. Market champions celebrate ‘exchange value’ that supposedly stems from rational and efficient consumer/seller transactions... Any notions of ‘the good life,’ psychological or holistic well-being or ecological imperatives of life are generally regarded as ‘private’ concerns or ‘market externalities’” (Bollier, 2017: p3).

In simplifying, rationalising and reifying complex social, economic and historical relations via the market, neoliberal perception of value is ultimately defined on the willingness to pay for goods and services (Parker, 2002). Such an approach deems that if people are unwilling to pay, they therefore do not place enough value on the good, or signify that it has no value (Dworkin, 1985; Peñalver, 2009). This is particularly apropos where the poor are unable to substantiate their claims to the value through monetary payment (O’Neil, 2001; Adler and Posner, 2006; Peñalver, 2009). But quite often the demand for something can be irrelevant of whether it has value, as recognised by Smith (1776: pp.34-35), who summarised the issues identified with capitalism and values;

“The things which have the greatest value in use have frequently little or no value in exchange; and, on the contrary, those which have the greatest value in exchange have frequently little or no value in use. Nothing is more useful than water: but it will purchase scarce a thing; scarce any thing can be had in exchange for it. A diamond on the contrary, has scarce any value in use; but a very great quantity of other goods may frequently be had in exchange for it.”

Furthermore, the issue of evaluating, for example, a rural area by how many people go there or the willingness to pay to get there, as Allison (1975: pp.88-9) suggests, “the fallacy lies in thinking that the only kind of benefit men can get from anything must be from actually using it... men love the physical being of their country without necessarily doing anything about it.” Also, with reference to forms of mutual support, caring and sustenance, it is suggested that such factors can or should be measured and quantified “is perhaps the greatest intellectual and ultimately political challenge we face”

(Graeber in Bollier, 2017: p54). In the case of pubs in England, it is suggested that their social value is often “overlooked by policymakers” (Muir, 2012: p44) due to the reliance upon official statistics based on financial terms, for example, number of employees, or the amount of tax it generates, can be a contributing factor to the issues underlying the closure of pubs for example (see Section 2.3.1).

A heavy emphasis on the individual and the market to determine value-priorities and ownership can lead to the placement of social wellbeing of communities in the hands of profit-seeking individuals with little or no consideration of the social consequences—unless there is some rational reason to maintain social welfare. Dissatisfaction with the neoliberal interpretation of value has also been identified in a recent study, which surveyed 12,000 people and identified that there is a prevalent dissatisfaction and

“unhappiness with the current state of affairs. It found no empirical justification for the current political obsession with economic growth. People did not think that this should be the main – still less the sole – arbiter of value. The most important factor in people’s lives was their relationships – described in a variety of ways – but unified under the umbrella of ‘community’” (Knight, 2015: p486).

This study highlighted that, based on public opinion, there is the need to refocus on the values that foster relationships and community. This strikes relevance with a ‘commons theory of value,’ where value is found in the web of relations with the human and non-human aspects of our world (Bollier, 2017). This is related to the development of social capital (Putnam, 2000) and the psychology and meanings behind fostering a sense of place (Hay, 1998; Bradley et al., 2001; Hidalgo and Hernandez, 2001; Manzo, 2005). Here, people are suggested to pursue common values “not as an individual but as one of us” (Sagoff, 1986: p302). These emotional relations with places are to be viewed as part of a larger social-political milieu (Manzo, 2003) and often expressed as shared and social values (Kenter et al., 2015). Although these terms can be used interchangeably; *shared* is considered as the holders or providers of values, a “type of cultural value, common principle, or, more generally, the values held in common by a group, community or society” (Kenter et al., 2015: p88). Whereas *social* is generally referred to in terms of the type of value, where the “adjective often refers to a social scale, a social intention or a social process” (*ibid.*, see also Etzioni, 1996). This distinction is important in assessing the perceptions of values, as individual expressions of community value are different to the community expressing a collective common value. This conceptualisation of value responds to philosophical questions about who we are and how we shall live, work and be in the world. Graeber suggests that,

“the ultimate value, then, is the freedom to create and determine value itself, and to create and determine those forms of mutual support and entailment, caring, sustenance (and its intellectual component of understanding) required for its realisation” (cited in Bollier, 2017: p54).

Therefore, commons-based perspectives prioritise the deliberation of shared and social values that arise from the workings of commoning, where commoners celebrate use value, which is both created and enjoyed collectively. Here, it is the increase in commoning activity that leads to an increase in social value and in many cases to other economically exchangeable outputs;

“At least within the community, the more persons who participate in a dance, the higher its value to each participant... Activities of this sort may have value precisely because they reinforce the solidarity and fellow-feeling of the whole community; thus the more members of the community who participate, even if only as observers, the better for all” (Rose, 1986: pp.767-8).

As such, it is regarded “a ‘comedy of the commons,’ as is so felicitously expressed in the phrase, ‘the more the merrier’ ... increasing participation enhances the value of the activity rather than diminishing it” (Rose, 1986: p768). However, the neoliberal reliance upon exchange value leads to a distraction from the value of property itself, captures shared and social values by monetising them with little or no effort. This has led to the situation where “property has become a means to an end and not a value in itself” (Hudson, 2013: p4). Developing this, Marx’s (1867; 1885) work on the valorisation of capital identified that exchange value increases capital assets by applying the value-creating labour in production. This means that the ‘surplus value’ formed through labour values can be captured by marketising or monetarisation for self-interest. The labour values could be expressed now as reflecting the social relations of property. As Mill (1848) states, “landlords grow rich in their sleep without working, risking or economising. The increase in the value of land, arising as it does from the efforts of an entire community, should belong to the community and not to the individual who might hold title” (Mill, 1848: Book V, Chap. 2, Sec. 5). In relating Marx’s and Locke’s theories of value, it is thus suggested that “capitalists deserve to lose their rights, according to this logic, since they themselves have produced no value” (Harvey, 2012; p77). This has given rise to a right to the commons or as most commonly expressed through the term ‘right to the city,’ which is often seen in response to the negative impacts of a neoliberal approach to property governance. Considering this, within this study, brings the literature regarding the commons and social value, into active debates over rights and values in relation to land and property, and draws down from a Lefebvrian platform of lived, perceived

and conceived spatialities (see Section 3.2). Many have considered the city as commons as an effective way to conceptualise a pluralist, polyrational approach to property, offering an alternative to the 'battle' between public and private (McGuirk, 2015) or the individual and the collective (Stavrides, 2016). Here, the city is identified as "a factory for the production of the common" (Hardt and Negri, 2009: p250) and is produced through the labour and action of those who "live in the city, who contribute to the body of lived experience and lived space" (Purcell, 2005: p14). Under this conceptualisation, the surplus values generated by the commons are a resource to be reconsidered, renegotiated and reappropriated (Harvey, 2008; Fergusson, 2014; Stavrides, 2016). This exhortation implies that the city as commons is about the formation of democratic governance practices which seek to define, protect, manage and progress assets, which is considered a practice of commoning. Deemed as being "one of the most precious yet most neglected of our human rights" (Harvey, 2008: p23), the 'rights to the commons' or as coined by Lefebvre (1968), 'right to the city,' is conceptualised as a demand for "a transformed and renewed access to urban life" (1996: p158, see also Lefebvre, 2003). The right to the city can be viewed as a response to undemocratic and market-based policy design and can be recognised a rights-claim to the democratic management of the use and distribution of surplus values, and the success of the right to the city could be perceived as being dependent upon the democratisation of the management of value evident in the urban commons.

In terms of mobilising the right to the city concept, Purcell (2002; 2003; 2013) recognises that the literature has only begun to scratch the surface of the idea, with little focus on how to mobilise the concept. Therefore, Purcell recommends the right to participate and right to appropriate. Firstly, the right to participate in decision making that 'produces' urban space becomes central to the role of residents. This is concerned with them identifying community needs, through negotiation and potential political struggle, and is likely to follow with the pursuit of a complex of use value claims, based upon these needs and equality (Purcell, 2002). Secondly, the right to appropriation, which is essentially to be able to access, occupy and use space is relevant here (Mitchell and Staeheli, 2002). This is considered as being important to "resisting the current hegemony of property rights and stressing the primacy of the use-rights of inhabitants" (Purcell, 2002: p103). Lefebvre perceives the right to the city as leading to the right to 'full and complete' usage of the space and therefore requires for the use value aspect of places to be the principal reference in land-use decision-making regardless of legal ownership status (Purcell, 2002). Similarly, Fattori (2012: p1) advocates the revitalisation of 'direct self-government and self-managing' and suggests that;

“Commonification is a process in which the inhabitants of a territory regain capability and power to make decisions, to orientate choices, rules and priorities, reappropriating themselves of the very possibility of governing and managing goods and services in a participatory manner... it is this first-person activity which changes citizens into commoners.”

Therefore, commonification is not centrally about ownership. Rather, similar to Harvey’s conceptualisation of the ‘democratic management’ of the commons, it is about the democratisation of the public realm, and “perhaps sheds new light on new forms of democratic experimentalism” (Foster and Iaione, 2016: p64) and represents a new approach to understanding law and governance. It is recognised however that in mobilising the concept of the ‘right to the city’ and improving the management of our common spaces that,

“the “commons” is probably too capacious a concept to completely resolve these conflicts in many cases. However, what the commons can do, both legally and conceptually, is to stake out the claim that some socially produced common goods are as essential to communities as are water and air and thus should be similarly protected” (Foster and Iaione, 2016: pp.27-8).

This sub-section has discussed the implications of a neoliberal approach to value and highlights how a social relational perspective lies at the core of commons-based approaches to value. A consideration of how the shared and social values that reflect the ‘active’ part of the plurality and fluidity of property relations, by applying the analytical framework of the commons is a crucial aspect of this theoretical framework. The following section presents theory from the commons literature on types of enclosure, and the tragedy of the anticommons, which can assist in explaining the extent of the (en)closure of community assets.

2.3. Closure of the commons

There has been a long run reported closure of community assets and services and the concern of access to local facilities has been a feature of policy making for some time. Considering the focus of this research is on a policy that is claimed to be responding to the closure of community assets (via the CRTBid), this section considers theoretical insight into the potential causes of closures. Greater detail on the value of these assets is provided in Section 3.2, however this section is presented prior to this due to its relation to the debates found within the literature on the conflict in neoliberal and commons-based approaches to property.

A widespread feeling is that there has been a ‘loss of community’ across England and in other territories (Jacobs, 1961; Putnam, 2000), especially due to the closure of important community assets,

largely put down to a decrease in the use and economic viability of local businesses. The loss of amenities, such as shops, post offices, libraries, village halls and public houses, and an increase in consolidated services, large supermarkets and service deserts in some areas has been identified as an issue in both rural and urban areas (Rakodi, 2014; Gallent et al., 2015). The impact of closures has been identified as having a detrimental impact on social identity. The loss of assets has been argued as increasing homogeneity (Home, 2002) and can affect the most vulnerable, sometimes forcing them to move out of the area (Taylor, 2008), which has led to a decline in community cohesion and social integration and generally community networks are looser (Atterton, 2010). Such changes to the land use of such assets can, due to the nature and formation of land's memory, be irreparable once undertaken (Peñalver, 2009; Alexander and Peñalver, 2012). It has been expressed that in the absence of places which allow socialisation and the production and enjoyment of shared and social values, Rose states that "the public is a shapeless mob, whose members neither trade nor converse nor play, but only fight, in a setting where life is, in Hobbes' all too famous phrase, solitary, poor, nasty, brutish and short" (1986, p781). In referring to the work of Franco Berardi (2012), Springer and colleagues succinctly summarise the cause and impact of the closure, and co-option of social values, and the significance this is having on humanity and well-being;

"the capitalist co-optation of the imagination oversees the proliferation of loneliness and anxiety, depression and a sense of endless futility. To the extent that capitalism today has developed the means to tap, share and harness out capacities for sociality, empathy, creativity, connectivity, communication, community and generosity, it does so within a context of, and in order to reproduce, a regime of commercialisation, competition, spectacle and existential and economic precariousness" (Springer et al., 2016: p280).

This overview of the context and impact of closures highlights the implications for the lack of consideration for the social relations of property, particularly in cases where shared and social values are recognised as crucial to the wellbeing and sustainability of communities. The literature on specific assets, such as pubs, highlights reasons why assets are closing - predominately due to a decrease in use (e.g. due to purchasing cheaper alcohol from a supermarket, smoking ban). In terms of theoretical attempts to understand what is occurring, these can be identified within the literature on the commons. Therefore, the closure of community assets could be theorised as a form of enclosure or expressed as a tragedy of the commons, both of which are now considered.

As introduced previously, Hardin's thesis further advocated enclosure of the commons, and due to the identification of different types of enclosure, where the capitalist commodification and co-option

of the places of community value, could be an underlying reason for the closure of assets. Haiven (2016) categorises the types of enclosure that occur; enclosure 1.0 is the spatial enclosure, which began in the medieval times, and has been reported as 'theft' and a 'violent' process (cf. De Angelis, 2007 and John McMurtry, 1999, 2002) and led to "the commodification of land, labour, social care and community" (Haiven, 2016: p279) and "the accumulation of capital for its own sake" (*ibid.*: p278). Enclosure 2.0 has been portrayed as a broader mechanism of enclosure of common, cooperative labour and life for the creation of value. This has been characteristic of the neoliberal enclosure of social life, which occurs through the discipline or organisation by the market. It is implied that neoliberalism's 'permanent economic tribunal' (Lemke, 2008) means that commoning activity that takes place within property of social value is vulnerable to co-option to further the pursuit of neoliberalism, particularly if they present challenges to the market governance (see Crouch, 1997; Harvey, 2008). This phase has involved the privatisation of the welfare state (schools, hospitals etc.) and knowledge (pharmaceuticals, academic writing). Finally, as an evolution of the previous two elements, enclosure 3.0, involves the commodification of the 'sharing economy,' often through the use of technology. This type of enclosure has also been discussed by other scholars, where "communities create common value (in the form of socialised wealth) and cooperative energies upon which capitalism vampirically preys, enclosing the commons again and again" (Springer et al., 2016: p275). This summary of the types of enclosure witnessed over time relates to the adjustment in the way values are increasingly being enclosed or co-opted to suit neoliberal agendas.

Some have highlighted, contrary to Hardin's thesis, that a problem with the commons is in fact the lack of use of property of social value. The work of Rose (1986: p780) recognises that:

"we should not worry that people engage in too much recreation, but too little. This again argues that recreation should be open to all at minimal costs, or at costs to be borne by the general public, since all of us benefit from the greater sociability of our fellow citizens. If we accept these arguments, we might believe that unique recreational sites ought not be private property; their greatest value lies in civilising and socialising all members of the public, and this value should not be "held up" by private owners."

This can be related to the work of Heller (1998; 2008; 2010) who considers that the lack of use of such property is due to a tragedy of the anti-commons, which is defined as privatisation gone too far "to the point where it destroys rather than creates wealth. Too many owners paralyse markets because everyone blocks everyone else" (Heller, 2013: p10). The problem identified is conceptualised as one of coordination, where property rights have become fragmented across multiple stakeholders.

Considering this, as well as the dominant neoliberal approach of attempting to achieve the greatest exchange value to determine land use can mean that the community withhold their acceptance of private projects, and thus their rights (Palma-Oliveira et al., 2017) and can lead to a case of underuse and a socially undesirable outcome. Observations from this literature could also be combined with the identification that the separation of space from place occurs through these dominant expressions where a trend from creative ventures to private, clinical ones are found (Orwell, 1943). Although not explicitly expressed throughout the literature, the tragedy of the anti-commons, is evident in the work of other scholars, as considered next. Through the dominant focus on supporting rent-seeking behavior via neoliberalism, the cultural commons can become threatened “by a heritage industry bent on Disneyfication, for example” (Harvey, 2012: p72) and has led to the creation of ‘hyperplaces,’ (Harvey, 1989; Soja, 1996, 2003). Similarly, with reference to the rise of modernity, Giddens states that “place becomes increasingly *phantasmogoric*: that is to say, locales are thoroughly penetrated by and shaped in terms of social influences quite distant from them” (1990: pp.18-9). Lefebvre's account of the abstraction and decorporealisation of space also recognises “the powerful pressure to homogenise not only spaces but people too: differences are discouraged, marginalised, and where possible, demolished” (Stewart, 1995: p615). An example is the role of landowners which is expressed in their observed detachment from “deeply felt sentiments” and, who use their assets and/or work for them, with no democratic involvement in decision making, “on the basis that... [it] is their private property to deal with as they see fit” (Robertson, 1995: p282). In practice this separation of the use or “leisure practice” from the property or “site of consumption,” was identified in the work of Ravenscroft (1998: p45), who states that there is a shift from a

“construct of absolute space to that of abstract space. In the former, the characteristics of the space assume a significance which is independent of its use—the country park, for example. The latter, abstract space, on the other hand is, theoretically at least, capable of being 'emptied', of deriving its meaning from the practices which it accommodates.”

This can also be seen in the case of a community pub, where the leisure practice is often classed as socialising and, although often viewed as going hand in hand (Muir, 2012), the purchase of alcohol is not deemed as the main attraction. As expressed by Orwell (1943: no pagination);

“its clientele... go there for conversation as much as for the beer... If you are asked why you favour a particular public-house, it would seem natural to put the beer first, but the thing that most appeals to me about the Moon Under Water is what people call its ‘atmosphere.’”

Therefore, the closure of community assets can be considered alongside observations made throughout this pool of literature on the 'tragedies' identified throughout the commons literature. This can specifically be identified in the case of pub closures, which is considered in Section 3.2.a. Before considering the closure of pubs, the following draws on the management of the commons literature in response to addressing problems of coordination.

Authors on the commons have identified principles for improving the management of the commons (e.g. Ostrom, 2005; Foster and Iaione, 2016; Foster and Iaione, 2017) and highlight the potential for urban collaborative governance practices. It is suggested that these practices involve "the enabling of ordinary citizens to improve their ability to improve their lives and their communities in ways that promote human flourishing" (Foster and Iaione, 2016: p64). The core principles developed by Ostrom (2005) have been developed to aid the sustainable management of a resource. The first principle is concerned with creating *clearly defined boundaries*, both geographically and with regards to the use rights of those involved. Secondly, it is considered that the *proportional equivalence between benefits and costs* need to be determined to sustain the 'system,' resource or relationship. The third principle involves defining the *collective-choice arrangements*, which is concerned with enhancing the participation of those involved in making key decisions about the system. Fourthly, *monitoring* of the system is necessary and should consider the incentives involved in doing so. Furthermore, flexible *graduated sanctions* should be collectively defined, with special avoidance of imposing unrealistic sanctions. Moreover, *conflict resolution mechanisms* and necessary to attempt to reduce conflict over the use of the resource. Next, the *minimal recognition of rights to organise* suggests that avenues should be open to "functional or creative efforts by local appropriators to craft effective stewardship mechanisms for local resources" (Ostrom 2005: p271). The final principle, applicable to groups that are part of a larger social system, is to ensure that there is *appropriate coordination among relevant groups*, by attempting to create "a multi-layer, polycentric system that can be dynamic, adaptive, and effective over time" (*ibid.*). These core principles intertwine with the context considered throughout the literature review thus far on the complexity of conflicting property claims. This framework of principles can be utilised whether there is a tragedy of the commons or anti-commons (Heller, 2010) because they are both defined as a collective action or co-ordination problem. However, the need to adapt the design and distribution of property rights to respond to features of the locality are crucial (Simcoe, 2014). Or they could be used to avoid these tragedies, and can be applied in a variety of ways, such as to strive for effective group management and/or resource management (Wilson, Ostrom and Cox, 2013). Formal and informal institutional arrangements that contribute to the resolution of these principles are important, and should consider the relations between the resource system, units and

users of a resource. This reflects the mobilisation of social relations via appropriate locally defined, democratic governance arrangements. In considering the work of Lefebvre and Purcell, combined, they demonstrate a need to prioritise the rights to use (or appropriate) and participate in decision making associated with common good property. Therefore, the overuse and underuse of the commons, relates to the use of community assets (see Section 3.2), challenges and opportunities of community ownership (Section 3.2.1), and suggests that tragedies and (en)closures can be avoided without the need to change who owns these properties, or the need for top-down regulation, but through democratic and sustainable management practices.

2.3.1. Closure of public houses in the UK

A variety of considerations have been made in identifying the causes for pub closures (see Appendix A). In highlighting the significance of the impact of pub closures, Snowden's (2014) research highlight that the "half of the 21,000 pubs that have disappeared since 1980 closed after 2006" (2014: p9) and through modelling the rate of closures he highlighted that around 6,000 more pubs closed than the model suggested since 2006. The peak of decline was also recognised in 2013, by CAMRA, who reported that 31 pubs on average were closing per week. However, the rate of closures has been identified as decreasing (CAMRA, 2016; Berry, 2016) and even though there have been a significant number of closures, the 'local' as a social institution is still alive and well" (Dunbar, 2016). A loss of community and decline in community wellbeing has been reported due to the absolute closure (Orford et al., 2009) or 'complete gentrification' of pubs (Ernst and Doucet, 2014). Here it is recognised that the closure of a pub can cause a "vicious circle harming the whole socio-economic activity of the local community" (Cabras and Reggiani, 2010: p958) and lead to a negative impact on national identity and loss of community. A tragedy of the anti-commons can be witnessed in the case of pub closures, as it has been suggested that the actions and motives of the large pub companies or 'pubcos' are at the heart of the issue. See Appendix B for desktop research/notes on the strategies of some public house owners. There has been a history of a "complex monopoly" (Monopolies and Mergers Commission, 1989; Pratten and Lovatt, 2002; Steven, Steven and Preece, 2002). Ultimately, it has been suggested that there is an increasing detachment between owners, publicans and the communities that the assets serve (Steven et al., 2002; Hutt, 1973). There have also been reports of breweries acting like a property company (Finance Director, PHR company in Preece, 2008) or "retailers" (Clarke et al., 1998), and cases have been highlighted where licensees have been priced out, through high rents and beer prices (Muir, 2012: p19). As identified in the previous section, the separation of use value from the property is also witnessed in cases where companies with significant real estate portfolios attempt to create liquidity by separating this aspect of the company from the operational side of the business,

which has taken hold in the UK pub sector, through creating what is known as an “opco-propco split” (Thame, 2007 in Christophers, 2010), which basically involves a practice of “unlocking of value” from companies, by creating two business entities - one for retailing and one as a property company - whilst keeping them under the same umbrella of ownership. Here it is observed that; “separating what is ultimately inseparable... The physical property, in effect, is being reified – set substantively apart from the use that is made of it” (Christophers, 2010: p102). However, as recognised, “it is hard to unravel pub properties from the business that goes on inside them” (Hill, 2007 in *ibid.*: p103). Therefore, it is implied that publicans and Pubcos are often distracted from “broader aspects of their potential and actual contributions as part of a socially responsible community institution” (Sandiford and Divers, 2014: p96) and could be more successful if they perceived themselves as “community developers” (*ibid.*) and worked on fostering a “community atmosphere” (Dunbar, 2016: p48). Therefore, increasing participation of the users of pubs in decision making, might lead to more successful businesses and increased community impact.

2.4. Conclusion

This chapter has shown that the way the social contract is brokered and managed has an influence on the way rights allocations reflect particular value systems and priorities (e.g. Geels, 2004). This helps demonstrate that dominant expressions of neoliberalism may prevail as policy and practice evolve; even though there are strong claims for applying a wider social relational perspective to the property rights institution in England - with implications that would collide with neoliberal ideas. This, embellished with reflections on the (new)commons literature, recognises that property is a product of the assemblage of relations which together result in particular property rights claims being heard or accepted. Episodically government may attempt to reform or correct how trajectories of change move – sometimes to make a progressive shift in one direction or another or, perhaps more cynically, to claim such a rationale while attempting to maintain a status quo. Collective right claims to property tend to require bargaining power in order to persuade others that a claim is necessary and legitimate (Rose, 1994) and to continue to maintain rights requires negotiation and renegotiation (Parker, 2002; Blomley, 2004). However, it is often those with power, or superior bargaining positions who are the ones who shape institutions (Knight, 1992: p19) and the concept of hegemony implies that dominant classes tend to define what measurement of value and the dimensions of property rights. In this Marxist view those interests act to try and design governance arrangements to suit their own interests. A key consideration here, is that property claims are not just about making a claim for legal ownership, rather they are also bound up with questions about the access to and use of property. In this respect, the concern for democratic values, distributive justice and freedom, as well as the

contestation involved over resources (increasingly what might be termed 'cultural' resources), are also concerns and conflicts over the *acknowledgement* as well as the *exercise* of social relations of property. These are simultaneously relations between people, as per Rose (1990) quoted at the beginning of the chapter, and the meanings derived from the broader definitions of the 'commons,' 'community' or 'local' (Berry, 1989; Li, 1996; Pedersen, 2010) which give force to claims to recognise social relations in and around property.

Based on a neoliberal philosophy, relationships are defined by the abilities and resources available to people to substantiate their rights claims to access, use and own space via the market. This means that the ability for people to effectively voice alternative property claims to restrict or re-orientate use or access, impacts the way in which personal relationships, and communities are formed. Dominant expressions of neoliberal values are, in part, an attempt to 'tidy' up the messy nature of non-alienable rights and apparently incommensurable social values. This is achieved through reification and valorisation processes so that the market can rationalise and 'settle' the competing claims in economic or transactional terms. This has led various forms of enclosure, or where privatisation has gone too far; a tragedy of the anti-commons.

Although this chapter has demonstrated how theory rich the property rights literature is, very little is understood about how the social relations of property are interpreted and how conflictual property claims are reconciled through policy (as opposed to law), as the research flowing from RQ1 aims to explore (i.e. *How has the CRTBid policy been utilised and interpreted and how are competing claims reflected in the outcomes?*). This investigation of a purportedly 'community right,' in relation to (property) assets in public or private ownership and introduced as part of a new localism agenda (see Sections 3.1 and 3.3) is a clear opportunity to see how such rights exchanges are being managed and limited in this contemporary period. This will be considered in greater detail in the following chapter, alongside developing the context for RQ2 and RQ3.

3. Property, community, politics and planning: governing the social relations of property

“Property enables and shapes community life. Property law can render relationships within communities either exploitative and humiliating or liberating and ennobling. Property law should establish the framework for a kind of social life appropriate to a free and democratic society”
(Alexander et al., 2009: p744).

The debates outlined in the preceding chapters consider how current attitudes and preferences that shape responses to property rights claims require greater consideration of the social relations of property and reflect on how these can be reflected in decision-making within the planning system and generally (Singer, 2000b). The conceptual field of property rights, like other social institutions that may be analysed, and expressed in the quote above, is intertwined with questions of wellbeing and highlights how property has impact on the formation of relationships. Similarly, societal changes can also impact property rights and values (North, 1990; Knight, 1992; Singer, 2000a) but these are mediated by legal, public policy and other boundary measures. From the theoretical context provided in Chapter 2, the aim of this chapter is to contribute to the institutional context required for the focus on the CRTBid. This involves consideration for the role and influence of planning and the localism project post-2010 in governing property.

The aspiration in the quote above fails to specify what is appropriate, what is free and the form or basis of democratic decision-making that should prevail. Regardless of this lack of specificity it is a call that resonates; we cannot have law which places the majority of a population in a position where their lives are substantively controlled by property and its owners (cf. Nozick, 1974; Bromley, 2016). To understand and agree that some forms of property (such as community assets) need to be treated differently to allow social/cultural life to flourish, is to accept a different approach to governance in order to sustain their role, meaning and develop social value (Bromley, 1991; Radin, 1993; 1996; 2004; Foster and Iaione, 2016). This involves recognising emergent social relations and needs. It is suggested by Pedersen (2010) that responses to questions surrounding how rights claims are recognised and substantiated, who makes the decisions and how such decisions are legitimised, form the basis of property rights and value distribution analysis.

At the heart of these debates is the role of the planning system as a simultaneously ‘political’ and ‘democratic’ institution, which has traditionally contended with responding to conflicting property rights claims and de facto influencing the distribution of ‘values’ (see Section 3.1). Introduced in an

attempt to adjust rights and responsibilities, the most recent planning reforms via the National Planning Policy Framework (2012), alongside the Localism Act (2011) (see Section 3.1.1), as part of the latest political iterations of a neoliberal form of localism (Allmendinger and Haughton, 2013, see also Section 3.1.2). The previous chapter set the scene for considering the underlying theoretical explanations for the closure of community assets, and to further the 'place' context in this chapter, the literature on community assets and how this applies to public houses is reviewed (Section 3.2). Increasingly, through forms of localism and the pressures on communities to take 'responsibility' to protect community assets from new forms of enclosure or tragedies of the anti-commons, the ability to do so in lieu of the state or the open market comes onto centre stage. Therefore, the benefits, challenges and knowledge gaps associated with community ownership are considered in Section 3.2.1. In developing a more detailed institutional context, an overview of other relevant policies and legislation is presented in Section 3.3, which also provides specific details of the two elements brought under closer scrutiny later: the ACV nomination process and CRtBid mechanism.

3.1. Planning, localism, property and values

Central to the role of planning as an institution is the ongoing concern for interpreting property, particularly how to respond to conflicting claims to property and distribute values (e.g. use and exchange values). A persistent theme observed within planning and development controversies is the processing, deciding and rationalising of choices between benefits quantified in financial terms, and cases where social value lies beyond these calculations, and how these non-marketable social values are to be evaluated against economic efficiency (Gregory, 1971). The redistribution of economic value in land has long been discussed within literature (Adam Smith, 1776; Henry George, 1879) and has been a feature of English land law through different forms of land tax (or other means of recouping so called betterment value or awarding compensation for loss), and currently the issue is being considered afresh by political parties to pursue land value tax mechanisms (see Appendix C). The role of planning is often considered to be a progressive, creative, democratic institution, involving relations between the physical, social and economic. It can play a number of distinct roles, often a combination of the following: co-ordinating actions, public control of private and organisational actions, long-term plan-making and making decisions and carrying out actions based on democratic involvement and participation in planning (Allison, 1975). The latter is considered in greater detail by drawing upon collaborative planning, and wider planning theory to discuss the connection between planning for social relations of property and a role for facilitating greater participation.

The need for institutions, like the planning system, to facilitate greater consideration of social relations and values and increase democratic involvement in the decision making associated with property is considered by Anderson (1993), which similar to the work of Singer (2000b), also advocated a social relational view of property:

“Democratic institutions are needed to enable people to express certain kinds of valuations that can be expressed only in non-market social relations... Citizens act collectively, taking their social relations as an immediate, intrinsic object of concern. Because these relations are constituted by shared legal, ethical, and social norms, people can reform them only through collective action. People care about the meanings embodied in the social relations... [and] the character of their social life... Since people rationally express different valuations in different social contexts, cost-benefit analysis deprives them of opportunities to express distinctively non-economic concerns in taking consumer preferences as normative for democratic politics” (Anderson, 1993: p211).

Following such an assessment, institutions could be *designed* to increase the quality and inclusivity of social relations, and as such there is a continuous challenge for policymakers and planners to do so. Similarly, Dagan (2011: xii) highlighted distributive justice as the justification for viewing property as social relations, where it is suggested that the meaning of ownership should adjust according to the type of resource and social setting. It is stated that this framework should respond to:

“relevant features of both the resource and the human relationship involved... [therefore each] property institution is designed to match the specific balance among the relevant property values... that is best suited to its characteristic social setting.”

How planning institutions respond to conflicting claims to property and make value judgements are influenced by the political environment, for instance the current Localism agenda, and therefore many associated decisions and actions can be defined as political behaviour (Allison, 1975). The production and use of space is itself a political act (Hayden 1997; King 1997, Manzo, 2005) and, as suggested;

“if politics is a struggle among values, presumably freedom would be about a community choosing *which forms of value it will pursue*. Politics would be about the mechanisms for deciding how resources will be equitably allocated in ways that people want” (Bollier, 2017: p7, emphasis added).

As intimated in the quotes from Dagan and Bollier (among others), although not explicit, a localist approach to planning the future land use of property could be a way to increase participation and

democratic involvement in value-judgements. Since localism, which was originally coined in 1975 by Morris and Hess, involved a movement beyond the reliance of “outsiders who do not share its values and who have no sense of responsibility for the area” (Morris and Hess, 1975: p18), progressive forms of localism are identified as increasing participation in the things that affect and define one’s community. The link between collaborative planning techniques and localist policies has been developing since the 1970s and more recently, in combination, they promote a relational society (Lichfield, 1998; MacKinnon et al., 2011; Healey, 2015). The theoretical foundations of collaborative planning help highlight the social relations of property and associated decision-making and are based upon Giddensian institutionalist sociology and Habermasian communicative action. These conceptualisations demonstrate that we are not isolated or autonomous beings but are embedded within structure and agency where our identity and social relations are constructed by the past (Giddens, 1979). These conceptualisations can be considered as the “pursuit of happiness,” which as Habermas (1979: p199) stated, might mean “bringing about social relations in which mutuality predominates and satisfaction does not mean the triumph of one over the repressed needs of the other.” It is therefore suggested that collaborative planning is best;

“identified through the way people value and experience the place qualities of their daily life worlds and the practices of the governance through which what is seen collectively important is developed, delivered and maintained” (Healey, 2015: p122).

Collaborative planning techniques have thus been linked to having the potential to contribute to the democratisation of planning. It is considered that collaborative practices can help maintain local identity and distinctiveness in an increasingly globalised society and lead to “better debate, discussion, and deliberation about shared futures” (Huxley and Yiftachel, 2000: p333). These techniques have been identified as improving the ongoing sustainability of participation in communities (Thompson and Kinne, 1990; Flynn, 1995) and has encouraged increased responsiveness to controversial issues such as the need for affordable housing (Parker and Lynn, 2012). Both the planning reforms, including Neighbourhood Development Plans (see Section 3.1.1.a) and the introduction of localist policies (see Section 3.1.1) are considered effective on the basis that they improve participation in place governance and are responsive to community needs. As suggested by Pieterse (2001: p414), “localism can only claim to be ‘more democratic’ if it is combined with positive action in favour of previously excluded and underprivileged citizens.” Therefore, in assessing the effectiveness of democratic institutions, such as the planning system, and how they resolve the problems of ‘co-ordination’ and ‘production,’ North (1990: p34) presents the following as a framework for institutional analysis,

“the motivation of the players (i.e. their utility function), the complexity of the environment, and the ability of the players to decipher and order the environment (measurement and enforcement).”

In applying this, planning professionals are heavily constrained by the complexity of the political environment and how those with greater bargaining power decipher this environment has significant impact on how claims are acknowledged and responded to, and therefore how community life is shaped. The complexity behind the public being able to decipher this environment and the ability of planners to conceive space and respond to conflicting claims has long been considered. This was questioned by Lichfield; is there an “inequality of power between the development industry, the local planning authorities and the people who are impacted?” (Lichfield, 1996: p193). The work of Lichfield highlights concern for the ability of the public to express their interest, have the skills and resources to do so and the ability of planners to facilitate, interpret and respond to these claims, particularly within the context of a neoliberal environment. Therefore, who should be involved in decision making about the future of our social and natural environments is of key concern, and as suggested,

“If there is one persistent and blindingly obvious motif that runs through all amenity disputes, it is clearly this: what we are not prepared to pay for, we cannot have. But who are “we”? And how do “we” decide what is to be spent on preserving or enhancing amenity and the natural environment?” (Gregory, 1971: p296).

These observations from Lichfield and Gregory, recognise that these struggles of defining the role of ‘community’ in decision making are heterogenous and localised, and imply a need to reconsider the democratic involvement in land use decisions. This concurrently relates to and is heavily reliant upon how space is conceived (Lefebvre, 1991) by those who own and govern resources, and how they interpret and construct ‘values’ and meanings of ‘community’, ‘local’ and ‘Englishness’ (Berry, 1989; Li, 1996; Parker, 2002; Brown, 2007; Davy, 2016). Also, given that dominant expressions of property rights influence decision making in planning due to the threat or actuality of the payment of full compensation for the loss of development rights to landowners (Allison, 1975), there is greater scope for improving communication between stakeholders and the conflicting value dimensions at play.

It is considered that introducing processes of deliberation and articulation of values into protocols of property involves an ongoing reflexive self-constitution and consideration for: who is involved in decision making; how much weighting given to each rights claim; whether the claims are legitimatised; and who receives the ‘values’ or benefits from any change (Kenter et al., 2015). In particular, creating formal and informal mechanisms for landowners to understand social values, the problems facing the

local community and the impact their decisions have, through documenting, visualising and sharing experiences have been identified as effective in attempting reconciling conflicting property rights claims (Rote, Schroeder, and D'Augustine, 2015). It is also recognised that the community also require support in identifying a “common definition of the problem they are trying to solve” (Thompson and Prokopy, 2016: p15) and due to the implications of dominant distributions of rights to property, landowners may choose not to engage with such activities.

From a planning perspective, coproduction of public services is considered to be more democratic than simply striving for ‘engagement’ or ‘participation’ (Bovaird, 2007; Mitlin, 2008; Watson, 2014). As value is often coproduced (Ramirez, 1999), a coproduction framework applied to the governance of assets can facilitate an approach to define problems, deliberate values and collaboratively design mechanisms to respond to these problems. This is actively pursued, in Nordic models of governance, where civil society organisations are ‘positioned’ in a process of co-governance (Jepperson, 2002). In such contexts, the ‘institutional space’ is provided for coproduction to take place, and it is recognised that;

“The linchpin of this system are the governmental commissions and the procedure of *remiss*, which routinely bring together the agents of the state and the representatives of the organisations in the fundamental yet humdrum tasks of law- and policymaking. Every such encounter that ends in some measure of success, be it even in the form of compromise at the end of a long and unglamorous negotiation, will also add to the social capital and trust that is essential for the next round of negotiations as well as for the broad and deep acceptance of the newly made laws and policies” (Trägårdh, 2007: p267)

As observed by Alford (2014, p307), Ostrom’s work on coproduction (e.g. Ostrom, 1993a; 1993b; 1996; 2009) demonstrates the potential for synergies between public, private, and group value and embracing conflict; “by prompting us to think about who gets what value, and who creates it, this schema can also alert us to potentially conflicting priorities, and call on us to seek ways to handle the resultant incompatibilities.” In applying to strategic planning, Albrechts (2012, p57) highlights the radical potential of coproduction, which could be a vehicle “to promote the rights of citizens and provide the public goods that are needed,” where planners are suggested to have an active, but not dominant role in the coproduction process. In research on Neighbourhood Planning, it is suggested that application of coproduction strategies allows for the consideration of often conflicting value-motivators but is based upon “actors making ‘better’ use of each other’s assets and resources (e.g. knowledge, skills, time, money, facilities) to achieve improved outcomes and efficiencies” (Parker et

al., 2015: p521). In terms of how this could be facilitated is a crucial obstacle to overcome to ensure coproduction fulfils its potential in an inclusive process. To enable participatory planning, a coproduction model is suggested as a framework in forming a new organisation that facilitates mobilisation and acts as an intermediary, with the aim of activating, supporting and informing those who otherwise would struggle to secure advocacy alone (Parker and Street, 2017). Similarly, Bovaird (2007, p858) recognises the potential of a 'coproduction development officer,' with the role of helping professionals to overcome the reluctance to,

"share power with users and their communities and who can act internally in organisations (and partnerships) to broker new roles for coproduction between traditional service professionals, service managers, and the political decision makers who shape the strategic direction of the service system."

The literature on coproduction raises potential for a more democratic approach to governing property and signifies the need for a new 'institutional space' to be provided in England, where community organisations are considered a key component.

As expressed above, the extent to which the planning system can help reconcile conflicting property claims is influenced by the underlying political philosophy and contextual pressures (e.g. austerity, dominant property rights). As the planning system is a political institution, the way it operates is influenced by the governments agenda, which as the following section discusses is currently based on a neo-liberal form of localism. A critique of localism is provided after summarising the policy changes via the Localism Act (2011) and planning reforms.

3.1.1. The Localism Act (2011) and the National Planning Policy Framework

The changes introduced by the Coalition government (2010) consisted of planning reform via the National Planning Policy Framework (NPPF) (DCLG, 2012a), and community rights (including NDP) via the Localism Act (2011). These were introduced after the pursuit of a 'Big Society' agenda, which was based on three core ideologies; social action, community empowerment and the opening up of public services. The four 'community rights' are under-explored in the literature; therefore, a brief summary follows;

1. **Community Right to Build**, introduced as part of the neighbourhood planning provisions, was designed to make it easier for communities to deliver development they wanted in the area, where the benefits are retained by the community. A total of £17.5m of seed corn funding was

available to help communities create proposals, but there is very little evidence to show how these are used and the effectiveness of the policy.

2. **Community Right to Challenge** enables communities to challenge local councils if they think they can run the service differently and better, but again there is little data to report on how this is being used. Claims suggest that, even with the significant potential it has, as well as social investment (backed by the Social Investment Business) and support, it is being underused (Scholfield, 2013).
3. **Community Right to Reclaim Land** has provided the right for communities to ask that under used or unused land owned by public bodies is brought back into beneficial use. This has been created to revitalise the powers that were introduced via the Local Government Planning & Land Act (1980) and was previously known as the Public Request Ordering Disposal (PROD). It was identified in the initial scoping meetings that this 'right' was the "most useful tool in the box," but is an underused policy measure and, since the power was introduced in 1980 and in terms of impact, it had received 78 applications in 4 years, none of which resulted in disposal (Sandford, 2017: p15).
4. **Community Right to Bid** provides the opportunity for community groups to nominate buildings or land to be considered as an ACV in a list maintained by LAs. Should the asset become available on the market, the community can trigger the CRTBid by pausing the sale for 6 months whilst they prepare a bid. More details are provided in Section 3.3.

In terms of planning reforms introduced via the NPPF, the government claimed it would simplify the planning system, where planning decisions are made at the lowest possible level with the involvement of local people (DCLG, 2015). These new planning policies have been treated with scepticism and considered as a cover for the continuation and development of the problematisation of the regulation of land and property use which is characteristic of neoliberal times (Lord & Tewdwr-Jones, 2012; Haughton & Allmendinger, 2013). Considered to encourage efficient and market driven behaviour, advocating private, competitive, market-based solutions to problems faced in urban areas, neoliberal planning policies are therefore identified as lacking democratic direction, reducing transparency (weakening capacity of people through being less informed), and prioritising private interests over the social good (Sager, 2011). The Town and Country Planning Association (TCPA) have identified, that in some areas this has led to an increase in the loss of local knowledge and perceptions of planning as being marginal, with little relevance for the distribution of resources or helping those in need,

“the reason for this failure is partly because planning is no longer recognised as a mainstream part of public policy in poverty reduction, and because national planning policy has de-prioritised social justice as an outcome” (TCPA, 2013: para.4).

Furthermore, as the planner is faced with an increasingly privatised social contract and juggling demands of central government and the market, including balancing an often-conflictual priority, the social good (Coase, 1960; Klosterman, 1985; Sager, 2011). They are further influenced by austerity, development pressures, and dominant expressions of private property rights (Geisler and Daneker, 2000). Therefore, the extent to which planners influence property rights in the name of the public interest is being increasingly challenged. Furthermore, government ministers are labelling the planning system and planners as ‘enemies of enterprise’ and ‘drag anchors to growth,’ and are blamed for creating a generation of NIMBYs (Tait and Inch, 2016, see also; Donnelly, 2011). Although this perception has been held for some time (Hall, 1975), empirical evidence for demonstrating this and the claimed negative impact the planning system has on the economy, is debated (RTPI, 2011). These claims, from the government and within the media, have influenced public perceptions on the planning system and reinforced justification for a diversion from the planning system. This has been witnessed through inspiring ‘responsible citizens’ to become ‘planners’ and ‘homebuilders’ and has highlighted a contrast in communitarian and market-based understandings of local, community, place and citizenship (Matthews, Bramley and Hastings, 2014). This has prompted an increased drive for forms of neighbourhood planning and of community ownership (see Section 3.2.1).

a. Neighbourhood development plans

Collaborative planning and localist approaches have been practiced through a radical change in local governance via Neighbourhood Development Plans (NDP). They form part of the hierarchy of plans, are used by Local Planning Authority decision makers, and have been taken up by over 2,200 communities (Parker and Wargent, 2018). It is a community-led participatory process where communities can form a plan for the development of their area (Wargent and Parker, 2018) where it has been identified that the community motivations for undertaking a NDP are to *reinvigorate* the local area and *protect* the desirable characteristics of the area (Parker et al., 2014; Parker and Wargent, 2018). However, the number of neighbourhood planners who have indicated that the process had been more burdensome as well as requiring more time than expected is on the rise (Parker and Wargent, 2017). Furthermore, characteristics of neoliberal localism exist, where government are recognised as utilising NDP to govern through the community in the name of pro-growth via a form of governmentality and is identified as being conditional upon the levels of social or human capital (Allmendinger and Haughton, 2013; Haughton et al., 2013; Parker and Street, 2015;

Brownill and Bradley, 2017). Considering the drive towards the democratisation of planning, it has been recognised through the research on neighbourhood planning that,

“the deepening of participatory planning cannot simply be a case of encouraging better engagement between citizens and democratic structures; it also requires the transformation of those structures themselves through the direct involvement of community participants” (Parker and Wargent, 2018: p398).

This resonates with the literature referenced above on coproduction, as move from just participatory processes, but the collaborative design of governance practices. Amongst the recommendations made within the literature, it is suggested that a form of Memoranda of Understanding is used by stakeholders involved in the production of NDP to define roles and responsibilities and as referred to above, could benefit from applying a coproduction framework. The literature also highlights the potential of increasing engagement and wider participation through using online tools as being effective in facilitating community networks and engagement, as well as acting as an information management system. This is witnessed through the use of innovations such as the Community 21 platform, (Gant and Gittins, 2010), which is used for a variety of local community projects, but predominately designed for NDP groups. This section has started the critique of localism by focusing on the planning reforms and NDP, the following will complete the critique by focusing on the adjustment to rights and responsibilities through this latest adaptation of localism.

3.1.2. Critique of localism

Post-2010 localism has been perceived as a process of localisation of the distribution and interpretation of property rights, or a repatriation of rights (Edwards, 2012), where standards have been claimed to no longer be nationally determined. It is also recognised that localism, as practiced in England, “may reflect a wider agenda concerning the rights to place held by citizens” (Tait and Inch, 2016: p190). Through the potentials of localism, LAs and other bodies have more freedom to be more innovative in supporting and working with communities (Lowndes and Pratchett, 2012: p25) and combined with austerity can act as a catalyst for a change in approaches and creativity for new ideas and ways of working i.e. that crisis produces innovation (Gregory, et al., 2011; Dobson, 2011). This is reflected in the work of Gallent et al. (2014: p324),

“the context of crisis – and the consequent struggles that communities face – is crucial for seeding community action... Desperation – or at least the resort to self-help – comes together with welfare austerity to broker a new relationship between citizens and the state; and new conceptions of citizenship follow.”

Contemporary discussions of rights and responsibilities, reflected in the previous quote, relate to the evolving social contract and, as considered next, feature accounts of how legal and policy spaces are manipulated to pursue or secure neoliberal agendas. Cochrane (1986: p51) for example suggests that government carry out “linguistic appropriation” of the idea of localism and ‘community,’ giving them “a more progressive and sympathetic cachet.” More recently in reference to localism post-2010, Clarke and Cochrane (2013) have pointed explicitly to the neoliberal credentials of the Localism Act in particular. Some commentators observe that neoliberal ‘post-social’ governmentalities co-opt or close-off wider rights agendas and systematically divesting or outsourcing responsibility for public well-being; a case of ‘deresponsibilising’ the state through what has been termed ‘neoliberal localism’ (e.g. Crouch, 2011; Geddes, 2011; Davoudi and Madanipour, 2013; Clarke and Cochrane, 2013; Newman, 2013 Peck, 2013). Community groups are often incentivised (in paternalistic fashions or via forms of muscular localism) to partake in what could be perceived as dissolving government into society (Proudhon, 1840) or ‘governing through community’ (Rose, 1996; Brownill, 2017). Classed as a form of “spatial liberalism” (Clarke and Cochrane, 2013: p29), in providing a scale to the technologies of agency, the spatial has become more visible through modern forms of localism. Here, the local is perceived as “increasingly [being] promoted as the key site in and through which freedom and choice can be best deployed to achieve government’s ends” (Davoudi and Madanipour, 2013: p559). Therefore, localist policies could be described as instrumentalist in order to buy into neo-liberal agendas (Fyfe, 1995) and can be observed as speaking of devolution and localism but act in ways to continue centralisation (Healey, 2015). In doing so, it is also recognised that “these reforms privilege individual interests over the collective identities of communities” (Lowndes and Pratchett, 2012: p29). Therefore, policy makers and those with vested interests are found to embrace the label of ‘community’ to justify their role and actions and in doing so adjust the social contract to an increasingly privatised and economic one which creates new forms of citizenship.

Through reigniting the emphasis of the role of the individual in a democracy (e.g. direct elections, referendums) with the purpose of enhancing accountability is linked to attempts to readjust the social expectations of the duty of the government. This was evident in David Cameron’s speech about the Big Society, which was expressed as a “huge cultural change... where people don’t always turn to officials, local authorities or central government for answers to the problems they face” (Cameron, 2010). The impact of this culture change (or adjustment to the social contract) is succinctly put by Edwards (2012: no pagination);

“local groups have no duties to other groups and one group cannot claim that another has failed in its duties to honour its rights... there remains the danger of genuine rights violations remaining uncorrected amidst groups pressing their own interests.”

Very little research has been carried out on the community rights introduced via the Localism Act (2011) therefore, it is unknown how they are being used and interpreted, and whether this danger of rights violations being uncorrected is witnessed in practice. As the community rights are part of “the Government’s wider drive to devolve power and responsibility to the lowest practical level” (Secretary of State for Communities and Local Government, 2015: p3), it could suggest that they form part of the neoliberal adjustment to the social contract as considered above. This could potentially have “pernicious consequences” (Featherstone et al., 2011: p179) and lead to further inequality (Harvey, 2005; Parker and Street, 2018). Further to this, legal ownership of land and property is the bedrock to having a stake in a locality, and through the latest form of localism, it has posed challenges for non-owners. This was recognised in the work of Tait and Inch (2016: p190), who have stated that localism “was never really offered to many people in deprived areas whose rights to place are increasingly seen as the property of the state and therefore as conditional and subject to ongoing punitive intervention.” This situation, combined with austerity means that marginalisation has been observed as on the increase, and existing inequalities have become further rooted as opposed to challenged (Lowndes & Pratchett, 2012; Moore and McKee, 2012; Findlay-King et al., 2017). Therefore, this limits the extent to which communities can access the opportunities of the various mechanisms ‘available.’ These challenges have been identified in cases of Neighbourhood Planning (Parker et al., 2015; 2017) and Community Asset Transfer (CAT) (Findlay-King et al., 2017). Scepticism is therefore raised about the community rights agenda, which in part, this thesis explores, via an investigation into the CRtBid and the drive to increase community ownership, which in general has become a bedrock to the localism agenda. Therefore, in continuing the context of the focus of this thesis, the following will specifically discuss the literature on community assets, followed by community ownership.

3.2. Community assets

Due to the focus of this study being on the CRtBid, which was introduced alongside and in direct reference to the community ownership of assets agenda of the government, is recognised as being driven by a variety of overlying policy discourses. As identified above, it indicates a form neo-liberal localism, including devolution, civil renewal, privatisation of public services, development and support of the third sector, and facilitating investment markets for social goods. Before reviewing the literature on the community ownership of assets, the following will provide an overview of the literature that

highlight the importance of community assets in general. The relations of community assets are recognised as stemming from the customary nature of activities which over time become strong emotional attachments to particular places (Rose, 1986, see also Lynch, 1960). Lefebvre (1991) recognises the polyvalence of the social, which is essential to property relations, and intertwined with the forces of production (see also Harvey, 1973; 2006). The categorisations of space made by Lefebvre, are presented as an interrelated triad; firstly, “the *spatial practice* of a society is revealed through the deciphering of its space” (Lefebvre, 1991: p38, emphasis added), through the way it is used, generated and perceived. Secondly, expressed as the dominant space in society, the *representations of space* concern how space is conceived or conceptualised by “scientists, planners, urbanists, technocratic subdividers and social engineers... all of whom identify what is lived and what is perceived with what is conceived” (*ibid.*). Lefebvre also raises the point to consider representations of space which “coexist, concord or interfere” with representational space. Thirdly, “*representational space* is alive. It speaks” (*ibid.*: p42, emphasis added). This type of space is about the meaning of space, defined by Lefebvre as;

“space as directly *lived* through its associated images and symbols, and hence the space of ‘inhabitants’ and ‘users’ This is the dominated – and hence passively experienced space which the imagination seeks to change and appropriate. It overlays physical space, making symbolic use of its objects” (*ibid.*: p38).

Similarly, others have recognised a significantly different type of space or Heterotopia (Foucault, 1984) because it has more layers of meaning than that witnessed in a moment. Likewise, ‘thirdspaces’ have been expressed as fully lived, through interactions, thoughts, and much more (Soja, 2002). They are often perceived as unique and vital in forming social relations and fulfil the need for social intercourse, intimacy and affiliation (Oldenburg, 1999; 2001). People develop an attachment to and a sense of place (Eisenhauer, 2000; Altman and Low, 2012). They demonstrate a *genius loci* or sense/sprit of place and community (Jackson, 1994; Coley et al., 1997; Jiven and Larkham, 2003), a ‘topophilia’ (Tuan, 1974), which is both produced and experienced within these places (Francis et al., 2012). As summarised by Parker and Doak (2012: p159), these terms are used to express the

“relations, perceptions, attitudes, values, and worldviews that affectively bond people and places together. This is an aggregate of a fluid and complex set of conditions and processes linked to both physical and psychological responses to experiencing place.”

The ‘rewards’ and ‘magnetic attractions’ of attending such spaces include novelty, a spiritual tonic and a place to meet friends old and new and it is implied that the joy (emotion evoked by wellbeing),

vivacity (tempo/liveliness) and relief (release from monotony) is experienced as 'pure sociability' in these places (Oldenburg, 1999; 2001). Attendance is also suggested to improve mental and physical health, increase participation in community and political affairs (Francis et al., 2012), and is insisted as being the most democratic experience one can have due to being more fully themselves (Simmel, 1971; Harvey, 1973). It has been argued that recreation has scale returns in a much more expansive sense, as it can be a socialising and educative influence and has importance for the development of democratic values (Olmsted, 1870). Ultimately then, attendance is recognised as giving "us a certain indefinable sense of well-being" (Jackson, 1994: p158). Therefore, the benefits of the socialities of property are various and contribute to community and individual wellbeing.

These values are characteristic of common spaces or 'neighbourhood common,' which collectively form the cultural commons. The latter can be perceived as "dynamic, involving both the product of labor and the means of future production" (Hardt and Negri, 2009: p139). They can be conceptualised as the earth we share, languages, art, gender issues, sport activities and commons, churches as a spiritual or sacred common (Hess, 2008). Neighbourhood common are found at the scale of the local, community or asset and have been defined as "people living in close proximity come together to strengthen, manage, preserve, or protect a local resource" (*ibid.*: p16). Common spaces can therefore be understood as "a hybrid zone, an amalgam of the public and the private, produced not through delineation but via 'sharing' and 'extending'" (Blomley, 2016b: p240, see also Fyfe, 1995; Boydell and Searle, 2014). The values described by the scholars above are identified within public and private places. Public places have been considered as crucial to freedom and the development of social knowledge, a place to practice of politics (Sennett, 1970), to demonstrate and protest (Lofland, 1998) and as important places of interaction within a neighbourhood (Sennett, 1977; Young, 1990; Harvey, 1992; Talen, 2000; Francis et al., 2012). Private places, such as small retail outlets, like convenience stores (Scottish Office, 1995; Smith and Sparks, 1997; Markay and Laing, 1982) and public houses are considered social spaces (Urry 2001, Cabras and Bosworth, 2014) for bridging and bonding social capital (Besser, 2009). These are also witnessed as offering a demonstration of local culture, through the sale of local produce and crafts, and can act as an attraction (Bessiere, 1998; Countryside Agency, 2004) or a catalyst for events (Sullivan and Savitt, 1997). Various scholars (Cabras and Reggiani's, 2010; Muir, 2012; Standford and Divers, 2014; Dunbar, 2016) have identified that community assets have a role in a healthy economy and owners of such property might also be more economically successful if they were to recognise and act upon the role that their asset plays within communities, as seen in the case of pubs.

The literature on community assets above also relates to how the subject is formed through property, via social relations, which is essential to personhood and human flourishing (Radin, 1993; 1996; 2004). This reinforces that, as highlighted, there are land uses with special attributes that broadly form the commons (Bollier, 2017), and should be distinguished from commodified property which exists to derive profit (cf. Bromley, 1991 Radin, 1993; Rose, 1994). The following section specifically focuses upon the literature on the value of public houses.

a. Public houses

In applying the theory to a type of 'communal space,' the public houses ('pubs') of England demonstrate qualities of the commons. They have been defined as quasi-public, third places (Oldenburg, 1999; Soja, 2002), and have largely been viewed as a non-exclusionary, public place (cf. *State v. Steele*, [1890]; *Alpaugh v. Wolverton*, [1946]). As an English cultural institution, pubs have been described as at the "heart of England" (Dunbar, 2016), a part of the "national consciousness" (Burke in Jennings, 2007), where "the pub is an institution unique to England, and there is nothing more English" (Jackson, 1987: p5). Also regarded as the most important and unique social institution at the scale of a local community (Jackson, 1987; Clarke et al., 1998; Muir, 2012; Sandford and Divers, 2014; Dunbar, 2016), they are often viewed as the "beating heart of a community... a sort of encapsulation of place" (Economist, 2010: no pagination) but also a community in themselves (Sandford and Divers, 2014). As "a natural place for social aggregation" (Cabras and Reggiani, 2010: p947) they are important to the formation of networks of social support (Muir, 2012) and provide a unique 'hub' for meeting new people (Dunbar, 2016). They have been expressed as a second living room and primary place of social contact (Oldenburg, 1999). Therefore, they are a contributing factor to the health, happiness and social cohesion of communities, by creating a 'focal point' or 'central meeting place,' fostering trust, sense of community and providing safe places of inclusion (Oldenburg, 1999; Ernst & Doucet, 2014; Dunbar, 2016) or offering a lifeline to those who are socially isolated (Dunbar, 2016). In this sense, they have been expressed as offering a sanctuary from the rapidly changing world (Ernst and Doucet, 2014) by providing "certain things that are becoming rare in a society being shaped by global commercial pressures" (Maye, 2005 in Muir, 2012: p40). In terms of the economic benefits, it has been claimed that "directly and indirectly, pubs as venues for social communities are likely to yield significant savings on health care budgets" (Dunbar, 2016: p46). The role and development of social capital and networks within places like pubs has a positive impact on local socio-economic development (Cabras and Reggiani, 2010) and injects an average of £80,000 into local economy (Muir, 2012). Considering the decline of pubs, they still contribute a significant amount to the national economy, with a total of £28 billion of economic activity (which is more than the airline

sector, radio and TV sector and clothes retailing) (BBPA 2008b in Muir, 2012: p29). A recognition of the benefits that pubs can have on society, has led some to highlight that pub owners, PubCos and publicans have a role in identifying and responding to this socially responsible community institution (Sandford and Divers, 2014). However, there has been a significant decline in the number of pubs (as considered in Section 2.3.1), and the impact of closures mean that when considering these spaces as sitting right in the model of contested ground reflecting commons and neoliberal thinking and how policy aimed to resolve the tension has been applied to such use classes.

3.2.1. Community ownership

The motivations of community-based organisations to acquire community assets are generally based on building more localised economies and community-owned alternatives to private profit generation (Houghton, 1998) and have the potential to distribute the financial profits equitably (DeFilippis, 2001). Not only has the community ownership of assets been deemed as providing democratic spaces (Aiken, Taylor and Moran, 2016). By intimating its 'revolutionary' potential Lefebvre (1991: p422) also states that

“the transformation of society presupposes a collective ownership and management of space founded on the permanent participation of the “interested parties,” with their multiple, varied and even contradictory interests.”

This is recognised as communities are often viewed as being better suited to responding to community needs, can draw upon local intelligence (Local Government Association (LGA), 2012) and can sustain the impact of community assets (Crowley, Balaram and Lee, 2012). This can increase participation in community affairs and in turn, reinforce local democracy (Moore and McKee, 2013) and reduce material and non-material poverty (Crisp et al, 2016). Research has also identified that it can contribute to the long-term sustainability of resources and communities, increase local identity and cohesion, develop community capacity, and ultimately improve service delivery (or 'use' value) (Aiken et al., 2015). Previous research also recognised that community ownership provides; greater opportunities for people to access volunteer opportunities, training, employment and business development; improvements to the physical environment; and community organisations are found to achieve greater credibility with LAs and other agencies (Aiken et al., 2011; LGA, 2012). In policy terms, community ownership can mean 'value for money' and social return on investment, where the public transfer of assets to communities has led to improved services, community identity and increased income (Hector, 2012). Ultimately, community ownership is recognised as enhancing local wellbeing, increasing democratic involvement in local affairs, and improving the impact of community assets.

Austerity has prompted a public and private process of economic rationalisation and disposal of community assets, which has been viewed as both an opportunity and a challenge. Given that the number of assets available is growing, there are increased opportunities, however, the support to enable the acquisitions is decreasing (Thorlby, 2011). As Findlay-King et al. (2017, p11) recognised, there is “a progressive potential due to the resilience and resourcefulness of volunteer groups with high levels of social capital, skills and knowledge.” Research on Community Asset Transfer (CAT) has identified success in communities, as it can attract capital investment and turn redundant buildings into viable services (LGA, 2012; Gilbert, 2016; Locality, 2018). Therefore, through community enterprise, they are viewed as being more capable of turning failing businesses and assets into successful ventures (Gregory, et al., 2011). However, research based on Scotland shows that 90% of community owned assets are in areas outside the 20% most disadvantaged areas (Black, 2012) and there is evidence of ‘asset dumping’ by public sector and ‘asset stripping’ by private sector (Dobson, 2011). Therefore, it is suggested that schemes to encourage community ownership should be introduced alongside public support and investment to ensure that the most vulnerable in society, where community assets are perhaps most needed, are given a fair chance to purchase valued assets.

Although not new, the promotion and political support for the ownership and control of resources by community-based organisations has increased, particularly through the latest form of localism, but a contemporary turning point in the political enthusiasm for community ownership of assets in England was *The Quirk Review - Making assets work* (Quirk, 2007). The review led to three conclusions; firstly, the sale or transfer of assets to community ownership and management would need to ensure that community benefits are realised without compromising wider public interest and to avoid the asset becoming a burden upon the community. Secondly, the benefits were reported as most often outweighing the risks and even opportunity costs. Finally, it stated that risks can be minimised and managed; “this needs political will, managerial imagination and a more business focused approach from the public and community sectors” (*ibid.*: p7). The review raised the issue of community organisations having little access to technical advice and organisational development support, such as business and financial planning, robust governance arrangements and more technical skills and knowledge, such as property development, premises management, and negotiation. Five actions were recommended in terms of what was needed to deliver the change in culture needed to increase the successful transfer of assets, namely; to update local authority guidance; create a toolkit to manage risk; to instigate a demonstration programme; to target investment; and raise awareness. However, a decade on, little is known about whether these recommendations have been responded to, and

research has since recognised that similar challenges of community ownership remain, some of these have been described by Aiken et al. (2015) as stemming from;

- a) tensions between the promotion of financial viability and the social aims of promoting community benefit;
- b) conflict between acting as a steward for the asset, whilst also using it as a base for development;
- c) whether the 'community' have the business skills required to make an asset sustainable, as well as being responsive to community needs and involving the wider community in the development and management of the assets.

Similarly, Bailey (2012) highlights the key barriers and concerns as being; managing risk; sourcing funding; challenges of generating income from assets; acquiring expertise (such as business planning and asset management); and time required from staff and volunteers (see also Cooke, 2010; Dobson, 2011). In order to increase the appetite for community ownership, alternative finance options and specialist support are identified as key to improving success rates (Dobson, 2011; Calderwood and Davies, 2013; Crisp et al., 2016). In terms of empirical research on community ownership, there appears to be an understanding of the benefits and challenges faced by community organisations, but there is little known about the extent of community ownership (no national database, government contact, national forum or record of impact). There is also a lack understanding about the relations within and around community assets, whatever their ownership status. Specifically, there is an identified lack of empirical research on "the relationship between community asset owners and different institutional and policy spaces in the context of devolution" (Moore and McKee, 2013: p8). Furthermore, the key knowledge gaps on community ownership, as identified by Moore and McKee (2013) are: firstly, who community asset users are, how they experience and engage with community assets, and the qualitative impacts that arise from asset ownership (see also Wilson, 2017); secondly, how community asset owners engage with the community; and finally, little is known about the variance of community mobilisation according to the resources and capacities available.

Reflecting a difference to Anglo-Saxon contexts, where there is a 'more consensual relationship' between the state and community organisations are found in international examples, such as Sweden and Germany (Trägårdh, 2007), where the 'use' of an asset is deemed as a higher priority than striving for community ownership (Aiken et al., 2008; 2015). How and whether such 'consensual relationships' play out in England are scarcely considered within the literature. In such examples, cross-sector collaboration, similar to a coproduction framework (in Section 3.1), is crucial to success where community organisations often run community services within publicly-owned assets (e.g. child care, sports and leisure centres, or forests). Therefore, it is the use of and *access* to assets and resources

which is more critical, as opposed to being fundamentally about the legal *ownership* of the assets and resources themselves. As recognised above, one of the recognised benefits of community ownership is that local people influence the management of the asset, often consulting with the local community to identify issues and needs within the community, therefore a key interest here is how asset owners engage consult with ‘users,’ regardless of who owns it (Ode, 1999; Aiken et al., 2015). Interestingly, in England, evidence from Development Trusts Association (DTA) (2008) shows that the mobilisation of key stakeholders, where it is the significance of the relationships formed outside of their organisations, that are deemed crucial to success over and above the internal operations. Yet little is understood about the dynamics of this.

Research on the complex and different expressions of social relations of property investigated through the lens of community assets above, demonstrates a recognition that there are assets that deserve a different approach to governance than mainstream ways. Community ownership in England is advocated as having the greatest community impact, due to being closest to the communities the assets serve. The government introduced the CRTBid in response to the closures of community assets and challenges of groups attempting to purchase assets – specifically not being informed of a sale of an asset and being given the opportunity to compile a bid. The following section will now provide the details of the policy focus.

3.3. Community Right to Bid and Asset of Community Value Regulations

The Localism Act (2011) and The Assets of Community Value (England) Regulations 2012 (2012/2421) detail the legislation, which is not only a “community right” to make a bid but is formerly a mechanism for community groups to make a nomination of an ACV. It is the first time a land classification of its kind in England, based on social value (see Section (b) below on other land classifications). This policy was introduced as “a legal right to nominate... vital assets in their area” (DCLG, 2011b). In terms of the claimed impact of the policy, it was stated in a guide on community rights that the CRTBid could be used to protect locally important community assets (DCLG, 2013) and a press release from the government suggests that the nomination provides protection and ‘saves’ assets (Ministry of Housing, Communities and Local Government (MHCLG), 2013). The process involves communities submitting a nomination to their LA, who then validates this according to local and national criteria LA. They are given discretion as to how to define ACV, the processes involved, the layout of the list (DCLG, 2011a). The LA maintains the list of both successful and unsuccessful nominations, and if successful, the asset features on the list for 5 years. Therefore, in referring to the closure of community assets and recognising that communities are often unaware of assets being sold or given enough time to prepare

a bid (2011b) they have introduced the CRtBid as a mechanism to pause the sale of an asset and to ultimately “enhance the sustainability and local independence of those communities” (DCLG, 2011b: p4). During this time, if the landowner wishes to place the asset on to the market then they are required to notify the LA, who then notify the community. The nominating body, and other community groups, have 6 weeks to notify the LA if they intend to bid for the asset, which if they do it gives them a 6-month moratorium period to prepare a bid. Public authorities have a history of transferring community assets to community organisations to own or manage via Community Asset Transfer (CAT, see Section (a) below), but through the CRtBid, LAs can use the CRtBid as a mechanism to transfer assets at market value.

The government, by introducing the CRtBid, recognise the potential and benefits of community ownership, particularly in reference to revitalising failing businesses, “able to use more viable business models unavailable to private or public sector owners or operators” (DCLG, 2011b: p4), and therefore, offering the potential to “make the asset viable again (e.g. through the use of volunteers, access to charitable funding or community share investment, or through a more enterprising pattern of service provision)” (DCLG, 2011a: p14). Furthermore, it is seen as an attempt to change attitudes and behaviours of public and private owners as selling or transferring an “asset to a community group as a viable, positive option” (DCLG, 2011b: p4). It also is worth noting that the government have also adjusted the guidance on using other legislative platforms in support of the CRtBid, such as compulsory purchase orders (see Section (d) below).

It was highlighted that in giving communities “a fair chance to make a bid” it does impact the rights of private property owners (DCLG, 2011c: p5), therefore they have introduced a compensation scheme. However, in reference to private property rights, the policy does not restrict who the asset is sold to outside of the moratorium period, or at what price, and therefore “they do not confer a right of refusal to community interest groups” (*ibid.*), unlike the Community Right to Buy (CRtBuy) in Scotland (see Section (c) below). There are also no restrictions “on what an owner can do with their property, once listed, if it remains in their ownership. This is because it is planning policy that determines permitted uses for particular sites” (*ibid.*). Therefore, the impact on landowners’ rights has been the temporary limitation on who they can sell their asset to (only being able to sell to a community organisation within the 6-month moratorium) and in some cases (locally dependent) the ACV may be considered during planning decisions on change of use, and thus have an impact on their liberty rights.

The government intentions behind introducing the CRtBid are based on:

- protecting locally important community assets (DCLG, 2013);

- providing more opportunity to take control of assets and services (DCLG, 2012b);
- levelling the playing field (due to providing time to prepare a bid) (DCLG, 2011c); and
- giving a fair chance to make a bid (DCLG, 2011c).

These intentions are explored further through the empirical element of this research. After the Community Rights Inquiry, the government report stated that the CRtBid “brings people together and gives them the opportunity to have a say in what happens to valued pubs, shops or community centres if they are put up for sale” (Secretary of State for Communities and Local Government, 2015: p9). The extent to which these policy intentions and whether it increases opportunities to “have a say” in the way places are governed is considered in greater detail in the empirical element of this research. As the policy has two elements, the ACV element, which involves the nomination of assets and the CRtBid element which can be activated if/when the asset is on the market, these are considered in further detail after providing a summary of other policies and legislation that are similar or relevant to the CRtBid (see also Sandford, 2017 and Appendix C).

a. Community Asset Transfer

The CRtBid has been confused with or considered alongside CAT in LA decision making. Although there is a similarity of the underlying drivers behind the policies, namely localism and decentralisation and community asset ownership, there are many fundamental differences (see Figure 3 for an overview of the similarities and differences). The *Open Services White Paper* (July 2011) stated that the government shall “continue to encourage local authorities to consider asset transfer to community management or ownership as an important option for service transformation and the rationalisation of local public assets” (HM Government, 2011: p27). In terms of the specific differences, it is suggested that CAT operates “on a discretionary basis rather than forming a ‘community right’” (Sandford, 2017: p7), whereas the CRtBid a “pre-emptive legal right pertaining to communities” (Locality, 2012: p3). The success of CAT has been debated and there are a number of gaps in the CAT data available, there is no national data on the number of CATs (Wilson, 2017). However, research from Locality (2018b) highlights that only 41% of LAs had a CAT strategy even though 95% of local authorities they surveyed had stated that the sale of publicly owned land and buildings was expected to have an increasingly important role in the next five years. Furthermore, there are concerns regarding the motivations of the cost efficiencies behind CAT as it can lead to the disposal of unprofitable assets that require maintenance or modernisation (SQW, 2010; Aiken et al., 2011; Murtagh et al., 2012), particularly within the context of austerity. Even though there is the drive for these policies, the “government does not appear to publish statistics on initiatives such as community asset transfers and assets of

community value” (Wilson, 2017: p16). However, the work of Locality in 2011/12 included responding to a 50% increase in enquiries from members and the general public across England in acquiring assets and were involved in supporting local authorities to explore the transfer of over 200 publicly owned buildings (Locality, 2012b).

b. Conservation: land and building classifications

A variety of administrative classifications of land and property have been in practice for some time, with the aim of conserving, or as preferred by Allison (1975), preserving land and property. Conservation is defined within the NPPF (DCLG, 2012a: p65) as forming “the process of maintaining and managing change to a heritage asset in a way that sustains and where appropriate enhances its significance.” Land designations have varying effects on the way property is governed within a defined area and are recognised within the planning system these ‘titles’ include National Parks, Areas of Outstanding Natural Beauty, Crown Lands (e.g. New Forest), Listed Buildings, National Trust properties, Forestry Commission Forest Parks, Nature Reserves, Country Parks, Sites of Special Scientific Interest, and other locally determined areas of preservation, such as greenbelts, tree preservation orders and conservation areas.

	Right to Bid	Asset Transfer
Basis	Statutory	National policy
Type of Asset	Any asset	Any council owned asset
Ownership	Any owner	Public sector
Process	Defined in Localism Act	Mutual negotiation
Value	Market value	Undervalue
Terms	Freehold or lease of 25+ years	Mutual negotiation

Figure 3: Difference between CAT and CRtBid. Source: Locality (2014a)

c. Community Right to Buy

Locality (and other previously connected organisations) have been calling for legislation like the CRtBid since the introduction of the CRtBuy in Scotland, which has subtle similarities to the CRtBid by increasing opportunities for communities to purchase land to which they have a connection. The CRtBid was initially debated as a “Community Right to Buy,” but the government stated that

“the impact on property owners would be more restrictive, especially on the sale price. The complexity and cost of implementation would be considerably greater. We consider that

these disadvantages outweigh the potential to provide additional benefits to communities” (DCLG, 2011b: p5).

However, examining the details of the CRtBuy, the focus is on conservation of environmental value as opposed to being community value in the case of CRtBid, but the reason for a push towards a similar mechanism to the CRtBuy is because the community is given first refusal to the land. Contrarily though, research shows that it “is not a radical piece of land reform legislation” (Pillai, 2010: p904), because it does not force a landowner to sell, nor is it likened to CPO. However, unlike the CRtBid, the CRtBuy; “is radical for imposing a duty on a particular landowning group to manage their land in sustainable manner... it offers an alternative to the traditional rights-based system of landownership...” (*ibid.*: p204). Furthermore, the benefits of the CRtBuy are identified as providing

“communities with the opportunity to explore their own economic, social and environmental needs, their development aspirations and to make local decisions, which integrate local environmental knowledge. It encourages the generation of a SD [sustainable development] discourse between communities, landowners, Scottish Ministers and other public bodies, NGOs, and the wider public” (*ibid.*).

These benefits may be a feature in the outcomes of the CRtBid, particularly with widening the discourse of community value amongst stakeholders.

d. Compulsory Purchase Orders

Policies such as compulsory purchase (enacted through a Compulsory Purchase Order (CPO), based on a specific Act of Parliament or as an Order under the Transport and Works Act 1992) provide a mechanism to public (and some private) bodies, where, if there are enough resources to do so, they can enforce the purchase of land and property, on the justification that it is in the public interest and is the most economically efficient use of the property for taxpayers (Merill, 1986; Posner, 2003). However, little is known about the use of the CPOs and whether the powers are used to acquire ‘community assets.’ It is also documented within the literature that the CPO powers may be used to support the neoliberal agenda, as opposed to the greater good as suggested by the policy, this is highlighted by Harvey;

“The uses of eminent domain, for example, to appropriate spaces for private purposes (as opposed to the “public utility” for which such laws were originally intended) is a classic case of the redefinition of public purpose as state-led sponsorship of private development... From California to Greece, the crisis produced losses in urban asset values, rights, and entitlements

for the mass of the population, coupled with the extension of predatory capitalist power over low- income and hitherto marginalised populations” (2012: pp.85-6).

However, even within the context of neoliberalism, the government have, since the introduction of the CRtBid, adjusted the guidance on compulsory purchase and the Crichel Down Rules (see MHCLG, 2018) to enable community or local bodies putting in a request to the LAs to use their compulsory purchase powers to acquire community assets (including ACV). These are to be made with reference to the threat of loss of an ACV where the owner is unwilling to sell and also refers to vacant commercial properties that are detracting from the vitality of an area. However, it is recognised that the extent to which this might have an impact is dependent upon whether the LA can finance the purchase and compensation. In making a decision, it is suggested that LAs should;

“ascertain the value of the asset to the community, or the effect of bringing it back into use; the perceived threat to the asset; the future use of the asset and who would manage it (including a business plan where appropriate); any planning issues; and how the acquisition would be financed” (MHCLG, 2018: para.216).

Although such adjustments in the processes demonstrate progressive potential for revitalising community assets, however the challenges remain for LAs to raise the funds for doing so.

This summary of a variety of different mechanisms that can be likened to or are relevant to the use of the CRtBid has provided the context for how the CRtBid can be used or compared with other policies and tools. The following section will now provide the details of the two elements; nominating ACV and triggering the CRtBid.

3.3.1. Nominating Assets of Community Value

Upon receiving a nomination, of which the process is determined locally, LAs are required to provide a written notice to the parties involved, namely, the owner(s), occupier (if they are not the same as the owner), and the local parish council (if relevant). If the listing is successful, this will be featured on the list for five years. The landowner concerned has a right to appeal, which is first considered as a LA internal review and if not satisfied to the First Tier or Upper Tier Tribunal. If the nomination is unsuccessful it also features on the list too, and the LA are required to state the reasons why. There is no right to appeal for nominating bodies. It is at the relevant planning committee’s discretion as to whether the listing of an ACV is regarded as ‘material consideration’, which is confirmed within the DCLG advice note (2012a). The Government refers to the rights of landowners and the impact of planning decisions on these rights;

“The provisions do not place any restriction on what an owner can do with their property, once listed, so long as it remains in their ownership. This is because it is planning policy that determines permitted uses for particular sites. However, the fact that the site is listed may affect planning decisions - it is open to the Local Planning Authority to decide whether listing as an asset of community value is a material consideration if an application for change of use is submitted, considering all the circumstances of the case.” (DCLG, 2012c: p6)

Therefore, the effectiveness of the nomination is dependent upon the local recognition of the status of an ACV in planning decisions.

3.3.2. Triggering the Community Right to Bid

During the five years of being featured on the list of ACV, if the landowner wishes to place the asset on to the market then they are required to notify the LA. Consequently, the nominating body, and other community groups are notified and have six weeks to notify the LA if they intend to bid for the asset, giving them a 6-month moratorium period to raise funds to prepare for a bid. The government stated their intentions are to allow the owner to have the option to dispose the asset to a community interest group making a bid, without having to wait until the end of the moratorium period and “to have a ‘right of first offer’” (DCLG, 2011c: p10). Following this there is a protected period, of eighteen months from when the notice of relevant disposal was submitted from the landowner, which allows for the landowner to sell the asset to whomever they choose if no intention to bid is received, or the full moratorium is elapsed. An overview of the process is illustrated in Figure 4. However, it is worth noting that there are numerous exempt disposals, which include transfers of ownership within a family, partnership or between trustees of a trust or within companies in a group; the disposal through the gift of an asset; assets that are being sold as a ‘going concern’ (e.g. a pub still in operation); disposals in the execution of a will or arising from various legal proceedings; statutory compulsory purchase; and finally, for the purpose of ensuring NHS services continue.

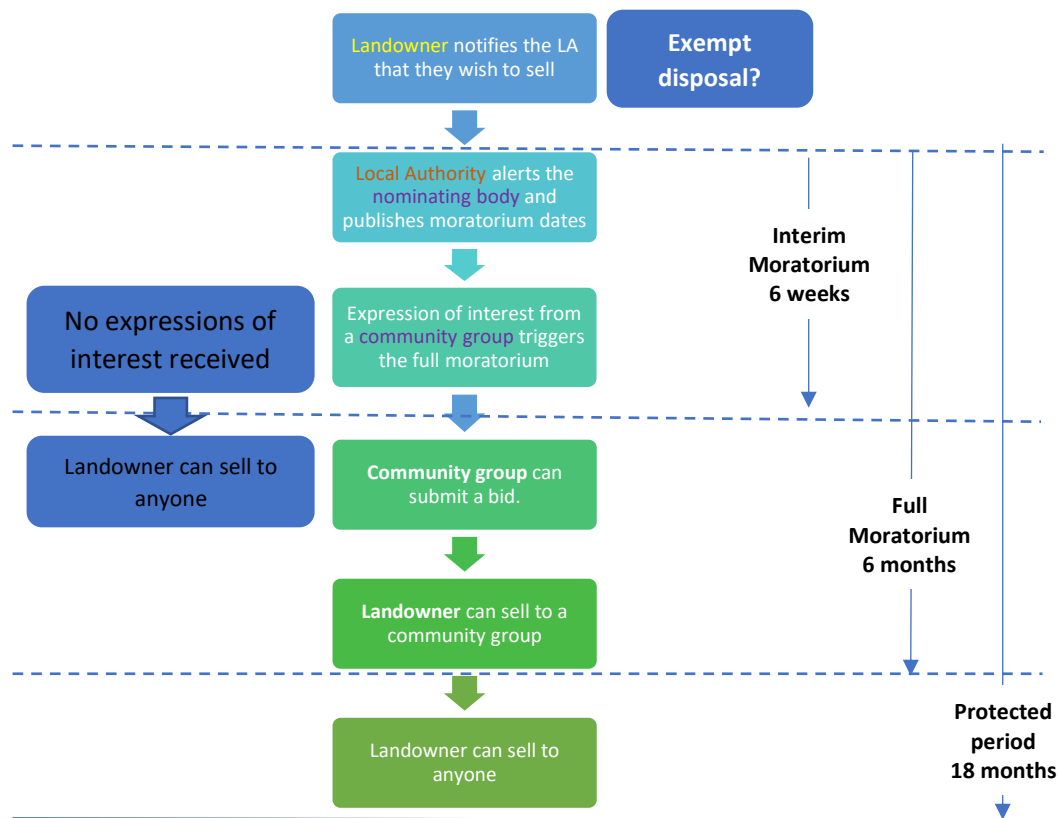


Figure 4: The Community Right to Bid Process

3.4. Conclusion

Land is a scarce resource and serves multiple functions. The context of a rising population, a shift to a post-industrial economy and society alongside conditions of inequality and austerity, highlight how it is increasingly important to identify the best use and ownership of land or buildings for society. The policies that respond to these concerns and the decisions made by local actors are therefore interrelated with the local economy and provision of services. They can have significant impacts on how community life and relationships are shaped and the extent to which society is free and democratic (e.g. Alexander et al., 2009) as well as what means are deployed in order to determine these things in relation to land and property. Challenges of sustainability and efficiency can be in tension with community preferences particularly when social value and benefit are apparently in competition with economic value and markets, and how this conflict plays through the focus of ‘community assets’ is of key concern here. The literature highlights the need to prioritise access rights to property, and rights to engage over future use, for the development of social relations and ‘use’ or social values of property (e.g. Bromley, 1991; Lefebvre, 1991; Radin, 1993, 1996, 2004; Dagan, 2011). The way in which community value is defined and acknowledged in decision making has been

traditionally via the planning system operated by and through professional planners and elected politicians and activated by landowner and developer decisions in the main. However, the Localism Act 2011, and the CRtBid as part of this, opens up a new avenue for increasing the recognition of the social relations of property, through classifying land and increasing chances to voice and possibly actuate community ownership. However, an under-explored area in English property literature is about how the dynamics of the use and ownership of community assets is understood in practice. As reflected upon in this chapter, there is evidence of success in other countries, where the 'use' of the asset is the priority through which stakeholders have more transparent and open communication (Ode, 1999; Aiken et al., 2015). These cases are based on principles of coproduction and co-governance, yet this is under-explored in applying to the context of governance of community assets in England. Also, little is known about the beneficiaries of assets and how users experience/engage with the assets (Moore and McKee, 2014). Therefore, the research gaps identified and pursued here centre on investigating the user experiences of progressing claims to community assets (through an understanding of the nominations of ACV) and how asset owners engage with users (through the CRtBid). Also, through this investigation, a consideration of whether the benefits of community ownership can be achieved via other management and ownership structures is used as means to compare the viability of the mechanism. Therefore, RQ2 applies to this i.e. *What are the dynamics of community 'ownership' effected through the CRtBid?*

The CRtBid could be seen as the government recognising alternative rights to place (Tait and Inch, 2016) and responding to the need for a classification of land based or at least acknowledging social value. It could also be considered as providing a mechanism for local actors to resolve conflicting claims to place and property (albeit via the market) and stake out claims that community value should be protected (cf. Foster and Iaione, 2016). However, as this is constrained by a neo-liberal orientation, the approach is likely to favour affluent groups in society or those otherwise better able to use social networks and other resources to defend their interest (Davoudi and Madanipour, 2013; Williams, 2014). Also, considering the political narratives or rhetoric about increasing community responsibility for social welfare needs, as a diversion from state (and planning system) responsibility, towards market mechanisms to resolve conflicting property claims, the CRtBid is called into question as a legitimate and inclusive approach to determine social values and preferences. Indeed, it is debateable whether the term 'community right' is appropriate for this policy tool, and as little is known about the outcomes of the CRtBid, it gives rise to RQ3; *What factors appear to prevent the effective use of the CRtBid?* Chapter 5 draws on data collected in response to these research questions, however before doing so, the following chapter discusses neo-institutionalism and relational methodologies, as well

as providing a summary of the research questions. This work aids justification of the focus and details of the research design as part of the overall methodology.

4. Methodology

The preceding chapters have developed the theoretical and contextual foundations for this research by introducing the issues and knowledge gaps identified in theory and practice (Chapter 1). The review has helped form the theoretical basis for interpreting the different perspectives of property rights and values (Chapter 2); and has provided an overview of the policy focus - the Community Right to Bid (CRtBid). This has been considered alongside a critique of localist planning policy (Chapter 3) highlighting its neoliberal credentials. The parameters identified thus far, along with the focus for the study, contribute to methodological understandings of research into property, policy and aid interpretation of the motives, means and outcomes of the community rights agenda since 2011. The purpose of this chapter, therefore, is to build the theoretical and methodological framework further by drawing upon neo-institutionalist and relational perspectives as part of the specific research design which is also outlined here. In developing a critical pluralist account in this thesis, detail of how and why the research questions were formed and how these have led to a sequential phased approach to the research, collecting the data using a variety of tools. The limitations of the approach taken are also reflected upon throughout the chapter.

4.1. Theoretical framing

As considered in Chapter 2, the social relational perspective adopted here is that property is socially constructed and relational. As such, how property is framed has methodological implications. Researching property through a 'physical' lens poses problems, because "these concrete physical shapes must be socially constructed as researchable concepts" (Dunin-Woyseth, 1996, cited in Naess and Saglie, 2000: p743). Of relevance here is the work of Soja (2010), where we are reminded that "everything that is social (justice included) is simultaneously and inherently spatial, just as everything spatial, at least with regard to the human world, is simultaneously and inherently socialised" (Soja, 2010: p5-6); this reflects the co-constructed nature of the physical and social worlds. The literature also highlights that when considering spatial-temporal realities, applying a relational mode of study is considered as a constructive way to approach the topic, particularly in conceptualising what particular spaces mean to people as part of their political and collective memories (Harvey, 2006). Community assets, such as those referenced in this thesis, are those that are 'valued' by communities regardless of (or not solely reflecting) how they are valued by markets or by the state in money value terms.

In an attempt to make sense of 'place' and 'property,' similar to the focus of this research, Williams (2014) refers to two contributory philosophical foundations, which are applied to form the basic approach to this research; a critical pluralist approach and researcher positionality. The 'critical'

element referred to by Williams is the application of critical reflection, which considers how well theory and methods are aligned with the stated objectives of the research. In applying a critical pluralist approach it is recognised that within any particular domain of spatial-temporal reality, observers “may attain only a partial or incomplete comprehension of the world due to their embedded and inevitable positionality” (Williams, 2014: p75). This suggests that one cannot acquire a complete understanding of a topic, but an informed and robust view can be developed while acknowledging possible weaknesses and how the study could be extended or replicated.

Specifically, the plural and complex nature of ‘property’ means that to provide a ‘full’ account of a property system or justification of a favoured one would be elaborate (Reeve, 1986). This too is recognised by Peñalver (2009: p885) who considered that in researching property and planning, there are particular challenges because “even the best information, no matter how diligently gathered, will always be incomplete.” This was considered in reference to being unable to foresee the long-term impact of the decision making of owners (and others) in relation to CRtBid assets, and uncertainty is regarded as a significant issue for public and private land-use decision makers. Similarly, Eggertsson (1990: pp.100-1) argues that changes wrought by reallocating property rights can require new criteria to assess efficiency. Such changes, however, affect production and the distribution of wealth, and can create a new basis for valuing commodities, “therefore, from the viewpoint of positive economics, it is impossible to evaluate the impact of changes in property rights on social welfare.” This also resonates with the literature considered in Chapter 2, where it was identified that the allocation and regulation of property is based upon social consent, but property rights are also a product of political negotiation and power relations which can often lead to inequity and social exclusion. Any system of governing property will therefore, always be imperfect and in constant evolution due to the negotiation and renegotiation of rights and claims and the changing nature of shared and social values. The reflections on the complexity of property research sets up a challenge that cannot be fully addressed in this research. However, this is not to undermine the significance and importance of pursuing property research such as this, as there is a continual need to reflect on the motives, means and outcomes associated with policies in practice, to identify how the social relations of property are reflected or stymied and the way in which conflicting property claims might be better reconciled.

As referred to in preceding chapters, a pluralist or polyrational conceptualisation of the world has been considered effective in application to conceptualising property rights and social relations. It is recognised that different rationalities are required to understand property and ownership, localism and community. However, applying a pluralist approach methodologically implies that there is not one

theory or approach that by itself can successfully compile the complexity of investigating places into one unified view. Therefore, in attempts to understand property, which involves plural, often conflicting vantage points, applying pluralism involves considering various perspectives to reveal observations that would be difficult to identify from a specific perspective only (Williams, 2014). Due to the nature of the concepts involved, including property, community, localism, commons, values and rights, the arguments involved could appear ontologically 'fuzzy' and highly contestable, therefore this thesis will always be a partial account of property relations. This research therefore, does not constitute an exhaustive analysis of the subjects and theories involved, and might have been conducted in a variety of different ways. However, it should be noted that an arbitrary approach has not been taken here, rather the intention has not been to advocate a particular critical line of enquiry over another, but to ensure that this research responds to the issues and gaps highlighted within the literature review, and identified in practice, which have acted to form the associated aims and research questions developed for this research. Consequently, this chapter provides insight into how the research questions, aims and objectives have been compiled, how they relate to the theoretical and conceptual foundations of this research, and justification for the research design. The following sections will now outline the neo-institutionalist perspective and relational methodologies, which have also influenced the choice of approach to the methodology.

4.1.1. Neo-institutionalism and researching property

The neo-institutionalist methodological approach applied to this research provides an ideal framework for studying the political, economic and organisational behaviours associated with land and property, and how the institutional structures (i.e. property rights), associated norms and cultures can constrain motivations and actions of individuals and communities. This approach is concerned with the governance and socio-economic development of communities and provides an understanding of how and why social relations are important to economic and political activity (Healey, 1998). Therefore, it provides an ideal foundation for exploring the concepts of the social relations of property, property rights, planning and the commons, and how relevant social institutions interact with and affect society. Central to this neo-institutionalist methodology, is how organisations, broadly defined, "are made active by the way people-in-relations realise procedures and activities" (Healey et al., 1995: p18) and through conceptualising institutions. For instance, property rights, as "social institutions as information-transmitting rules offers a way to connect social action and community" (Knight, 1992: p82). These perspectives are *prima facie* useful for exploring this research subject because it allows for a dynamic, relational view of social action, where "one can think of institutions as abstract algebras of relations among members of social sets. From this perspective,

institutions are to social action as grammars are to speech” (Barley and Tolbert, 1997: p6). It is from this view that institutions are socially constructed templates for action and are created and sustained through continuing interactions and relations (Giddens, 1984). Therefore, in building upon the ontological and epistemological foundations found in Healey’s work (2006), this research is based upon a non-positivist, social constructivist framework for understanding institutions and in doing so draws upon a variety of types of qualitative data, including surveys, interviews and text sources. At the core of this framework is an understanding that;

“Meaning is constructed not discovered, so subjects construct their own meaning in different ways, even in relation to the same phenomenon. Hence, multiple, contradictory but equally valid accounts of the world can exist” (Gray, 2017: p22).

Such a framework strikes a chord with the social relations of property literature (Chapter 2), as it is the relations that form meaning and values within and around property, and as people interpret relations and values differently, it gives rise to conflicting property claims. In an attempt to interpret the context underlying these conflicting claims to property, Chapter 2 summarised neo-liberal and ‘new’ commons (on the foundation of perceiving property as social relations) perspectives of property rights and values. Furthermore, in reviewing this literature, ‘community rights’ have been perceived as an oxymoron by many (such as Bentham and Marx), where a variety of dichotomies can be drawn. In similar fashion, Haiven (2016) contrasted neoliberalism with the commons, which when analysed alongside Gewirth’s observations on ‘rights’ and ‘community’ illustrates the similarities in the way ‘rights’ are conceptualised as having neoliberal connotations. However, perceiving commons and neoliberalism as opposites, “is not quite as politically or analytically reliable as we might hope” (Haiven, 2016: p277). This again can be applied to opposing ‘community’ and ‘rights’, but this observation is useful in demonstrating the potential conflicts at play in the use of terminology around such issues. Although, as expressed previously, caution should be had with holding such dichotomous views, in an attempt to conceptualise and apply the literature to the empirical elements of this research, Table 1 illustrates the philosophy and approach of the viewpoints, including how relations, rights and values are often perceived. This shows the contrast in views and is reflected upon to analyse the findings.

Viewpoint	Philosophy	Relations	Approach	Rights	Values
Neo-liberal	Market based	Individual, Economic / legal	Competitive, instrumentalisation, self-seeking	Private, Individual. Reification.	Monetary, exchange value. Commodification. Valorisation.
Neo-commons	People based	Social	Democratic, co-operation, sharing	Public, collective.	Non-monetary, use value. Commonification.

Table 1: Summary of neo-liberal and (new) commons perspectives on property

In terms of pursuing property research, applying a relational methodology provides a flexible foundation for research on the institutions of property and planning, this approach will now be presented in the following section.

4.1.2. Relational methodologies

Relational methodologies are a respected ideal for considering the plural nature of communications, relations and transactions, and are linked with analysing the meaning structures associated with the order and organisation of these pluralities (Scott, 2002). Furthermore, relational methodologies are viewed as being transactional precisely because they involve an understanding of concepts as being “embedded in complex relational networks that are both intersubjective and public” (Somers, 1995: p136). Therefore, concepts such as property, are unable to be defined as an ontological entity but can be understood only through its relation to the other concepts in the web of relations. This strikes resemblances to the theoretical framing in Chapter 2 as property as social relations and bundles of property rights. In applying relational methodologies to resources and causal mechanisms, Tilly (1993: p6) has recognised that,

“the relationship among an activity, the set of agents that control the means that might make that activity possible, and the bargaining that goes on between the agents of the activity and those who hold the resources, produce unexpected sets of structures that themselves constrain the next round of action.”

Therefore, the impact decisions made and the bargaining that takes place has a knock-on effect, and potentially leads to cases where “the general cause lies in that struggle over wanted voices” (*ibid.*). Therefore, change is made possible through having the skills, resources and political space to contest and bargain with those who potentially have greater economic or political power, which suggests that in a democratic society these elements should not be constrained but facilitated. However as

intimated in the previous chapters, the interplay between this social bargaining is being replaced by a market-based means of resolving 'conflict' of determining outcomes as concluding (Parker, 2017), rather than created by the plural and ongoing actions that form society.

In reflecting upon an institutional analysis of the social relations of property, there is a recognition of the value of a 'place' focus; it is suggested that there is a "need to see the local as a part of wider processes, and therefore subject to rules of governance at different spatial scales" (Amin and Thrift, 1995: p108). Therefore, in this research, people, place and the commons are all interlinked, and as the CRTBid concerns individual assets or 'places' of particular value. As highlighted in the work of Williams, the potential of utilising the concept of place offers "a powerful framework from which to comprehend and compare pluralistic positions through which awareness, knowledge, and meaning are generated" (Williams, 2014: p75). In applying these observations to this research, the ACV becomes the 'place' from which the perspective of this research is carried out, and thus is the central topic in communicating with the different stakeholders involved. Similarly, it is recognised that;

"the 'place' focus brings attention to all the relations which transect a particular geographical space, the patterning of nodes and peripheries in each relation, the extent to which they link to each other, the significance this gives to geographical spaces which become nodes of intersection, and the values that are placed on the qualities of these 'locales'" (Healey et al, 2002: p16).

Therefore, the ACV provides the hook to interpret how conflicting property claims are negotiated and responded to in practice and how such processes can be improved. Similarly, it has been recognised that research such as this should consider the attributes of different sites that hold important implications for non-owners, identify if there are available substitutes for these, and consider what uncertainty surrounds the impacts of these attributes of current uses (Bromley, 1991).

Furthermore, as introduced in the preliminary chapters, this research relates to concerns with the sociality of property and in applying the concept of the commons, it is suggested that in doing so, this conceptual framework is developed further. Here it is suggested that,

"as new tools and perspectives for property analysis become available. The picture is enriched through new ideas for relational modalities, ways of constituting the relating subject, classifying the related-to object and whatever else can be imagined" (Pedersen, 2010: p209-210).

However, when comparing the efficiency of different institutional arrangements measuring utility and social values is problematic and are often captured by owners of property. The way in which ‘values’ “are identified, selected, defined, evaluated, communicated, and managed by interacting stakeholders represents a rich set of research opportunities” (Ramirez, 1999: p60), but presents complexity as they cannot be defined as a single metric due to be plural and interconnected with other values. Also, meanings derived from the broader meaning of the ‘community’ or ‘local’ (Berry, 1989; Li, 1996; Pedersen, 2010) by decision makers and landowners have an impact on how collective claims to property and community assets are recognised, legitimised and substantiated. Therefore, in applying the observations made above and the social and political context, the effective use of the CRTBid is reliant upon the motivations of those involved, the complexity of the local environment and the ability of those involved to measure values and respond accordingly (North, 1990). The following roles and relations have been identified whilst forming the institutional framework. They have a key influence in the way rights claims are interpreted and substantiated in practice and are considered in the analysis of the data and referred to in the conclusion;

1. The ability of communities to identify and justify social value and to manage resources that matter to them;
2. The role of decision makers in validating social value;
3. The role of local planning authorities (and the Planning Inspectorate) in acknowledging the social values in planning decisions;
4. The role of the judiciary in responding to competing rights claims;
5. The role of landowners in reacting to the claims to social value.

The above sections have set the methodological context and drawn upon different perspectives of property and the institutional framework to provide a neo-institutionalist and relational approach to this research. The following section links this by considering the research questions in greater detail.

4.2. Research questions

The research questions developed to frame this research have been formed by considering the issues and knowledge gaps identified within the literature, as well as in light of the theoretical orientation of the research. This section provides an explanation of the thinking and justification for the questions developed, and, in shaping the ‘critical’ element of the research.

RQ1: How has the CRTBid policy been utilised and interpreted and how are competing claims reflected in the outcomes?

The central research question (RQ1) has been developed to test how the policy has been used but moreover how social relations of property are reflected in the CRtBid policy. In particular, the focus is on the gap between public responses to this localist policy and to the theoretical implications of social relations of property implied in the rhetoric associated to the policy. The consideration here is regarding how the CRtBid has been used both politically and practically, and how it has been interpreted by different parties. Specifically, it explores potential conflict over claims to community and economic value and how these are substantiated. In developing an understanding for the way the CRtBid is being used and interpreted, the *motives* of the stakeholders involved (also RQ2 for community use and motives) and the actions they take in response to the policy (*means*) are, in combination, considered as important in helping to understand credentials and effect of the policy. Understandably, this has import for whether, and how different parties benefit or not from the CRtBid approach. Therefore, how competing property claims are reflected in the *outcomes* of the CRtBid process are of interest here, and what this means for the future of the governance of community assets. Through an analysis of the data, this research will consider to what extent the UK government's aim to 'protect' ACV is socially progressive, and whether it has improved public responses to community value and is shaped by a neoliberal agenda with the intention to simplify and organise property for a more efficient exchange. Underpinning this overarching question is the positioning of the social relations of property model (Singer, 2000b; 2008), the neoliberal and commons-based views of property, and the institutional context. The following research questions aim to also respond to this central focus, with specific questions regarding the dynamics of community ownership, and the factors that prevent the effective use of this policy.

RQ2: What are the dynamics of community 'ownership' effected through the CRtBid?

In order to get closer to the dynamics of community 'ownership,' the focus on the CRtBid presents an opportunity to explore two elements; the actual purchase of a community asset, and the more customary form of 'ownership,' where expressions of ownership are claimed through the regular 'use' of an asset. The challenges of mobilisation faced by some communities are well reported within the literature generally, however little is understood about why community ownership is not more common, given that it is claimed to be beneficial for community wellbeing (see Section 3.2). Through the CRtBid, communities are presented with an opportunity to be informed of a sale and provided some time to compile a bid, therefore, this research question will explore how communities are using this 'right,' and what opportunities and challenges are present with using the policy to acquire community assets (ACV) (related to RQ3). Furthermore, this research gains insight into the user

experiences of these assets; how this leads to a claim as a form of ‘ownership,’ and how landowners of community assets engage with users. In doing so, this research will explore the motivations of communities using this ‘community right,’ their perceptions on responsibilities to ‘protect’ assets (and community value), and consideration of whether the claimed benefits of community ownership can be achieved via other forms of property governance including traditional planning regulation.

Therefore, the perceptions and realities of the *lived* and *perceived* added value of community ownership is brought into view. Underpinning this question is the recognition that community ‘ownership’ may not simply be about making a claim to owning community assets. Rather, the claims could also allude to a form of a ‘community right to the commons,’ by requiring greater consideration for the sociality of property and increased democratic involvement in the governance of AsCV. Understanding these dynamics of community ownership provides an opportunity to consider what this means for the social construction of property, and therefore also contribute to the scope of RQ1. It also links with the core of RQ3 in considering the issues and reluctance of communities in pursuing the purchase of a community asset. Amongst the literature that underpins this research question is theory related to the commons and communal spaces (see Section 3.2), the community ownership literature (Section 3.2.1), and how the current promotion of localism and community rights is rooted in a neo-liberal governmentality (see Section 3.1.2).

RQ3: What factors appear to prevent the effective use of the CRtBid?

This final research question aims to explore in more detail the actual experience of those pursuing CRtBid by considering the account of literature on neoliberal localism alongside the government intentions for introducing this policy. This gives rise to scepticism about how effective the policy is in its potential for introducing an inclusive approach by determining what values are important to communities and their associated preferences and attempts to reconcile conflicting property claims to ACV. It could be debated whether this is a ‘community right’ -given the difficulties associated with implementing it, as discussed in Chapter 2. Throughout exploring this research question, observations are made about whether the policy is in line with government claims and community motivations. Broader reflections from the literature combined with responses from stakeholders leads to consideration for how the policy might be adapted in response to some of the issues identified, and ultimately how the right might be ‘strengthened.’

Table 2 below illustrates the connections between the literature, research questions (RQs), and the aims and objectives. This has been used to structure the analysis of the data and purposes to provide clarity over what the aims are that underlie the research questions, and how they link to the literature

in providing the foundations for the conclusions in Chapter 6. A similar table was developed and used to help code the questionnaires and interview proformas, to ensure that the questions asked were relevant and would maximise linkage to the research questions.

Research Theme	Research Questions	Research Aims	Research Objectives
Social relations of property	RQ1: How has the CRtBid policy been utilised and interpreted and how are competing claims reflected in the outcomes?	To respond to the gap in empirical evidence that the current institution of property lacks consideration for the social relations of property through investigating the CRtBid	Through an understanding of the motives, means and outcomes associated with the way the policy is being used and interpreted by stakeholders, and whether it reflects characteristics of a neoliberal and/or commons-based perspective. Specifically, to identify: <ul style="list-style-type: none"> - what social relations of property are important to communities and why (link to RQ2) - how landowners are interpreting and responding to the policy and specifically the impact on their property rights - how LAs are validating, acknowledging and reacting to the social relations of property. In doing so, this research will identify how the competing claims are reflected in the outcomes of the policy (link to RQ3)
Community 'ownership'	RQ2: What are the dynamics of community 'ownership' effected through the CRtBid?	To contribute to the literature on community ownership by exploring motivations to use and protect community assets	To identify the motivations of communities with regards to community assets, and whether community ownership is desirable and/or realistic or if community objectives could be achieved via other mechanisms. Specifically, the following contributes to understanding: <ul style="list-style-type: none"> - opportunities and challenges of community ownership as considered by those using the CRtBid - the debate surrounding community use and value (specifically in the case of pubs)
Preventative factors	RQ3: What factors appear to prevent the effective use of the CRtBid?	To explore the factors that influence the use of the CRtBid to raise consideration of the social relations of property and protect AsCV	To identify the perceptions on the effectiveness of this 'community right,' and if governmental intentions and the expectations of communities are reflected in the policy outcomes.

Table 2: Research themes, questions, aims and objectives

4.2.1. Justification of focus

Community rights introduced via the Localism Act (2011) are under explored within the academic literature and little is known about the impact of the CRtBid policy; there is no ongoing national monitoring or academic attention, therefore, it was considered fertile in deriving data that would provide original contributions to knowledge. This conclusion was reached when the issues raised in the literature on property rights, commons and social value were identified and highlighted lack of academic scrutiny. The viability or practicality of exploring the policy was established through an initial

scoping exercise by examining LA websites, and a policy review. Further investigation was warranted after a sufficient number of listed ACVs were identified. A variety of further considerations led to the decision to focus on the CRtBid, including the potential to explore:

- deeper understanding and meanings associated with the rights and responsibilities of community asset ownership, and how 'community value' is being defined and contested by the stakeholders involved. In doing so, it considers the potential in the premise that users can often 'value' an asset more than an owner. It also allows for analysing interpretations of collective right claims and values by the stakeholders involved, as well as how the legal system is responding by analysing evidence available regarding appeals made by landowners to the First-Tier Tribunals.
- the dynamics of community ownership being promoted via the policy. It specifically provides an avenue for understanding community motivations and perceptions of responsibilities associated with community assets.
- how policies such as this 'community right' might be more effective in responding to conflicting property claims and the social relations of property.

As public houses are 'public' and yet often privately owned, there is the opportunity to reflect upon this overlap in terms of legal and private ownership and public / community use. By reflecting upon the preceding chapters, the focus of public houses is logical, as it provides scope to explore the social relations of property and property pluralism, due to the dynamics and overlap between private and public space within pubs and how such claims to ownership are legitimised. Pubs are also pertinent to the emerging (new)commons literature, given that pubs have played an important social function within urban and rural communities across Britain (see Section 3.2.a). The scoping exercise highlighted that they were the most commonly listed ACV. This corresponds to a wealth of data about why people have been making claims about the 'value' of the 'Great British Pub' and what shared and social values are involved. As such the pub, as a socio-economic phenomena, help draw together the content of thesis. As in the case of traditional common, public houses also demonstrate that use, qualities or associations of the asset is important. If the building was to remain but the use changed then it would not be valued by the community in the same way. This highlights how pubs and similar 'special' places / property, indicated by Bromley (2016), are different in some emotional sense to other property – a feature or element of which is expressed in cultural geographies considering 'place' (Tuan, 1974; Eisenhauer, 2000; Altman and Low, 2012) and deserve greater attention in terms of how property with these attributes are planned and governed (e.g. Dagan, 2012; Bromley, 1991; Radin,

1993; 1996; 2004; Foster and Iaione, 2016). The following section will now provide details of the approach taken to explore this focus.

4.3. Research design

At this stage of the policy life, a national insight into the policy was needed before any considerable depth of understanding could occur, therefore this research was necessary and timely. A sequential mixed methods approach was considered appropriate to draw out the breadth required to gain a national insight, yet the depth needed for this research was acquired through deeper exploration in the surveys and interviews. This approach involved collecting and analysing quantitative data, followed by qualitative data, in consecutive phases within one study (Creswell et al., 2003). A specific type of complementarity triangulation has been carried out here, where the results from the latter stages have enriched and expanded upon the prior stages. One key limitation of this type of design is time commitments, which are required to carry out all the phases involved and how feasible it is in terms of resources to collect. However, this was managed by applying a schedule of research phases and consideration of the resources required during each phase. Each phase is summarised and justified in the following sections and, where relevant the criteria for selection and limitations or practical challenges are considered.

4.3.1. Scoping interviews

Telephone interviews were carried out with several strategic actors to establish and refine the focus of this research and considered the gaps of knowledge within the policy environment. These interviews were held with Dr Barry Quirk CBE, officers from DCLG and Locality, who also had experience of working with the Asset Transfer Unit and CAMRA. During one strategic interview, it was identified that there is a move from demand-led to supply-led asset transfer, this is because there is an increasing amount of LAs who are instigating multiple asset transfer in response to recent pressures to offload assets and create efficiency savings (see also Locality, 2010). However, it was noted in two of the interviews that some LAs have been “dumping white elephants” on communities that potentially have maintenance issues or are economically a challenge to manage. Secondly, it was reported by an interviewee that there has been a significant rise in the interest in community ownership of assets, as “enquiries have gone through the roof.” However, it was stated that most of them did not translate into action. It was suggested that this is because of the context of austerity, particularly the reduced capacity of the third sector due to funding cuts. Thirdly, a keen policy interest was to understand what motivates and inspires individuals and community groups to engage with an asset. Moreover, there was a keen interest in LAs and their perceptions on CAT, because it was

highlighted that there is a strong contrast in attitudes of public authorities towards asset transfer and that there are conflicting interests with conflicting demands amongst different departments. It was also noted in two of the scoping interviews that contextual factors have an impact on the attitudes of LAs, particularly in terms of the wider concepts of ownership of land and buildings, land value and use value, and as stated, this is where the contrast lays: how the authority views values. Finally, the challenges of defining the impact of a specific asset were raised. Qualitatively, practitioners feel that reflections, from organisations who own or manage a community asset(s), about what they consider are the impacts on their community would be useful. One interviewee suggested that the importance of revenue and impact of the organisation itself that makes a real influence on communities, and the use values of an asset or service, not the buildings themselves. Therefore, it is about the building enabling an organisation to pursue its objectives. Another interviewee touched on this being an issue, as it was suggested that “naïve community groups” can believe that their purpose is best served by owning an asset, but they stated that this should be a second order question, the first should be what the mission is to advance, then to consider if owning a particular asset leverages that mission. Presumably also identifying whether other management or ‘ownership’ structures might be more appropriate.

4.3.2. Policy review

Once the CRtBid was established as the focus, 10 LA websites (chosen at random) were visited in order to identify what type of data could be collected from the ACV lists and if there was enough usage of the policy to justify investigation. This exercise highlighted that there was likely to be more than enough data to draw upon for this research, and also provided the template for what information to collect for the database. Also, by focusing on the CRtBid several documents were reviewed:

a. Pre-legislation:

- Proposals to introduce a Community Right to Buy – Assets of Community Value Consultation paper (DCLG, 2011a)
- Community Right to Bid: Impact Assessment (DCLG, 2011b). *This describes the expected impact of 3 policy options associated with the provisions and specifically what the costs would be to LAs, asset owners and the government. It also considers what the problems are and why government intervention is deemed necessary.*
- Assets of Community Value: Policy Statement (DCLG, 2011c). *This demonstrates why the government introduced the provisions, and what the provisions do and do not do.*

b. Legislation:

- Localism Act (2011): Chapter 3 - Assets of Community Value
- The Assets of Community Value (England) Regulations (2012).

- Community Right to Bid: non-statutory advice note for local authorities (DCLG, 2012). *An overview of the two pieces of legislation.*

c. Post-legislation:

- Community Rights Inquiry (June 2014)
- House of Commons Library Briefing Paper: Assets of Community Value (Sandford, 2017).
- First Tier Tribunal documents.

These documents identified the key process involved, how rights are affected and what the intentions of the government were in introducing the policy. The post-legislation documents demonstrate the response of government to the way the policy is playing out. The analysis of these documents has been utilised to summarise the policy in Section 3.3, and elements have been used to evaluate the effectiveness of the policy in line with governmental intentions.

4.3.3. Database collection

Creating a national database was deemed fundamental to pursuing the focus on the CRtBid. It not only provided its own set of findings about how the CRtBid was being used and what types of assets were classed as being valuable to communities (and validated by LAs) but was also a necessary phase for participant selection of the survey phase. The information collected from LA websites was used to form an extensive contact database, which included the names and/or contact details for nominating bodies, landowners and LAs. In total, 271 LAs had reported use of the policy on their website and included a list of ACV (Appendix D summarises the LA breakdown from the national database). As the majority of LA websites did not include direct contact details for the respondents, further desktop research was required to identify as many contact details as possible. The information derived from the database was also reflected upon to form some questions for the survey. The database identified the numbers and details of successful and unsuccessful listings (including asset and organisation type), and also highlighted the ACV that have been put on the market since being nominated. The information derived from the LA websites identified some successful community purchases, but as there is no official monitoring of this, and as LAs are not obligated to record this data, to obtain an accurate number of community purchases is difficult. Further information on the numbers of acquisitions was identified through desktop research or was expressed through the responses to the survey.

Caution is exercised with regard to the reliability of this data, because it is dependent upon LAs updating their lists promptly. There was also a breadth of range in quality and level of detail available on the websites; some LAs had cited basic information regarding listings, resulting in simply the report of relevant dates, type of asset and location, whereas others had all details including information

regarding nominators and landowners. In some cases, associated decision reports and nomination forms were shared. But to ensure that the data was as accurate as possible, all LAs were contacted via email to confirm their list was up to date and, where necessary, they were asked to fill in the gaps required to inform the database. Another limitation was identified at the beginning of the data collection phase in Summer 2015 and revealed that four years after the introduction of the policy, some LAs had still not set up the processes to administer the policy, or had done so, but with no information available online.

4.3.4. Textual analysis: nominating Assets of Community Value

Through the process of nominating an ACV, community groups produce a nomination form (or in some cases an email) which justifies why the community regards it as being of 'community value.' These accounts of assets provide greater depth than that derived from the database, regarding what is valued and why. A request was made to all the LAs to send the nomination forms and supplementary evidence that community groups had submitted. A mixed response was received from the LAs with regards to sharing the forms, many were willing to share the forms and publish on the website, some were happy to send with the personal information redacted, others required a Freedom of Information request. Finally, there was a group who did not send nomination forms due to either time constraints, stating that photocopying them and/or redacting the personal information was too time consuming or were concerned about data protection. In cases where there were issues gathering the nomination forms from the LAs, the nominating bodies were asked to attach their own nomination form. A total of 84 LAs had either sent the nomination forms or provided a link online where they were publicly available, in total 480 nomination forms were received. As many of the forms were scanned or sent in paper format via post, it meant that extracting the relevant text for digital analysis was difficult. Therefore, it was determined that text was best analysed without the need for data management or coding software. The approach taken was through a combination of considering the wider literature on values and preliminary analysis, where all successful nomination forms were read to prepare for textual analysis. Here, pre-figured flexible categories were formed, centred around identifying key 'values' (e.g. social hub, preventing social isolation) and motivations behind making a nomination (e.g. in protest against the dominate private interests defining the future of communities). A random selection of the nomination forms was analysed (n=80; 40 specifically related to pubs) and informs the analysis of the surveys and interviews. The limitations of this approach meant that a minority of the forms could be textually analysed. Furthermore, given the limitations of doctoral research and the importance of the other elements, a basic categorisation and approach was applied.

Further research could add greater insight and potentially apply a framework developed from the literature reviewed in Section 3.2 on community assets.

4.3.5. Online surveys and telephone interviews

Due to the lack of knowledge on the motives, means and outcomes associated with the CRTBid, where little is understood about how this policy is being used and interpreted by people across England, online surveys were deemed as the most appropriate tool for pursuing the data collected for LAs and nominating bodies, and telephone interviews for landowners. To ensure a critical approach to the work, a phase of coding the core elements of the research questions, aims and objectives took place to ensure that each question posed within the survey/interview related, and that core elements were sufficiently explored through the chosen methodologies. The decision to carry out online surveys for the LAs and nominating bodies was based on being able to garner a larger number of responses than would be possible through carrying out telephone or face to face interviews. Another benefit of carrying out online surveys meant that whilst the surveys were live, preparations were made for the following stage. SurveyMonkey was used to create the online surveys, based on it being affordable, easy to use and access, with technical support (used once as the design of the nominating body survey became complex), and a well-established tool. Finally, difficulties in acquiring contact details for landowners were encountered, therefore, fewer were available to contact, and it was understood that property assets may be a sensitive topic for some. Therefore, it was deemed more beneficial to carry out telephone interviews in order to draw out the depth required.

A pilot survey was carried out within each stakeholder group, which prompted an edit of the phrasing of some questions to ensure the respondent fully understood the type of response required, and thus ensure the data derived was relevant to the research, and also resolved some technical issues with the use of SurveyMonkey. A face to face meeting was held with a local community group to gather detailed feedback on the use of the survey and the types of questions answered. The LA pilot was identified via email communication and were approached as they demonstrated keen interest in the research, and after being invited to engage with the pilot they showed great enthusiasm and offered constructive feedback. Finally, the landowner pilot highlighted that having fewer core questions was more beneficial than using a detailed question set due to the heterogeneous nature of the issues, also, some were short in their responses and needed many prompts to draw out the understanding and data required to inform responses to the RQs. The online LA and community survey questions, and the semi-structured interview proformas for the landowners are presented in Appendix E.

Some disadvantages of online tools were highlighted as, in some cases, the data collated was vague and did not provide enough detail to discuss the theory, themes, research questions and issues. Therefore, the depth required to respond to the research questions was attempted through a carefully crafted question set for online surveys and interviews (coded alongside RQs, aims and objectives), and where necessary follow-up emails and telephone calls were made to draw out and clarify meanings. Given that the respondents refer to situations prior to the removal of PDRs on public houses, regard should be had for this when interpreting the results and analysis, and further value would be added to future research to identify the impact of this added layer of protection via the planning system.

Selection criteria

As noted above, the database was used to inform the selection of the stakeholders invited to participate in the research, this particularly highlighted that there were varying experiences by the different stakeholders. In terms of the LAs, there were:

- 1) those who have no experience of the policy;
- 2) those who have experienced the ACV element (simply listing an asset as successful or unsuccessful); and
- 3) those who have experienced the CRtBid element (where an asset has been put up for sale).

A decision was made to discount LAs who had no experience of the policy at the point of Summer 2015 (n=56), as it was identified that LAs that had been through a decision-making process, received responses from landowners and potentially had feedback on the CRtBid element from other stakeholders, were deemed of interest. Community groups and landowners identified during the database collection phase, that had experienced both the ACV and CRtBid elements of the policy, which involved either a successful or unsuccessful nomination were contacted, as they were able to provide a greater depth than those who had simply nominated an ACV or owned an ACV property.

Although it was considered that a sample of stakeholders may be enough, it was decided that a national picture of the policy would add greater value. Table 3 provides an overview of criteria applied to each stakeholder group, as well as how many were contacted and how many responded. The figure for those contacted was also the amount of contact details held for each stakeholder group.

	Criteria	Contacted	Responded
Local Authority	All who have successful and unsuccessful listings	270	110
Nominating Body	Successful listing and asset has been on the market	290	114
Landowners	Where the full moratorium has been triggered since listing	74	10

Table 3: Summary of the criteria and number of stakeholders contacted and responded

a. Online survey: Local Authority

As part of a sequential approach to carrying out the research, LAs were chosen as the first stakeholder to contact as they may have held information relevant to assisting with the design of other surveys/telephone interviews. They were also viewed as a potential source of contact with nominating bodies and landowners. Furthermore, contact with the LA officers led to a confirmation that the data held on their website was up to date, to collect nomination forms, and to ultimately identify who the most suitable person to communicate with regarding the CRtBid and thus respond to the survey. At times, gathering the contact details for the most appropriate contact within the Local Authority was particularly challenging, which involved visiting each Local Authority website (n=326). In some cases, there was no information on the website, which then meant contacting general enquiries. Once the correct contact had been established, the majority were interested in engaging with the research, expressing their interest in the output. However, there were several non-responses and a few who had responded months later stating that the CRtBid email account isn't manned on a regular basis.

The LA surveys specifically focused on how LAs had been interpreting and administering the policy, and what criteria they were applying in the process of validating or invalidating (via the CRtBid) 'community value.' Reflections were gathered to identify to what extent, if at all, LPAs were acknowledging the ACV status in individual planning applications or local plan making. Furthermore, investigation via the survey aimed to identify if there was a conflict of interest where a LA owns a nominated asset. Overall perceptions about the outcomes of the policy alongside government intentions, particularly about 'protecting' assets and promoting community ownership were collected, as well as suggestions as to how the 'right' might be strengthened. In addition, information was collated on their experiences and communication with landowners, solicitors and community groups, and insight into their experiences of appeals.

b. Online survey: nominating body

By surveying the nominating bodies, a user experience of the CRtBid was gathered. The primary method for gathering contact details of the nominating bodies was to extract the names of the community groups from the national database and follow up with internet research to identify the contact details. However, this method was challenging in identifying contact with unincorporated bodies. To ensure there was a wide engagement with community groups, the LAs were asked to forward an email on to nominating bodies inviting them to participate in survey. Some community group names and/or contact details were gathered from the nomination forms collated from the LAs.

The complexity of designing an online survey for the nominating bodies was managed by accounting for the different stages a community group might be at in the process and the use of the logic function of the online surveying tool. A variety of nominating bodies responded to the *survey*, and the numbers and types of organisation are shown in Table 4. Specifically, there were 55 respondents to the community survey who had nominated a public house. Of these, 23 were parish councils and 19 had created an organisation specifically to submit a nomination.

Type of organisation	Response Count
Parish/Town Councils	47
Established Community Based Org. (e.g. Residents Group, Local Amenity Group)	32
Unincorporated bodies	28
Other	7
Total	114

Table 4: Organisation type of community respondents. *Other: Charity; CVS; Civic Society; CIC; CIO; Planning & environment for Council; community partnership; CAMRA; IPS; Church; Community Benefit Society; Company Limited by Guarantee*

It was expected that many respondents would be the nominating body who registered the asset, however, in some cases the group had evolved since then, with a different name, or the nominating body was not the community group intending to bid. Some groups may have listed multiple assets (blanket listing). There were groups who had made a successful or unsuccessful application, or both. Apart from 19 respondents, who were unsure, all were experiencing a part of the CRtBid since the asset has been up for sale. Table 5 illustrates the stage which the CRtBid process was in at the time of the survey.

Answer Options	Response Count
Within the interim moratorium (6 weeks)	2
Within the full moratorium (6 months)	5
Within the protected period (18 months)	27
Outside of the protected period	34
Don't Know	19
Other	27
Total	114

Table 5: Stage of CRtBid for community respondents

The nominating bodies were surveyed with the aim to identify the motivations behind nominating an asset, what their experience alongside government intentions were and their perceptions on whose responsibility it should be to protect, manage or own ACV. Furthermore, insight into what the outcomes of their interaction with the policy was gathered. It was identified whether community ownership was perceived to or has had a greater impact on the community than that of other forms

of ownership. They were also asked if they had any suggestions for strengthening this community right.

c. Telephone interview: landowner

Telephone interviews were carried out with the landowners and although it is recognised that there is value in applying a variety of methods of data collection to build up a relationship with landowners (Church and Ravenscroft, 2008), but due to time constraints involved with this research, a short semi-structured interview proforma was created for flexibility in exploring the key questions and possible prompts were pre-considered. This required an active approach to generate the best data, to be open to the interviewee and ascertain how responsive they are to questions that might be sensitive. The interviews had the characteristic of being more like a conversation than going through a set of questions, the benefits of this included making the respondent relaxed in talking about potentially contentious issues, and thus led to a greater quality of response. There were occasions when the respondent sought clarification that the interview was anonymous and then felt comfortable in openly sharing their opinion/experiences.

Although landowners who have simply had their asset nominated could have added valuable insight, but due to the time limitations with doctoral research, landowners who were within the full moratorium period were contacted. Identifying contact details for landowners was challenging, and LAs were reluctant to pass on contact details, and there was little success in asking LAs to forward my contact details and information about the study to landowners. The information retrieved from the LA websites, the surveys and nomination forms were limited, which left a total of 74 contacts to follow up. Landowners contacted were: 24 LA Asset Management departments, 9 major brewers/PubCos and 41 other landowner types. In terms of the survey carried out, there were ten landowner respondents, four of which were public house owners (one major brewer, a med sized brewer, one small property developer and a sole trader), three were either LA as landowner or agent representing LA, and one was a national Park authority). The aims of the telephone interviews were to identify the impact of the policy on landowner's rights and motivations with regards to their asset and how the policy might have influenced these. Gathered perceptions about whether the government should help protect community assets and the perceived and real barriers and opportunities now and in the future.

4.4. Conclusion

It is good practice to ensure that the reader understands how and why the research was designed and executed in the way that it was, therefore this chapter has shown the complexity of researching the impact of policy on property and vice versa. By applying a critical pluralist approach, the aim of the

chapter (to contribute to the theoretical and methodological framework), was managed by considering lessons from the neo-institutionalist and relationalist literatures. This also provides an insight for future researchers who may wish to replicate or extend the work. Therefore, this has provided an overview of how the relevant theories, concepts, issues and gaps identified are connected to justify the investigation of the developed research questions, and that the research design (including questions posed and themes explored) is appropriately aligned to the CRtBid focus. It is considered as a non-positivist, social constructivist approach, carried out via sequential mixed methods.

This chapter has ultimately presented the research design for the investigation into the way property rights and social institutions of property are being mobilised, contested and traded post-Localism Act (2011), with the focus on ACV and specifically public houses. Data derived from the variety of research tools used is analysed under three broad themes related to the RQs in Chapter 5, by presenting a stakeholder account of the CRtBid. The conclusions, in Chapter 6, reflect upon the findings of the research in response to the RQs, as well as providing necessary feedback in the way the policy is performing.

5. A stakeholder account of the Community Right to Bid

The Localism Act was heralded as providing communities with new rights and has claimed to increase opportunities for communities to protect and purchase community assets. However, as there is no ongoing monitoring of the outcomes and as such measurement of the benefits or disbenefits to different actors have not been studied (cf. Crisp et al. 2016). This chapter explores the motives, means and outcomes associated with the CRtBid and investigates how community rights and values are understood, validated, acknowledged and responded to, drawing upon experiences of communities, landowners and LAs. It examines the data drawn from the national database produced for this research, a textual analysis of the ACV nomination forms, and the views and experiences of the stakeholders involved (i.e. community groups, LAs and landowners). The latter were collated via online surveys and telephone interviews (see Chapter 4).

The chapter presents and analyses the findings alongside the key themes that stem from the research questions. Section 5.1 draws on the data in response to RQ1: *how has the CRtBid policy been utilised and interpreted and how are competing claims reflected in the outcomes?* This is carried out by illustrating the national picture of the use and outcomes of the policy derived from the database and survey findings. How nominations of AsCV and the CRtBid process has been interpreted by LAs and landowners is considered, as well as the judicial response to appeals. Section 5.2 analyses the data in response to RQ2: *what are the dynamics of community 'ownership' effected through the CRtBid?* The data presented in this section seeks to identify whether the policy increases opportunities for community ownership and what the perceived and actual benefits are. The findings also report perceptions on other ownership structures. The dynamics are further explored through the debates over the 'use' value of public houses. It is also considered as to what the data shows regarding motivations of community groups exercising their 'community right,' and how this relates to the use of assets and actions associated with attempting to protect the asset. Section 5.3 focuses upon two linked aspects of the policy overall; the CRtBid and the ACV nomination, to draw out the factors that prevent effective use of the policy (in response to RQ3). The concluding chapter (Chapter 6) draws on this analysis to respond to the research questions further.

5.1. The social relations of property: community rights and value

The CRtBid provides a new mechanism of its kind through providing the opportunity for communities to nominate valued assets. It also provides the institutional space to voice collective property claims for the first time, through what is labelled a 'community right' under the enabling legislation (the Localism Act 2011). An asset (prospective ACV) should be listed if:

“a) an actual current use of the building or other land that is not an ancillary use furthers the social wellbeing or social interests of the local community, and

b) it is realistic to think that there can continue to be non-ancillary use of the building or other land which will further (whether or not in the same way) the social wellbeing or social interests of the local community” (Localism Act 2011; 88, 1).

The latter notably brings its market viability into play. However, if this aspect is not satisfied, the regulation also states that it should be listed if:

“a) there is a time in the recent past when an actual use of the building or other land that was not an ancillary use furthered the social wellbeing or interests of the local community, and

b) it is realistic to think that there is a time in the next five years when there could be non-ancillary use of the building or other land that would further (whether or not in the same way as before) the social wellbeing or social interests of the local community” (Localism Act 2011; 88, 2)

Thus, the recent past and projected future could produce a viable operation or use of the building or asset. This interrelates with the way competing claims to property are *conceived* in the instrumental space of local decision makers (see Section 5.1.3.a). Further considerations from DCLG (2011a) for deciding if an asset is of community value are provided in Appendix F. The impact of an ACV nomination is reliant upon how community value is *conceived* by landowners (see Section 5.1.2), the judiciary (5.1.2.a), planning professionals (see Section 5.1.3.b), and LA asset management departments (5.1.3.c). The future of these is also understandably related to how communities are motivated and willing to act or engage, the dynamics of this are considered in Section 5.2. The policy's effectiveness beyond simply compiling a list is debated and discussed throughout the rest of the thesis.

5.1.1. Community right to nominate an ACV

The national database created for this research demonstrated the societal extent of community value and the nomination forms provided insight into what community's value. More than three years after its introduction, the national database compiled for this research shows that a total of 3,163 ACV nominations were made (October 2015). A total of 2,451 (77%) were successful listings (see Table 6 for an overview), which were mostly nominated by Town and Parish Councils (n=331) and unincorporated bodies (n=189; including 'save the,' 'friends of' groups). A total of 358 assets had been put on the market by the landowner – this extract of the database is presented in Appendix G. Overall, there were a variety of assets listed; from lakes and parks, to hospitals and gyms; from youth centres

and petrol stations, to quarries and street lamps. However, by providing an overview of the types of assets, the database has illustrated which ones, regardless of ownership ‘types,’ are most important to communities across England. These were:

- i. public houses (n=879);
- ii. outdoor amenities and open spaces (n=378);
- iii. halls (n=193);
- iv. sports facilities and/or grounds (n=178); and
- v. allotments (n=105).

Asset Type / Organisation Type	Total	Town or Parish Council	Unincorp . Body	CLG	Comm. Assoc.	Charity / CIO / Charitable Trust	Other	Unknown
Public House	879	331	121	37	27	9	55	305
Outdoor Amenity and Open Spaces	378	129	23	3	11	2	26	183
Hall	193	76	7	6	6	5	19	74
Sports Facility and/or Grounds	178	42	8	10	4	12	23	74
Allotment	105	25	4	0	1	0	39	36
Community Centre	98	33	4	3	5	6	15	32
Education Centre/School	85	26	6	4	3	4	8	34
Religious Building	83	24	2	0	0	0	8	49
Library	66	21	7	0	3	2	6	27
Shop	62	33	1	2	0	0	8	18
Car Park	57	25	0	0	1	0	0	31
Music/Arts/Theatre	37	8	2	2	0	4	9	12
Office	36	8	1	4	0	4	5	14
Post Office	32	24	1	0	0	1	0	6
Medical and Health Care Services	25	10	0	2	0	2	2	9
Public Conveniences	22	8	0	0	2	0	0	12
Police/Fire/Ambulance Station	20	7	0	1	1	1	3	7
Semi-Residential	10	3	0	1	0	1	0	5
Other	60	20	2	1	0	4	6	28
Unknown	17	2	0	1	0	0	6	8
Total	2451	855	189	77	64	57	238	966

Table 6: Overview of the CRTbid National Database (Nominating body and type of asset). Key: CLG: Company Limited by Guarantee; CIO: Community Interest Organisation; Other includes: Community Benefit Society; Community Interest Company; Community Land Trust; and Neighbourhood Forum

A total of 712 ACV nominations were deemed unsuccessful (23% of nominations submitted). These were often on the basis that community groups were deemed ineligible or that the nomination did not fulfil the local interpretation of the criteria. In addition, LAs were influenced by dominant perceptions of private property rights (see Section 5.1.3a).

Overall, the social relations perspective suggests that these collective claims to property typically arise where there are emotional and functional ties to places that derive from and form shared and social values. These *perceived* and *lived* elements are fundamentally created via relations within and around absolute spaces (Lefebvre, 1991). Crucially it was identified that AsCV offer a meeting place for community to both provide a space for the discussion of local issues and participate in local affairs (cf. Moore and McKee, 2013) and to host regular events, activities and social functions. Therefore, the ACV nominations denote the way people have expressed their claims to the use of community assets and therefore how they *perceive* space – e.g. to drink a pint or kick a football – as well as how they are *lived* – e.g. ambience, laughter – and the importance of them for the development of the social relations (Lefebvre, 1991). Such accounts are expressions of neighbourhood commoning (cf. Hess, 2008). Furthermore, through the process of nomination, the policy has mobilised individuals to deliberate the values amongst the community and this ‘evidence’ has been used to confer, ‘justify’ and defend their rights claim to ownership in the broadest sense (Rose, 1994). This was reported by LA respondents as having wider ‘galvanising’ impacts and in some areas increased community cohesion and action. Nominations often highlighted what impact the loss would have or has had on their community, expressing the importance of the ACV for community cohesion and reducing social isolation. The significance of these assets was highlighted in the nomination forms, AsCV were often defined as being a “social nucleus,” “hub,” “community centre” and were often described as “life savers,” “vital,” and “integral” to a community, particularly for the young and vulnerable, who develop a reliance upon the asset. Many expressed the view that the ACV listed was the ‘last’ community asset in the area and its scarcity made it vital for the survival of their ‘community.’ Further details on the way community groups have used the policy is provided in Section 5.2.

5.1.2. Landowners interpretation and reaction to the policy

The CRtBid policy has challenged landowners to recognise their property as being enmeshed in wider sets of social relations and to take into consideration ancillary claims to ‘their’ property – these may have previously been implied or obscured as part of the operation of the planning system (e.g. through means such as listed building regulations, limited opening hours). Some landowners felt the policy was an infringement on their rights, “a blight on their land” and one felt it was being “imposed” on them

their LA. This challenge to their rights was evident in reflections from LA informants on feedback from landowners. They were found to be generally “frustrated,” “angry” or “furious,” referring to the policy as “bureaucratic, invasive, costly” and “tedious and obstructive.” In some cases, this led to landowners threatening to appeal and withdraw the public access. In one scenario a landowner expressed to a LA respondent that they “would rather give the land away than sell it to the particular community group.” The reasons for these strong reactions from landowners were reflected on by LA officers as they were seen as feeling “threatened by a nomination” and often “very concerned about the implications for their property.” One LA informant stated that landowners often perceived “it as the community just trying to scupper or delay development.” The ‘pause’ of landowner property rights via the moratoriums were considered as the most frustrating or unfair element. All landowners surveyed referenced their obligations to shareholders, judicial responsibilities, managing taxpayers’ monies, personal investments and were driven to derive the greatest profit from their asset. This was raised in a comment by a landowner who was “constantly reviewing [their] strategy to make [their] estate more efficient and to gain as much profit out of it as [they] can.” Therefore, some of the frustration stemmed from landowners feeling that the nomination deterred interested parties or devalued their asset. They also referenced the increase in costs associated with pausing a sale and potentially sitting on a vacant building. The impact on their prime motivation to be ‘rational’ market actors - being motivated to achieve the greatest exchange value (Solum, 2006; Diamond and Vartiainen, 2007; Peñalver, 2009) was considered to be the element of the policy that dissatisfied the landowners the most.

There was also recognition that the CRtBid had challenged and undermined the lifestyle and status of landowners. As one landowner agent expressed; the regulations are unfair “in the wider context” because “there are people out there who want to buy into the lifestyle... they want to have ownership and have some sort of control.” They considered the numbers appealing nominations was linked to a “protection of boundaries.” Furthermore, they stated that the policy challenges landowners’ benevolent nature because they “will always want to own particular assets (such as cricket pitches) because of community wellbeing and their responsibility to the community.” The aims in managing the property and its impact on the local community, for this landowner agent, was considered as perhaps being “the same but it is about the desire of ownership.” This suggests that the dissatisfaction of landowners is most likely due to their traditional relationship with their property and local community being challenged (Clark, 1982) and a challenge to the power they have (Singer, 2000b). Another consideration was that landowners were considered by some LAs to misunderstand the implications of the policy on their property rights. One LA officer stated that they were often wrongly

interpreting the CRtBid as “an ‘acquisitive’ process in which they have no say and they will be forced to sell the site to someone other than whom they would wish to sell it to.” Another LA informant felt that the reaction of landowners was because “owners feel excluded from process... that it is all about community.” This suggests that the information available to landowners or sent to them upon receiving the letter to inform them their property had been listed, was unclear. Furthermore, there is evidently poor communication amongst stakeholders, which is fuelling greater conflict between landowners and community. The dissatisfaction of landowners is also reflected by the number of appeals and First Tier Tribunal decisions, as considered next.

a. *Appealing a nomination*

The competing claims to property are evident within the documentation on the First Tier Tribunals and are reflected in the number of appeals to LAs. The data showed that across 64 LAs, over 120 appeals had been received from landowners. In most cases the local appeals were unsuccessful (n=65) and 27 cases were reported as being successful. Ultimately, it is through the judiciary that the policy is interpreted, and precedents are set for future use of the regulations. A most surprising aspect of the findings is that the judiciary are supportive of the ACV nominations; it was found that of the 42 First Tier Tribunals (September 2016), only 9 succeeded in their appeal. Figure 5 summarises the key precedents set by the judiciary (Appendix H provides further information). This is a significant outcome because it is contrary to the observations made in the literature - that landowners on appeal are generally afforded protection of their private property rights (cf. Singer, 2000a; Harvey, 2005; Bergeron, 1993). It appears that the judiciary are setting a legal precedent in terms of how social relations of property are conceived and sets a positive tone for the potential and viability of community ownership. This has demonstrated a way forward in allowing assertions of justice and progress to bear upon ownership rights (see similar conclusions in Munton, 1995).

Reference	Summary of decisions
Nomination process	The motivation of the nominating body is not to be considered material in deciding the outcome of a listing.
Current use	The value of public houses is accepted positively within judiciary decisions.
	Visual amenities are not deemed to be a community value in respect of the Act.
Ancillary use	It is not necessary for the community use to be the primary use, but the definition of ancillary is contextual. This has been demonstrated in cases of school playfields and religious buildings.
Trespass	The judiciary are respectful of “ownership rights” but will still account for the use arisen from trespass.
Recent past	The timeframe defined as recent past is contextual, not 5 years as in the future condition to be satisfied.
Realistic future	The ‘realistic’ future condition can be satisfied based on one of many potential futures for the asset and may not even be the most realistic. The landowners’ intentions are an important factor in this.
	The commercial or long-term viability has not been deemed a factor in determining whether the future realistic condition is satisfied, thus meaning that an ACV is listed even if not deemed commercially viable and issues have been identified with PubCos and Brewers causing the unviability of pubs.
	The judiciary recognised the issues faced in the pub industry but also the possibilities of community ownership to revive the industry
	A business plan from the community organisations is not deemed necessary in determining the future condition or required to trigger the full moratorium.
Planning permission	The outcome of planning permission decisions (whether refused or accepted) tend to contribute to the decision of the judge in determining whether the future condition is satisfied.

Figure 5: Summary of key precedents set from the First-Tier Tribunal decisions.

5.1.3. The triad of Local Authority roles

The localisation of decision making under the CRtBid is beyond or outside of the national reification of entitlements and obligations. Therefore, it depends upon the interpretation locally as to how these rights are determined, and in essence is a post-national or localised right (Parker and Doak, 2011). Moreover, the LA or, in the case of Neighbourhood Development Plans (NDP), the local community could be perceived as a local baron, as in pre-modern times. The CRtBid was introduced alongside a new localist approach to politics and planning with the potential to improve the significance of the sociality of property in planning decision making. However, austerity and ongoing budget cuts are potentially restrictive in how community rights are promoted, how values are validated acknowledged and responded to. The government have left numerous elements of the policy to the discretion of the LA as to how they pursue it, this is reflected in the three roles associated with the CRtBid policy. Firstly, in *validating* community value, the LA is a facilitator of the process and decision maker or referee in determining the outcome of a nomination. This involves the distribution of powers to decide upon the success of nominations and maintaining the list of successful and unsuccessful AsCV, often these administrative tasks are carried out from a different department to the decision makers. Secondly, the

LA planning department have a role in *acknowledging* whether the ACV listing has 'status' or is a material consideration in planning decisions. Also, the policy allows for local discretion, which gives rise to questions about how effective the ACV nomination is, given that it can be simply ignored. Finally, they may also be the landowner of an ACV, therefore, the LA Property Management (or similar) departments have a role to play in *reacting* to a community bid. These departments have been pressurised to rationalise LA assets as part of the austerity drive and need to make use of existing assets to provide services or fund other prioritised projects and services through receipts. These roles are now considered in greater detail.

a. Validating asset of community value nominations

A variety of influences or 'criteria' were referred to in deciding whether an asset was of community value. These were often a mixture of: the regulations, evidence provided, uniqueness of the asset, and reference to a local criterion. Upon deciding, LA respondents referred to the regulations and non-state guidance as the main reference in decision making. A LA informant reported "a common-sense approach, that is not too onerous," and stated that they had received nominations for 'obvious' assets, such as public houses and libraries. Another stated their LA made "an assumption in favour of listing." However, despite the often welcomed devolution in decision-making powers and responsibilities, as well as government invitations to apply the policy lightly, there was a reported unease about the interpretation of the policy and the role played in acting as a referee of competing property claims. Many argued that the policy was open to interpretation and had issues with the subjective nature of defining community value, often described as "ambiguous," "unclear," "imprecise", "vague" and "woolly." The lack of support and vagueness of the advice available to LAs suggests that the government and Locality are opting to be 'vague' in their response to ensure that they do not actually or *de facto* impose approaches centrally, allowing agency to emerge and adapt to circumstances. Yet, LAs are perceiving 'gaps,' where the government are providing 'freedom.' This also chimes with other research that highlights how government have been effectively experimenting with a 'light touch' approach to their localism agenda (Brownill and Bradley, 2017). Yet this can cause confusion and conservative outcomes (Parker et al., 2017) or, as considered in greater detail below, unease due to the potential costly legal implications if decisions are appealed by landowners.

As the policy provides a right for the landowner to recover the costs or financial losses incurred through a moratorium it can act as a deterrent for listing an ACV (cf. Allison, 1975). This was infrequently cited in the results, as only two LA informants had confirmed that they had paid compensation to a landlord for the delay caused specifically during interim moratoriums. Landowners interviewed stated that they were unaware of the compensation process until it was too late. Some

LAs also questioned whether compensation for landowners was appropriate, especially as it is a cost to the LA. This was reflected in the following comments from LA respondents;

“Why should they be entitled? I don’t see why the Council should be forfeited for this.”

“The risk of compensation should be removed as it is a potential disincentive to the listing of a property.”

The lack of knowledge about the compensation process by landowners was perhaps due to the reluctance of LAs to ‘advertise’ this right, as they felt threatened by the cost implications. This can lead to cases where LAs are judging a nomination, not on whether assets have community value, but due to the perceived risk of cost implications for the council. Similarly, the threat of appeal was reflected in the LA responses as being a deterrent to list an asset. The findings show that 41% (n=33) of LA respondents had sought internal legal advice citing the wariness of interfering with landowner rights and costly legal challenge (n=33). This concern was heightened because of limited resources available to LAs to facilitate the process and validate community value. For the majority of respondents (n=90) there was no identified budget provision and more than half of respondents (n=50) stated that the LA was under-resourced because of this, with some claiming that it was a “time-consuming process” and a “huge waste of limited resources.” Therefore, the facilitation role within the context of austerity localism gives rise to questions about the governance capacity of LAs to facilitate a new policy, with less funding, training and support, and the capacities of local government to have the confidence in decision making. Considering the lack of budget, the ‘vagueness’ of the policy, no nominator right to appeal, as well as LAs feeling exposed to legal challenge and threatened by potential compensation claims, LAs in some cases may consider it easier to justify a decision not to nominate an asset.

Finally, there was a contrast in the way LAs approached the decision making, with some stressing importance on how the asset is used rather than what it is in a physical or tangible sense. A minority (n=7) highlighted the importance of considering nominations on a case by case basis, where one stated that “no previous decision sets a precedent.” Another considered “each one... on their own merits.” Some LAs stated that “evidence of uniqueness is important,” and one suggested that they were looking for “if there is anything that sets the asset apart from similar assets in the area” (which was an issue particularly identified in the case of pubs). This demonstrates that LAs can *conceive* the asset as simply an absolute space (a building) as opposed to also being a relational space (a social space), in contradistinction to stressing the meaning and value through usage. Furthermore, in some cases a business plan was requested by a LA or consideration was made about the financial feasibility of the community purchasing the asset. This implies that LAs might benefit from familiarising themselves

with the legal precedents set, where for example, the judiciary have not considered the economic viability as a factor for consideration in nominating an asset (see Figure 6 and Appendix H).

b. Acknowledging assets of community value in planning decisions

The strength of an ACV listing is at the discretion of planning departments when determining the outcome of a planning application or how it is referred to in their Local Plan (if at all). Over half of LA officers (n=63) involved in the administration of the CRtBid highlighted an uncertainty as to whether their Local Plan recognises AsCV. Further uncertainty was identified regarding the ACV listing and what weight this had when considering individual planning applications. Not only does this demonstrate that those involved in validating community value claims are unaware of the impact that their decisions have, but also implies that there is a lack of communication across departments affected by the same policy and, could reflect internal conflict in the way the policy is interpreted. A few community respondents (n=18, 18%) and LA officers (n=13, 11%) stated that it was referenced in planning considerations or identified as a material consideration. This was particularly considered in change of use applications. However, various community respondents stated the ACV status was not acknowledged, and as one stated it “did not seem to hold much weight in the planning process,” and another that it “was taken no notice of.” In these cases, planning permission had been granted, despite the ACV status. Other reported cases of this was recognised in the research of Cant (2017), where the Planning Inspector on appeal (rather than by a Local Planning Authority) was found to approve it on the justification that the future use of the pub was deemed unviable. However, the two appeals to the Upper Tribunal (to date – July 2018) did not succeed. In *Banner Homes v. St Albans City Council*, Judge Levenson stated that the listing itself did not prevent the land being developed, rather “as a matter of planning policy any necessary permission is likely to be refused while land is listed.” Also, a community respondent referred to a case where the Planning Inspectorate acknowledged the ACV status and influenced the decision to refuse planning permission. This was reported to have led to the price being substantially reduced. Overall, the findings demonstrate that an ACV status is being referred to in planning decisions and appeals, however there are also cases identified that are contrary to this. Whether the ACV nomination is acknowledged by local planning decision makers can affect the future use and protection of the asset.

Communities have an opportunity to strengthen their ACV nominations through a Neighbourhood Development Plan by stating that ACV nominations should be regarded as a material consideration. This in turn becomes part of the Local Plan and therefore forms an official consideration in determining the outcome of planning applications. A LA respondent referred to this potential as they had received “6 nominations from the same Parish in relation to a Neighbourhood Plan which is currently in

progress.” Therefore, in effect, this research identified that some groups can and are using other ‘rights’ (e.g. NDP) to reinforce other ‘rights’ or claims (CRtBid) (such as in Nyamu-Musembi, 2002). In doing so, they are activating the most local (neighbourhood) method of influencing the way community assets are *conceived*. However, the take up of NDP is conditional upon the capacity of the community to do so (Allmendinger and Haughton, 2013; Haughton et al., 2013; Parker and Street, 2015; Brownill and Bradley, 2017) which if governance practices do not respond, are likely to render ‘community ownership’ of local planning and community assets as only available to a privileged few.

c. Local Authority as a landowner: conflict of interest?

Interpretations of the policy can be conflicting between those who facilitate the nomination process and *validate* community value, those who *acknowledge* the ACV nomination in planning decisions and those who *respond* to nominations and community bids within LA asset management departments. This can not only send mixed signals to communities and landowners but also reflects a conflict of interest. The findings show that some LAs had chosen to streamline the process for LA assets, one stated they listed the asset in advance of 8-week deadline. Another LA respondent stated there should be an opportunity to change the process to a CAT and sell at less than market rate if deemed appropriate (findings on the use of alternatives and supplements to CRtBid are presented in Appendix I). As 150 assets had been transferred into community ownership outside of the CRtBid during the first year of its operation and a further 160 were in the pipeline (Dec 2015), mostly via discounted asset transfers (Locality, 2015), it shows that there are potentially more appropriate and accessible mechanisms available to communities in purchasing publicly owned ACV. A minority of LA informants mentioned a change in the process of nominating an asset if a conflict of interest was identified, whereas the majority of LAs followed the same process for all types of assets. The conflict of interest was made evident in a comment from a LA respondent who stated that they “opted not to [automatically list council property] as it would hamper business decisions with no guarantee that community support for each listing would be forthcoming.” Furthermore, with reference to the context of austerity, tightening budgets and pressures to make savings, one LA respondent expressed that they “are not worrying about where the local chess club are going to meet, [they] have got bigger fish to fry.” Similarly, another stated that “the hours spent on this process could be better spent on other things which have a guaranteed, productive outcome.” Therefore, LAs are hard pressed to balance social and economic interests, and are often found to be considering whether they are, as one questioned “obliged to get the highest possible price?” This was clear in another of the LA respondents’ statements, that,

“if it is a LA building, then we are going to give the community as much opportunity to purchase... but what if it isn’t the highest bid? We have to keep eye on judicial responsibility, therefore we can’t sell for a too lower price.”

This conflict in the roles of local government was also referenced by a LA property agent as a “conflict of consideration,” this was reported as being largely due to LAs,

“having social, economic and other roles with the community in general, but the overriding principle and what they need to achieve is best value if assets are deemed to be surplus for their requirements. There needs to be a balance between the social and economic obligations and the philosophy associated with rate payers and public, with a clear difference between maximising the value of the property or achieving best price.”

They went further to say that LAs are most often guided by the narrow economic view of best price because they are being held accountable to expend the money on core services. Indeed, the use of property agents in itself is also part of the neoliberal agenda and incorporates market principles in LA decision making. This has therefore had an impact on the way nominations of publicly owned AsCV are being *validated*, *acknowledged* and *responded* to. The conflict of interest has also been observed as having an impact on communication with community respondents. Some had described the reluctance of LAs providing details about the asset and were reported in different cases as being “totally un-communicative,” “determined to go for a private developer,” or were found to be “vigorously resisting the application.” One community respondent felt that the LA was “grossly irresponsible to consider selling this asset,” and another felt that “there is conflict on a political level.” This reveals that while some LAs are using the policy to signify a potential for community ownership or management options, such as via a CAT in pursuit of the greatest value option, whereas most are interpreting the policy as a way to transfer assets at market (or development) value, largely due to the economic pressures they are under.

Overall, this section (5.1) has drawn upon the data to respond to RQ1, where the outcomes of the policy reflect the way stakeholders are utilising and interpreting the policy. A summary of the outcomes of the policy are illustrated in Figure 6. This overview provides insight into how the policy is orchestrated across the stages and resultant outcomes, further details of this, and how competing claims are reflected in the outcomes are considered throughout the chapter.

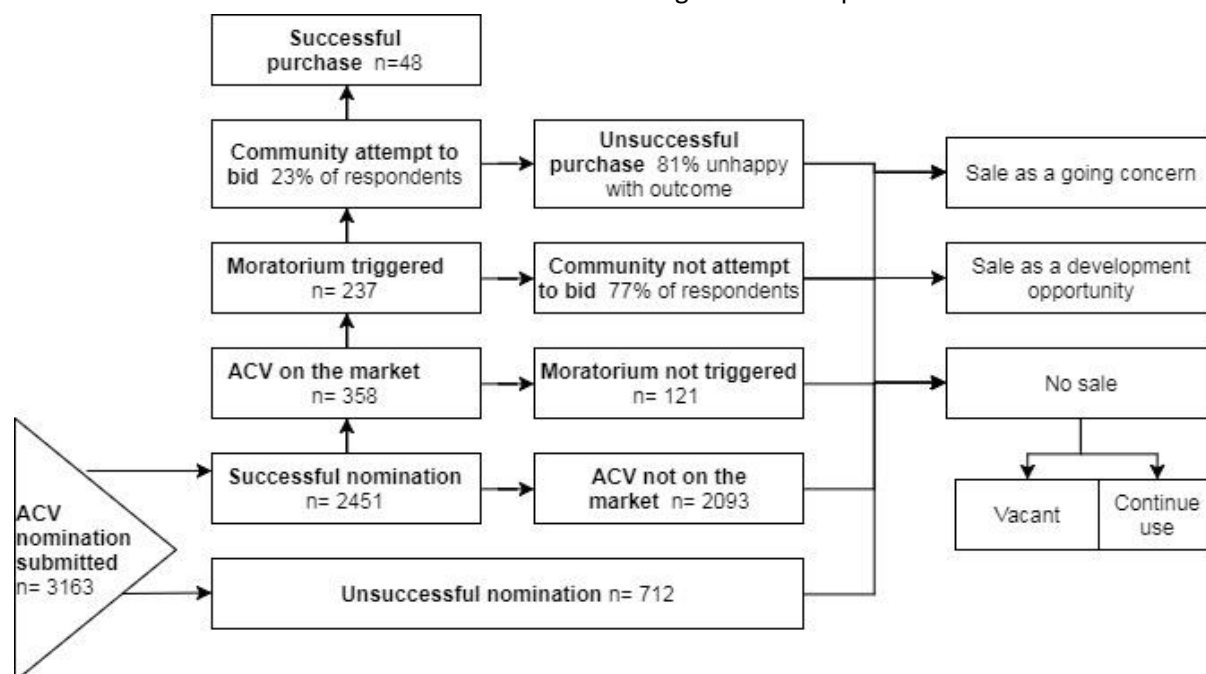


Figure 6: Overview of the outcomes of the CRTBid. Source: Authors database

The following section explores the outcomes of the use of the policy in terms of legal community ownership and investigates the motivations of communities in utilising their ‘right’ and potentially substantiating it through pursuing a ‘bid.’

5.2. Community ‘ownership’ and assets

’ This section begins with an analysis of the findings on successful community acquisitions of AsCV and reflects on general perceptions of whose responsibility it is to protect these community assets. Following this, there is consideration for what the benefits of community ownership are to a community. The findings from stakeholders involved with ACV pubs are presented around a debate on the use and exchange values of pubs in Section 5.2.1. Given the extent of the closure of public and private assets, investigating what motivates communities to engage with and attempt to protect community assets, provides greater insight into how community groups are utilising the CRTBid and what their aims are with regards to community ‘ownership’ (see Section 5.2.2). The relevant factors associated with the challenges of the CRTBid are considered in Section 5.3.

The actual number of successful purchases via the CRtBid is not known as there is no national monitoring and LAs are not responsible for logging the outcomes of the CRtBid locally, therefore most LAs did not follow up or keep a record of successful acquisitions. This reflects a serious lack of understanding about the extent of community ownership across England. It also represents a missed opportunity in monitoring the outcomes of this policy and the potential to collate evidence of the success factors behind successful purchases and management of AsCV (see Locality 2018a; 2018b for the latest information on success factors). Locality (2014) reported in December 2014 that 8 purchases had been undertaken. This research identified that by 2016 there were over 48 successful acquisitions, half of which were public houses. This total was identified through the desktop research involved in compiling the national database and responses from the LAs and community groups (see Appendix J for more details on successful acquisitions). However, there may be others that are not known. This establishes that 2% of AsCV were purchased, and of those who had triggered the full moratorium, 20% had successfully purchased the asset. The relatively small number of community purchases is likely to be due, in part, to the fact it will take time for assets that are listed to be available for purchase. And, even then, communities are faced with a competitive bidding process and have no guarantee that their efforts will be successful or considered.

The 'success' of being able to utilise the policy to make a community purchase of an ACV is debatable. The findings show that half of the respondents who intended to bid (not including respondents who made a successful purchase) were successful in compiling funds and making a bid (n=26). However, 21 of these were unhappy with the outcome. A total of 13 mentioned that the asset is still owned by the original owner, with most of them being left vacant. In these cases, references were made to the owner still "sitting on a deteriorating asset," and two respondents emphasised that the ACV in question was still "boarded up." One group experienced their bid being turned down and the ACV was subsequently sold as a development opportunity. A further three referred to the ACV being converted into residential units. These cases show that even where community organisations have mobilised to form a bid, some landowners have ignored the bid and ACV status. The issues surrounding why more community groups haven't been successful in compiling a bid, even though intending to, is considered in Section 5.3.

In this analysis, the CRtBid provides an institutional space to draw closure to conflicting property claims by placing the responsibility on communities to resolve the conflict via recourse to market means. Indeed, of relevance here is community perceptions on whose responsibility it should be to 'protect' the asset and indeed what this actually means. Just under half (n=48) of community

respondents interviewed felt that they were responsible for protecting the ACV. This responsibility was recognised as either seeing themselves as a 'nominating vehicle,' i.e. having no intention to actually bid, and acting as a buffer to protect the opportunity for another community group to buy the asset, or by being directly responsible and protecting it by purchasing the ACV. It was referenced by a minority of Parish Council respondents that they did not feel it appropriate for a PC to run a pub due to the serving of alcohol. However, other community informants argued that PCs were suitable pub owners due to their relationship with the local community, as one suggested they are "best placed to understand the legislation, and to act in the interests of the community it serves." Similarly, a PC respondent stated; "we would rather do it ourselves because we are closer to the population." These findings show that it is those who are closest to the community who are perceived as being most responsible for protecting and purchasing the ACV. A minority of community respondents considered it the responsibility of the landowner and/or landlord to protect the future of the community asset (n=8), this could imply that people recognise the 'community developer' role of land and business owners through their decision making and responsiveness to community needs. This relates to recognising AsCV as socially responsible community institution (as in Sandiford and Divers, 2014). As succinctly put by one nominator who felt that their local pub was "not just a business, it is family and an extension of the local community." Others considered the role of central (n=7) and local government (n=6), where most considered the planning system was where the responsibility lays. Protecting AsCV, like pubs, it was expressed by a community survey respondent that it "should become a moral obligation for developers and local authorities alike." However, one community informant stated that public ownership was the best option for the protection of AsCV; "in a sane world it should be the local authority that protects assets of heritage value and local significance. There is no reason why the community couldn't manage it but liability and building costs could be met by the public purse." They went on further to state that "we do not live in a sane world," intimating that logic and best outcomes are not always pursued. This preference for public ownership and community management coincided with reflections from two community organisations who stated that they would prefer a situation where the community managed the ACV in the short-term with a view to pursue community ownership in the long-term. However, one respondent highlighted that "work needs to be done to get a sense of pride in the community before they should take responsibility for the assets." This implies that in some cases there is work to do in (re)developing community relationships before they are 'suited' to do so, however some had experienced success in acquiring AsCV and had in consequence fostered better relationships.

Community owned assets are advocated by proponents as having a positive impact on community resilience and wellbeing, which is often related to their 'relationship' with the local community (see Section 3.2.1). This research reinforces this point, as it shows some community groups stating that community ownership *could* increase the potential of these *lived* spaces (n=72, see also Lefebvre, 1991). Factors referred to in the community surveys were the long-term security that ownership offers and is considered to offer more in terms of how they are *lived* and *perceived*. This was considered as being down to community groups being more responsive to community needs and preferences than other landowners. This potential was recognised by a LA respondent, who considered that the CRTBid was a positive starting point in reshuffling ownership AsCV "within the public sector to where they are best managed." The long-term protection, community involvement in the management of the assets, and the freedom and flexibility of asset use were seen as the key motivators towards community ownership. This was reflected in a comment from a community respondent, who felt that it would offer "greater protection and freedom around income generation and community use" (cf. DeFilippis, 2001). Effectively managed community owned assets are found to have increased the use through the general sense of ownership felt by the wider community and as a LA informant suggested there is a keenness for people to use local community enterprises over and above "the profit incentive of commercial organisations." Organisations within the community are found to be most connected to local people and are often best suited to identifying and responding to local needs. This is viewed as a success factor through increasing 'pride' and 'investment' from the community. Here, it was recognised by a nominee that ownership,

"is important because it ensures that the asset either lives or dies by the local community using it. If the community own it, then it gives the community a stake in the business to ensure that it is successful"

The increase in the use of an asset and the wider benefits of this were reported in cases where a community group had purchased an ACV, this was described by successful ACV bid leaders that,

"community ownership certainly has increased the impact on the community, there are a wider range of people and groups who now use the pub"

"people use the business far more now because they have a stake in its success, via ownership and can directly shape the services offered."

"more loyalty to feel part of the owners, to influence how it is managed and run."

Another ACV community owner stated that they had carried out their own survey, which identified that more people would use the pub, and increase its economic viability, if they improved disabled access and offered food. They were able to deliver this and reported that this had increased the use of the ACV. An additional success factor was the ability of community groups to diversify the use (i.e. post office or library service offered from a pub) and further respond to wider community needs. This is because the flexibility that community ownership offers means that the community informants recognised the potential in having more ‘freedom’ to “improve the ‘offering’” and “prioritise services.” Another success factor considered was being able to utilise local volunteers to help with maintenance issues at no cost. Also, as highlighted by a LA respondent; community ownership provides “significant volunteering opportunities and has a better conversion rate to employment than many mainstream Work Programme providers in the commercial sector.” Overall, being most responsive to community needs (cf. LGA, 2012) and increasing the use of the asset (cf. the comedy of the commons, see Rose, 1986) community groups are identified as being able to revitalise AsCV and have greater social and economic impact on their communities (cf. Aiken et al., 2015). However, as the following shows, alternative governance and ownership structures can also draw on these success factors to reignite the potential of these community assets.

Those who advocate the market as the best way to determine the use of an asset also advocate business owners (different to landowners) as being most equipped to cater for the community by using the market to determine the demand for products and services. This often does not reflect the ‘needs’ of the community and can therefore be at the ‘cost’ of land and business owners. However, community aims in ‘protecting’ the *living* and *perceived* aspects of the asset were identified as achievable via private ownership models. This is dependent upon, as suggested by community informants, that the landowners “have the right intention,” or are “responsible.” Similarly, expressed by a LA informant, if owners respond to the local needs they will achieve the support of the community and “business would flourish.” Therefore, from the perspective of some nominators, positive outcomes meant that assets were sold as a going concern to a ‘private’ owner. In the case of pubs, some new ‘private’ buyers had or intended to invest or refurbish the pub, which has led to an appreciation for the new owners. This was reflected on by community respondents,

“running it as a profitable business is the ideal scenario, the owners want the pub to be open and stock what the community want.”

“the change of ownership has not only saved the pub as a local meeting place, but the ambience, food and beer have also greatly improved under a new ownership.”

These comments show that there are cases where a listing may highlight to new owners the enthusiasm by the community to 'use' the asset and therefore signify the possibility for a profitable business. They also highlight that the motivation of tenants to make it profitable links with consulting with communities, therefore if a pub is managed effectively it is a success for all parties involved. However, under private ownership the long-term security of the asset remaining in its current use or being flexible in fulfilling its potential in responding to community needs is still vulnerable to the profit motivations of land and business owners.

5.2.1. Debating the use value of public houses

The research showed that pubs were the most listed asset which suggests that they are the most important social institution at the scale of a local community (cf. Muir, 2012). However, given the number of closures, it presents the case that rights holders, in pursuing greatest profit, are not considering the social values of pubs within their cost-benefit analysis. Comments from landowners and LAs suggest that the closure of assets would not be occurring if communities were using them. This gives rise to the questions; is community value being sacrificed in pursuit of the development value of pubs? If communities value pubs so much, why are populations avoiding them? Should a pub be protected if it is not being used and is therefore economically unviable? This sub-section aims to explore the data on the use value of ACV pubs and the perceptions of stakeholders on the causes underlying the closure of pubs in order to provide some insight into these questions and what it means for community 'ownership' or management of assets.

The community value of pubs expressed within the nomination forms and surveys can be considered as contextual, societal and communal (Kenter et al., 2015). At the communal scale, individuals have taken part in collective action by mobilising and forming new groups such as "friends of" and "save the" [pub]. Clearly the very name 'public house' and the common expression of "my local," provides a clue as to the way that such spaces have been used and how claims over 'ownership' could be felt and subsequently expressed. This associates the place with the activity, hosting commoning activities (social relations) which produce shared and social values. The results here reinforce the status and importance of pubs within communities (see Section 3.2a), and in applying Lefebvre (1991) and his spatialities, there is a nexus between the *spatial practice* and *lived* moments of AsCV. The former was recognised, as 'locals' use a public house for drinking, meeting and a variety of other uses that have emerged through diversification (e.g a café, post office or to take part in traditional activities such as playing darts). This was expressed within the nomination forms, as pubs were considered as a "community centre" or "hub," and as "shared living rooms and pedestrian landmarks and put stops." The *lived moments* of ambience, conversation and laughter (to name but a few) were also expressed

in the nomination forms. Here, communities highlighted having a “unique” atmosphere and “ambience” (cf. Orwell, 1943), open to all to meet, converse and enjoy life. This was further expressed in the responses as being both a “place of love and laughter” and “essential to social life in its full and living expression.” Further insight into the importance of the social relations of pubs was identified within the nomination forms, where the relationship with the pub itself was significant. This was identified by some nominators who were personifying their expressions of the value of the pub;

“[the pub] has a generous spirit and love for humans of all genders and races. Our pub is a place of safety and love;”

“She... The [pub] I see as more of a friendly person than a public house;”

“by its very nature does not discriminate;”

“has its own identity, the atmosphere and appeal is unique.”

Therefore, people have formed relations within and with the pub itself where pubs are recognised as having their own identity, this also relates to the heterogeneity of the communities formed within and around pubs.

In some cases, landowners recognised that there is a value beyond the ACV price tag and expressed their support for the policy. One landowner stated, “community assets are obviously of value” and are recognised as “not just being a building.” Although it was raised by another that it is a “philosophical question” about the nature of each individual public house and that “pubs have of course got a historical value, and as a brewery we are well aware of the value to communities.” Another landowner highlighted that it is their “philosophy to support the community ownership of our disposals,” and referred to deterring developers by inserting an overage clause, which means that if the new owner then goes on to develop the property, the brewer will get 50% of the uplift in value. Therefore, the community value of pubs has been recognised by the stakeholders as having local importance in providing a space for community relations to form.

At a societal level, the value of pubs and impact of the closures has been, and continues to be, extensively discussed within the media, often reporting the number of closures, which has led to a societal level recognition of the shared values for public houses in relation to English society and culture. Public houses were described in the nomination forms as a “great representation of British hospitality” and “proud culture,” (cf. Jackson, 1987; Oldenburg, 1999). Organisations including CAMRA, Plunkett Foundation and Pub is the Hub, have formed campaigns in response to the number of pub closures. These campaigns remain, and by observing the pub closure statistics referenced in Section 2.3.1 it calls into question the impact of the CRtBid.

The contextual values of pubs are based on the recognition that a pub is more than just an absolute space, which is born from the data considered above, where the meanings associated are more important than the act of attending the pub and drinking alcohol (Kis, 2014). Contextual values are also based upon the perceived threats and living experiences of the loss of pubs. Within the nomination forms, pubs were often described variously as a “vital” or “integral” place. In addition, respondents to the community survey referred to pubs as a “neutral” place and those who were most vulnerable were referenced as (potentially) being most affected by closures. In one nomination form pubs were described as a “lifeline” to some and were often considered as crucial assets in the prevention of social isolation. As one community informant expressed the pub “ensures that people do not feel isolated... it is an invaluable asset” (cf. Dunbar, 2016, Ernst and Doucet, 2014). These accounts were linked with desperate pleas for the protection of their local public house and were found within the nomination forms, as explicitly put by various nominators; “without community, we have nothing;” “it would be an injustice for it to close down,” where it is recognised by some that without them people are “left without a place of friendship and companionship”. In accepting that a pub is a neighbourhood common it is to also accept that the (en)closures are linked with the destruction and fragmentation of communities (cf. Thirsk, 1967; Thompson, 1991; De Angelis, 2007; Peñalver, 2007; Alexander and Peñalver, 2009). Therefore, these expressions highlight the crucial impact of the social relations of pubs on communities and individual wellbeing.

The contextual values are also affected by beliefs about the economic motivations of PubCos and large brewers’ and developers willing to pay higher prices than the market value of its current use in order to pursue an alternative use of the asset. All owners interviewed wished to dispose of their assets due to lack of economic viability of current use and the pursuit of greatest profit. This gave rise to questions about the use and sale of pubs. This was referenced by many, within nomination forms, as a prompt to list their local pub. Some landowners stated that community claims are illegitimate in ‘value-indicator’ terms, i.e. through footfall or consuming within the asset. A pub landowner was passionate that “there is a general hysteria built up now around closing of pubs - pubs close because NO-ONE USES THEM - market forces” (respondent’s emphasis). Similar observations to those made in the literature were made by landowners, which considered societal changes (e.g. home entertainment, smoking ban) as being the key reason that use is on the decline (for a summary see Appendix A). The lack of use had also been expressed as an issue by landowners to LAs, with some stating that “the asset is not valued by the community” and that “the problem is people have not been using it.” Similarly, a LA respondent stated that “if the community had shown sufficient interest in the past, a sale would not have been necessary in the first place.” Another felt that in order to protect assets,

people should simply “use them!” This research has therefore confirmed that some assets are no longer deemed profitable due to claimed lack of use. However, in some cases pubs are perhaps not deemed profitable enough because the use of the asset is competing with the development value of alternative uses. Another factor to consider is that people have been found to value something and not necessarily use it (cf. Allison, 1975), which could be the case for pubs. This suggests a difference in community value and use value, whereby communities could be nominating public houses based on a community value that they used to or could ‘buy into’ but due to the lack of connect with landowners no longer do so. Given the numbers of pubs listed, as well as the reported community value and associated impacts of closure, there are clearly valid claims to use values.

It appears that through commoning activity in pubs, people are mixing their 'labour' through 'leisure' and are in turn creating value. We can revisit Locke’s labour theory of ownership and observations from Mill (1848) which would imply that the increase in the value of land that arises from social relations should be considered as belonging to those who partake in the production of community value and not the landowners, for they haven’t produced this value (Harvey, 2012). Therefore, the CRtBid could be perceived as a leisure right to ownership, which could be applied to other assets, such as community gardens (in this case labour and leisure). However, the means or technologies of governance developed or imposed play a critical role. The surplus community value has been traditionally co-opted to create further financial gain of the brewers/pubcos who have monopolised these cultural commons. The average price of a pint of beer in a public house is approximately £3.50 and in a supermarket it is considerably less than this, therefore one could claim that the price difference or surplus value is created in part by the commons, by the sociations - much as live football is as much about the crowd as it is the game itself. Yet this has been co-opted by pub owners, which is what people are willing to pay to enjoy and sustain the community value experienced within the public house. Therefore, a type of consumer citizenship could be taking place in protest of the commodification of these values or poor management of pubs, and could be a factor in the closure of pubs.

Community and LA respondents identified that landowners were (sometimes deliberately) poorly managing their pubs, acting like property companies and were detached from the local character of the communities their pubs ‘serve,’ which was considered by community and LA respondents as a factor in causing pub closures. In terms of management, a LA informant stated that “owners are not managing the public houses well,” which was considered in the case of larger companies, potentially focusing upon the offering of the ‘brand’ as opposed to the community ‘experience’ (cf. Arvidsson and

Peitersen, 2013). As recognised by one community respondent, a pubco was “deliberately installing incompetent managers and tenant landlords to run the pub business down so that it could be sold as a former public house with the potential for redevelopment” (cf. Muir, 2012). Also, through experiences of the CRtBid there is a recognition by some that breweries/PubCos are acting like property companies or retailers, where a community response highlighted that they were “frankly... no more nor less than a property company whose assets happen to be pubs. They have never shown the slightest interest in [the pub]” (cf. Clarke et al., 1998; Finance Director, PHR company in Preece, 2008). As seen from the literature (in Section 2.3.1), PubCos often manage their assets via an opco-propco split, where the pub is an absolute space and considered separate from the use and leisure practice, a case of emptying of space from the place (cf. Giddens, 1990), however such a practice can cause the community value to decline (Christophers, 2010). It was also considered by a LA informant that “breweries (national) do not understand the local characteristics of the areas where the public houses are located,” and as stated by a community respondent they “don't care about the area.” This detachment from the sentiments held by locales, with little or no consultation with them, even with an ACV nomination, landowners are managing their private property as they see fit (Robertson, 1995). Therefore, community use of pubs is likely to have declined in some cases where people have withheld their right to access the asset due to not approving of the way the assets are managed, how social relations are considered, and the impact this has on community value (Palma-Oliveira et al., 2017). These pubs could be considered as “phantasmogoric” (Giddens, 1990) in that their social placings are significantly influenced by decisions made by those who may not have even stepped foot on the property. Overall, these findings imply that in some cases, particularly evident in pubs, a tragedy of the anti-commons (Heller, 2013) is occurring, because owners are becoming increasingly detached from communities and have been recognised to have lost sight of the ‘users’ interests and needs. There is also an implicit assumption that the owners are custodians of more than a business in return, as Sandiford and Divers (2014) suggest, a socially responsible community institution.

5.2.2. Reflections on community motivations

The CRtBid has also been a way of expressing a claim to some form of ownership, not necessarily meaning an exclusive claim. As a claim right, it can be perceived as a non-alienable interest in the market and is often not counted as a property right (although debated, see for example Singer, 2000a) tending not to feature within landowners’ cost benefit analysis. This research shows that in October 2015 there was a total 358 ACV advertised for sale, accounting for 15% of successful listings (see Appendix G for database extract). Of these, a total of 237 community groups had triggered the full moratorium (6 months), thus activating the “community right to bid.” This figure is much higher than

the 50 triggers of moratoria reported by Locality (2015) and although the data collected for this research was a year later, it implies that there was a surge in the use of the 'right to bid.' Or potentially the methods for collecting data by Locality were not as strong as this approach, where LAs were contacted directly to confirm the most up to date information, sometimes not always available on the LA websites. In just over a third of cases (n=121) the full moratorium was not triggered, which could imply that community groups were attempting to use the ACV status as a way to protect the asset or could have been reticent about activating the CRtBid due to the perceived unrealistic venture of acquiring the funds to purchase or develop the business skills to sustain it (see Section 5.3). Although most community informants to the survey had triggered the full moratorium, just over half (n=52) stated that, when nominating the asset, they intended to bid and wanted to purchase the asset. This implies that there was either a change in motivation over time or they were utilising their right to more time for other reasons. Just under half of the respondents did not intend to bid but a greater number expressed that they wanted to pursue a community purchase (n=65) and a similar number (n=61) felt that they were best suited to manage the asset (whether owning it or not) over and above other organisations. Even more (n=72) felt that the asset could have or has had greater potential under the control of the community than other organisations. These figures demonstrate that although communities may have not intended to bid, they were still considering community ownership as an option, with most referencing the benefits of community ownership (reported above), but some also referred to a variety of challenges with using the policy to protect the asset by purchasing it (see Section 5.3). What this data signifies is that numerous nominators were pursuing their rights for other reasons than to purchase the asset, rather it was mostly about having a greater say in the future of these assets. The associated motivations are reflected on below.

Reflections on community motives behind use of 'community right'

The following analysis of the data on community's motivations in using their 'right' is applied to Waldron's (1987) classification of rights, which in doing so draws out observations that there is more than just a claim to own community assets. However, in applying these categories, it should be considered that often there was overlap in the way communities were motivated to utilise their 'right,' some motivated by one or more of these ways of expressing their 'rights.' For some this also included an underlying or long-term aim for community ownership, whereas in some cases legal ownership was never a motivation factor.

The CRtBid could be perceived primarily as a liberty (*first generation*) right in the sense of Waldron's categorisation. Here, the CRtBid appears to have been used by some as a right to protest the liberal conception of property and the power of the landowners. Specifically, this research recognises,

particularly in the textual analysis of the nomination forms, that it is a response to dissatisfaction with a perception that local planning interpretations of national policy often conclude with prioritising businesses and the affluent over the majority (Wasl-Walter and Staeheli, 2005). This form of protest was also reflected in the survey responses, as respondents had more time and consequently motivated to create a campaign against the sale and/or development of the ACV (n=57) and influence particular planning decisions (n=31). These were often made in reference to undesirable disposals, demolitions, change of use applications or redevelopment of the assets. One simply stated that they used it “to protest over owner inaction” in responding to community needs. The valorisation or commodification of non-monetary values was also recognised as an issue within numerous nomination forms;

"An area's desirability cannot always be judged in monetary terms alone"

"The greater social well-being of the wider community is more important than developer greed"

"Developers' wishes should not trump residents' needs and social fabric"

"I feel it is a shame that a community can have the heart ripped out of it for profit"

"Our fight for this pub is a fight for all pubs and protecting all places for the community from the developers!"

This was also raised by a community survey respondent; “the value of a decent community asset... is very hard to put a price on, as is the sense of well-being essential to the well balanced and healthy community.” Essentially the CRtBid has been used by some as a protest claim in an attempt to protect the social relations of property from the excesses of private investment in property. This clearly implies that there is a dissatisfaction with the imbalance of value-priorities in the way AsCV are *conceived* by LAs and land and business owners, namely the prioritisation of the individual over the community and the economic over the social, which also relates to the observation of a tragedy of the anticommons in the case of pubs.

However, before considering the second generation right, it is worth noting that the use of the CRtBid to attempt to protect the ACV via protest could also be counter-productive. In some cases, the landowner could interpret a nomination as an opportunity to sell an ACV and if community groups do not intend to pursue a bid can pose a problem for those relying upon the ACV status to protect the asset. The database shows that 199 assets (56% of the total assets available for sale) had been put on the market within 3 months of the listing date (See highlighted fields in Appendix G for more information). This situation was raised as an issue by two community respondents, where one had

listed the asset “purely as a precautionary measure,” and the other highlighted that it “should be protected from redevelopment or change of use, should it ever come onto the market.” But they both expressed that they were not expecting it to come onto the market, yet the nomination was potentially interpreted by the landowners (by a LA and public house owner in these cases) that there was an intention to purchase it. The community informants provided further comments about what happened next;

“The Town Council is now locked into a process with a strict timetable and is being rushed into a purchase that might not ever have had to happen... being rushed and railroaded in this way is not helpful at all”.

“The community thought that the ACV listing meant that the pub was protected from development or change of use. I'm not convinced that anyone realised that it afforded the pub no protection whatsoever - and that the only way to protect it was to attempt to buy it.”

Therefore, they had to reconsider their original intention of simply nominating to *protect* the asset, with no intention to bid, as the only way, in these cases, to do so was to purchase it. These quotes also demonstrate the misunderstanding of the policy and frustration regarding the claimed offer that the CRtBid can protect AsCV. This implies that there is a missing mechanism that responds to the need to improve communication and dialogue over the protection of these assets.

The CRtBid could also be perceived as a *second* generation right to valued amenities that serve the social needs of communities or as a civil right of the community to be able to access local amenities. The majority of community respondents highlighted that nominating an ACV was about having it recognised legally as an ACV (n=84). This was based on expressing the value and importance for it to be protected to allow for communities and relationships to thrive. In some of the nomination forms, for example, community groups had stated that the nominated ACV prevents “loneliness and isolation,” and if lost, the “damage will be irreversible,” because members of the community were often described as being reliant upon an ACV. Closures of assets were considered to be a “travesty that will only further increase the disenfranchisement of local people.” The closure of community assets was also having an impact on communities across London, specifically stating in the nomination forms, the closures were identified as “killing London life and limiting choice and community interaction,” it was also felt that if the closures continued, there is a “danger of letting Chelsea turn into an upper-class sink estate, bereft of social amenities and community.” This is deemed of significant importance, as without the ACV, the argument was that there would be nowhere to socialise and, as highlighted in some nomination forms, the closure is or has the potential to cause

destruction and fragmentation of communities (cf. Thirsk, 1967; Thompson, 1991; De Angelis, 2007; Peñalver, 2007; Alexander and Peñalver, 2009). Essentially this data shows that communities have made a claim to strengthen, manage, preserve and/or protect these assets where community is formed (Hess, 2008; Arvanitakis, 2006), and could be interpreted as a statement that someone i.e. the state, should protect it (Hohfeld, 1919). It also intimates that these assets need to be treated differently to allow social/cultural life to flourish, therefore by accepting this, it is a claim that a different approach to governance is required (e.g. Bromley, 1991; Radin, 1993; 1996; 2004; Foster and Iaione, 2016).

An ACV could be perceived as a neighbourhood common, and the CRtBid could be considered as a right to claim the common good, or the cultural commons, in response to neoliberalism. Therefore, it could be considered that communities are using their 'community right' as a solidarity (*third* generation) right to seek the protection of the commons (Waldron, 1993). In this sense, the CRtBid resembles instances and characteristics of examples outlined in the literature on the (new)commons and a right to the city. Therefore, it could be defined as a collective claim to the "democratic management" of the use and distribution of community value, in order to ultimately pursue them more after the community's desire (Park, 1967). This also links to motivations to pursue community ownership. However, many community comments highlighted attempts to achieve greater participation in the decisions made about the management of AsCV, rather than simply being about legal ownership. One community group was motivated to ensure that the "community have a say in the asset;" another "to draw [the County Council's] attention to the community consultations." Therefore, this research has highlighted that there is evidence of locational conflict underlying the motivation to use the CRtBid where communities are in effect making a claim as to what the most legitimate use is or what purpose the assets should serve (Macpherson, 1978; Singer, 2000) and becomes a symbolic statement (Mitchell, 2003) to protect. Here, it is recognised that the legal status or formal ownership is no indicator of the full extent of 'ownership.' Therefore, the 'right' may not be about ownership at all, but for some it is more about, at best, expressing a rights claim to being consulted with regards to any decisions made about the asset, by planners and landowners; or at worst, about raising awareness that the ACV is of value, which through the CRtBid and AsCV regulations, may or may not be acknowledged by local planners.

The reflections made above provide new insight into expressions of ownership, as demonstrated by the motivations behind the use of the CRtBid. It is evidently used to express broader meanings of ownership, through use of the right as a liberty, socio-economic and solidarity right and, suggests an

underlying and little discussed desire for ongoing co-ownership forms to persist as part of the social embeddedness of such assets.

5.3. Effectiveness of the CRtBid and ACV nominations

The criteria used in this thesis to assess the effectiveness of the policy is based on the intentions of the government and community motivations. This is summarised in Table 7 and considered in greater detail below. The data is analysed in response to RQ3 (*what factors appear to prevent the effective use of the CRtBid?*). This section also reflects upon the issues and recommendations identified in the government response to the Community Rights Inquiry (Secretary of State for Communities and Local Government, 2015).

	Asset of Community Value	Community Right to Bid
Government intentions:	Legal right to nominate 'vital' assets; To 'protect' or 'save' AsCV.	Provide opportunity to have a say in AsCV when they are up for sale; Increase opportunities available to communities to take control of assets and services; Change attitudes and behaviours of public and private sector.
Community motivations:	To have the ACV legally recognised; To protect the ACV from change of use; To have a greater say in the way AsCV are managed.	Campaign/influence future use of the ACV; To attempt to purchase the ACV.

Table 7: Elements of the policy alongside government intentions and community motivations

5.3.1. Protecting Assets of Community Value?

This sub-section focuses on the factors that may prevent the effective use of the nomination in 'protecting' AsCV. The government introduced the ACV nomination as "a legal right to nominate... vital assets in their area" (DCLG, 2011b). The government have also implied that the nominations will protect (DCLG, 2013: p10) or "save" (Ministry of Housing, Communities & Local Government, 2013) locally important community assets. This coincides with the community motivation, referenced above, to have the asset recognised legally, mostly with view to 'protect' from change of use (n=84). In doing so, the government claimed to have considered the balance of private property rights and the public interest with the aim of retaining assets that are important to community life (DCLG, 2011a), which have been decided by that community and, with sufficient support to muster energy and resources to potentially protect the ACV by purchasing it. Furthermore, we can see from the statistics of closure that the effectiveness of this policy to 'protect' these assets is debate worthy, for example, there was a total of 4,093 public libraries in 2011 with a decline to 3,693 libraries in 2015 (CIPA, Public Library Statistics in Woodhouse and Dempsey, 2016) and public houses have been at closing at a significant

rated, even with the policy being in function for over 6 years (CAMRA, 2017). The importance of this element of the policy, the ACV nomination, is reflected in the findings. The database demonstrated that 85% of the AsCV had not been put up for sale since nomination, therefore, the way this is *conceived* is an important aspect of protecting assets. Significantly, the LA and community groups were asked to grade how effective they felt the policy was (see Table 8), although mixed experiences were reported, just over half of community groups (51%) who, reflecting upon their individual experiences, stated that it is either a good or excellent way to protect assets. Whereas over half of LAs (56%) reflected upon the outcomes for communities attempting to use the CRtBid and one stated that this is an ‘ineffective way’ of protecting AsCV. Another LA respondent stated this was also the case in their judgement about its effectiveness, because they had,

“experienced communities frustrated and disillusioned by the CRtBid as they have believed from the publicity... that it would allow them to protect and to be able to purchase properties, but the reality is they may not be able to do this.”

This was also reflected in the understanding of some community groups. Other community informants considered that the policy had progressive qualities, linked to the rhetoric and claimed intentions, stating that it was “good in theory.” However, many reflected on why the policy was not effective in ultimately protecting AsCV; mostly being associated with how the planning institution responds to the ACV nomination and inconsistency in approach across LAs.

Answer Options	Community (response count)	LA (response count)
Ineffective in protecting assets	23	63
Good way to protect assets	38	13
Excellent way to protect assets	12	1
Other (please specify)	26	36
Total	99	113

Table 8: Rating by community and LA respondents on how effective policy is in protecting locally important assets

As explored in greater detail above (Section 5.1.3b), the ACV nomination is available as part of the local planning decision making processes as a material consideration, therefore, it can form part of the value-judgements and affect the future of the community asset. It was highlighted as a recommendation in the Community Rights Inquiry, however this wasn’t accepted by the government, as they stated that “this is a matter for local planning authorities and other decision makers” (Secretary of State for Communities and Local Government, 2015: para. 14). But this was considered by respondents as a crucial factor because they stated that the policy doesn’t offer any protection if

it is not a material consideration in planning decisions because without it, as reflected upon by a community respondent; “the CRtBid does not actually give much protection at all.” Also, as identified by one LA respondent, the CRtBid will only “reach its potential as an effective tool to be used for the purposes it was intended for” if ACV nominations are considered material in decision making. They also stated that “this would also increase awareness of CRtBid amongst the public and improve its effective and appropriate application” and potentially increase the use of the policy.

Another insight is the concern raised by many LA respondents regarding the inconsistency in decision making across England - some groups were unsuccessful at the first hurdle, 23% of nominations were unsuccessful. Some groups have been unable to list genuinely important assets, perhaps due to the group itself not being deemed eligible or due to the concern of LA decision makers at the legal costs of decision making, as opposed to the asset being assessed according to its community value. Therefore, some community assets are not passing the validation process and given a potential layer of protection through the ACV status. Whereas other assets have potentially been listed even though they may not be ‘worth’ or ‘able’ to be protected, therefore the way nominations are assessed is an important consideration.

5.3.2. A ‘community right’ to bid?

The CRtBid process was introduced as providing opportunities to have a greater say in the future of community assets if they are put up for sale and to purchase community assets. Specifically, the government stated that it would provide an “opportunity to have a say in what happens to valued... [assets] if they are put up for sale” (Secretary of State for Communities and Local Government, 2015: p9). This coincides with the community motivation of using the moratorium period to campaign against the sale and/or development of the ACV (n=57) and to influence particular planning decisions (n=31). Also, as community groups have different motivations associated with different assets and are using the CRtBid to express different types of ownership claims there is clearly scope for the policy to facilitate improved communication channels amongst stakeholders. This research demonstrates that competing property claims may have been further fuelled through the implementation of the policy. This was demonstrated by pub nominees rating pub owners as unhelpful (45%, n=25) and just over a third also stated that their relationship had declined (36%, n=20). The breakdown of communication meant that these groups were unable to negotiate a bid; “he wanted flats. We wanted a pub. He always refused to speak to us.” One landowner, as highlighted by a LA respondent, became “even more adamant he will not sell to the community” and there were cases of landowners not providing the price of the asset, including LA agents. In one case the landowner was described by a community respondent as being “extremely unhelpful and obstructive.... even angry with our application.” The

community group “suffered a considerable amount of verbal abuse from their property man who was intent on making life difficult... because they simply wanted to get rid of [them] so that they could sell for a higher price.” Linked with the dissatisfaction of landowners, reported in Section 5.1.2, it is clear that in cases where the breakdown of communication has occurred the policy doesn’t currently offer any support in terms of dispute reconciliation during the moratorium. However, some landowners suggested that there was no need for government intervention due to the benevolent nature and ‘openness’ of them working with communities. This was expressed by a landowner agent; “community groups can work with owners directly to secure and protect assets anyway,” another also emphasised that “most landowners want to do something for the community.” A landowner also felt the best way was advocated as being through “communication and dialogue.” Therefore, this research highlights that there is greater potential in improving the dialogue between stakeholders over the future of AsCV (cf. Kenter et al., 2015) in an attempt to achieve mutually beneficial outcomes.

The key intention behind the policy was claimed to increase the opportunities available for communities to take control of assets and services (DCLG, 2012). The CRtBid was ostensibly introduced to provide a ‘right’ to communities to make it easier for them to purchase community assets by “levelling the playing field” (DCLG, 2011c) in providing time to create a (market) bid and have a “fair chance” (DCLG, 2011c). However, the actualities of a “community right to bid” are not aligned with its potential; given that 80% of those who had triggered a moratorium either did not pursue a bid or were unsuccessful in doing so, notably higher than the 50% reported in the Community Rights Inquiry (CLGC, 2015: p9). The government intentions associated with increasing opportunities for the community control of assets were considered in the survey by respondents (see Table 9). Overall, there was a mixed experience, however respondents were less inclined to state that the policy was successful in levelling the playing field, as they stated they didn’t have any greater bargaining power in negotiating market transactions. Furthermore, as 21 of the 26 community respondents who had made a bid were unhappy with the outcome there is clear scope for improvement to align the outcomes with the government intentions and community motivations. This research identified that LA and community respondents considered the “right” as a way to simply delay the sale of a community asset, therefore it is recognised as a community right to be *informed* and activate *more time* to respond and potentially make a bid, not as a mechanism to ‘protect’ or ‘purchase’ an ACV. The key issues with using their

'community right' were related to competing on the open market and poor communication between stakeholders. These are considered next.

Answer Options	Yes	No	Somewhat	Response Count
Provided more opportunity to take control of assets and services	32	35	27	94
Levelled the playing field (due to providing time to prepare a bid)	25	38	31	94
Given a fair chance to make a bid	36	30	27	93

Table 9: Impact of the policy against government claims

The ability of community groups to compete on the market were considered as key factors in communities not being able to pursue their community right. Many LAs were pessimistic about the possibilities of community purchase and as a LA informant stated, the CRTBid's "usefulness is entirely dependent on the community group being able to mount a credible bid." Community respondents expressed the challenges of competing on the market, one expressed that it was "hardly fair," and that "when going to open market makes you realise what you are up against." Another community group respondent highlighted that "it can be like a western show down, where the owner sees one pesky individual, who took a lot of courage to meet the owner and have a shootout." As a LA respondent reflected, communities were also investing significant amounts of time in preparing a bid, "with no guarantee that it will be accepted even if it is a realistic offer." This was highlighted by a community informant whose group found it a "difficult and time-consuming process for volunteers who helped... raise the funds," and were still unable to purchase let alone protect the ACV from change of use. In some cases, community informants had expressed that asking prices were "unrealistic" where landowners had included development value in the asking price for the ACV, sometimes without planning permission. This acted as a deterrent to some communities attempting to fundraise, where one informant stated that it had "effectively precluded [them] from putting a reasonable business case together to raise sufficient funds." In submitting a bid, one community group had received a response from the landowner stating that "the building is worth more supported by the residential valuation." Again, this highlights that some owners see such properties purely as market assets to be sweated and they will attempt to negotiate or demand an advantageous price. The extent of this was illustrated in another case where a community organisation had paid for a commercial valuation of the closed pub, which was £225,000, however the asset was for sale as a "development opportunity" for £395,000 not a going concern as a pub." In this case, the development potential valuation acted to increase the asking price by 43%; which increased the challenge for the community to raise the necessary funds to compete with developers. Therefore, there are some clear challenges with community groups being able to access the market and communicate with landowners.

The potential of community ownership in making “the asset viable again” (DCLG, 2011a: p14) was also expressed. This relates to the findings discussed above, as the majority of community respondents stated that the ACV would have greater potential under control of the community (n=72). Furthermore, the government viewed the CRtBid as an attempt to change attitudes and behaviours of public and private owners as selling or transferring an “asset to a community group as a viable, positive option” (DCLG, 2011b: p4). However, some LA and landowner respondents raised concerns about the business knowledge, skills and resources of communities required for sustainably managing an asset (see also the issues identified in the Quirk Review, 2006). A landowner also expressed the concern that “the community by and large are ill-equipped to actually understand business and how it is run” and therefore they should not be encouraged to take ownership of what they stated are “private assets.” However, this could also be used as a justification for not supporting community value in these cases, as recognised in LAs asking for evidence of a business plan alongside nomination forms which was also referenced by landowners in First Tier Tribunal cases. This also reflects that there is a lack of consideration for other mechanisms that might release this potential through co-ownership forms.

Additional concerns were raised about the policing of the Act and what happens when the rules are bypassed. Enforcement of the regulations was of clear concern to some LAs. One highlighted that there was a “major flaw in the regulations,” which leaves “too many gaps for developers to be able to ignore ACV rules.” There was evidence of owners effectively bypassing the CRtBid, which was reflected in accounts from community respondents, where an ACV was “disposed of outside of the provisions of the Act” and where “the owner NEVER actually put it on the market, so there was no way of mounting a bid” (original emphasis). Also, it was highlighted by a LA respondent that a solicitor can simply declare to the Land Registry that a change of ownership of an ACV has been done in accordance with the Act. Finally, another LA informant raised that “a request to the receivers to keep [the LA] updated on developments resulted in no reply. The [LAs] inability to force a buyer or receiver of a site listed as an ACV represents one of the limits of the programme.” Therefore, in some cases the rights claim remains empty because it has not been protected through the force of law or through education and opinion and because it has not been validated by those with power (e.g. Mill, 1859; Mill, 1992; Harvey, 2005). This emphasises the question and as highlighted in the literature, for a right to be established, it needs enforcement.

5.3.3. Stakeholder suggestions

The stakeholders reflected upon whether the right could or should be ‘strengthened.’ The effectiveness of the policy in increasing community ownership was perceived by some as being reliant

upon the landowner's willingness to consider community bids. As a LA informant recognised; "bids could just be ignored." Therefore, some LAs suggested it became a stronger 'right' by giving first refusal or an "absolute right to purchase" for communities (n=10) and was considered by some as necessary to fulfil its potential in increasing the community ownership of assets. A Right to Buy was also a suggestion made by Locality (2018a; 2018b), where community groups would be given first refusal ahead of competing with the private sector. As one recommended, there should be "more restrictions on owners of nominated assets via stronger legislation." However, one LA respondent felt that 'strengthening' the policy would be "in the realms of CPO, which would be litigious, and require a significant higher level of resourcing to administer." Others highlighted the embeddedness of private property rights and suggested that stronger powers are "not likely to succeed as lobbying by developers will prevent this." Another LA respondent felt that forcing landowners to sell to a community organisation would be "too draconian." Although recognising the potential of a 'right to buy,' it posed some challenges in resourcing it, how it would be received by landowners, and the government have already demonstrated a reluctance to consider and make further adjustments (see Secretary of State for Communities and Local Government, 2015). However, given the strong use claims reflected in the data reported above, and considering the profit-driven motives of landowners, who are often unable or unwilling to include these use claims within their calculations, there is a clear need to address the governance of these assets. This gives rise to questions about how values are understood, acknowledge or 'ramped up,' whereas others are ignored or minimised. Further reflections on the different mechanisms of owning and managing community assets are considered in the conclusion.

To increase the chances of community ownership, community informants often made suggestions in response to the challenges with competing on the market. Some suggested that Local Council's should

"do valuations and negotiations on behalf of the group."

"introduce an arbitration service [which] could ultimately decide on whether the bid should be allowed or not... [at] a fair price."

Furthermore, alternative finance options and independent valuations were amongst the suggestions to improve the support available to communities. As recommended by a LA respondent the "equivalent of green bank, where funding and loans can be repaid over time." Locality (2018a) made a similar suggestion, to increase opportunities of community ownership, but in this case, it was suggested that LAs provide low cost or zero interest loans.

The challenges associated with defining 'community value' by local decision makers and its interpretation of community groups and landowners was identified in this research. One suggestion in response to this, was made by a LA respondent who stated that they "would be interested in a widely accepted tool that would help define social value within the terms of this right." They referenced a similar tool used in CAT decision making, however they highlighted that they "cannot use this tool in CRtBid applications as the Act's guidance on what represents social value is so limited." Therefore, the challenges are associated with the subjective nature of 'social value' and the nebulous nature of the criteria laid out in the policy documentation. Alongside being more transparent about the local criteria, as well as aid and reassure LA decision makers, such a tool would also provide greater detail for landowners to understand the policy further, and to support communities in making a nomination.

There was a reluctance from some LA officers to make any suggestions to change the policy. Firstly, as officers highlighted, they are already under pressure to respond to regular changes in the policy environment, particularly during times of austerity, therefore they were found to be reducing costs and constrained in the way they are able to respond to social value. A LA officer suggested that "any further policy changes would increase implications and potential costs." Secondly, the dominant perceptions of private property rights were recognised by respondents, who stated that changes are unlikely to occur as they would "be seen to "cost" owners." Finally, legal concerns were again considered by LA officers in suggesting changes, as one stated they "wouldn't want to make any recommendations as there could be numerous legal reasons as to why any suggestions made might not be viable." Again, LA officers reiterating the strength of the bargaining power of the actors already active within the market and the concern for the consequences of legal challenge. This could suggest wider concerns about the issues with the policy, and therefore may not encourage critical or constructive feedback, as the underlying approach is flawed.

5.4. Conclusion

The expressions of community value evident in the national database and nomination forms illustrate the importance of relationships with and within particular spaces – some spaces are valued more than others. However, being encouraged to pursue the CRtBid, community groups are often being offered two alternatives - try and buy the asset or accept that impending change is inevitable and that some or all of the claimed 'social value' will be lost. For most communities, making an ACV nomination could be their last resort in a desperate attempt to protect assets, some the last one in their community. Therefore, many struggle with communicating with landowners and may be unable to resource a

purchase. Through this localist policy, communities are ultimately making a claim that certain values should be prioritised, protected and pursued. Motivated by having community value legally recognised and utilising the moratorium period to campaign against changes to the use or management of the ACV communities are using the right to bid as a means to express claims that community value should be protected. Those with relative bargaining advantage (landowners, developers) are acting rationally (in a Demsetzian sense) obliged and motivated to abide by the market in order to achieve their corporate goals via exchange-value-maximisation, as use values do not often feature within their cost-benefit analysis (Ackerman and Heinzerling, 2002; Peñalver, 2009). This presents a challenge to communities to mobilise and protect ACV via purchase with some able to raise money or some AsCV being 'popular' across a wider population / donor group but others less so. However, what this research signifies is that the CRtBid is missing an opportunity to improve these often 'failing' (in the economic sense) assets through adjustments to governance practices, which in turn could improve the situation for all involved. Whilst this research has evidenced that some LAs are embracing the CRtBid, there are LAs who are struggling with the competing claims to place and space and its value (Massey, 2005). These LAs are particularly wary in the case of private assets and interfering with property owners' rights; for some this is because the CRtBid is counter to the normal market process for disposing of properties and making policy decisions creates a risk that they will result in costs to the LA. Therefore, they are reluctant to engage fully with such policies as they are fearful of the legal repercussions and the impacts on capacity and resources, but as recognised, the actual legal repercussions are minimal. The conflict of interest related to the overlapping aims and obligations of LA departments, as well as quite often being victim and instigator of austerity (Donald et al., 2014, p. 5), relates to the need to balance the 'rationalisation' and 'transformation' of assets. In another affirmation to the market, the CRtBid normalises the sale of public assets to communities at market value, as opposed to other means such as CAT.

Rather than providing the 'institutional space' for stakeholders to communicate about the future of an ACV, it has, in some cases, fuelled conflict and in others it has simply provided the space for communities to put their money where their mouth is, take responsibility and purchase the asset. The policy provides the 'space and time' to attempt to resolve conflicting claims to place, providing a time restricted opportunity for discussion over the future of the asset. However, landowners are not obliged to engage and can simply wait for the time to pass and carry on as normal (unless planning permission required) or the conflict is acted out and 'resolved' through the appeal process. This research signifies that landowner appeals, directed to judicial powers as opposed to executive or

legislative branches, are being dismissed in support of community rights claims, which is contrary to that recognised in the literature.

However, no matter how much protection is offered at this scale, the long-term protection of the asset becomes wholly reliant upon the market test as to how much communities 'value' the ACV. As the CRtBid still forces a monetary value on these intangible values, the fate of AsCV are at the mercy of communities being able to acquire the funds. Considering the, often vital, values to communities, these findings have demonstrated that there are some assets that require a different approach to the deliberation of values and the overall governance of communities. This brings into question who has the knowledge, understanding or resources to claim, administer or resist such a process. Furthermore, it raises questions about whether this is a socially desirable approach to a complex and fluid aspect of the socio-political organisation of society. This chapter, through drawing upon the data collected for this research, has analysed the relevant findings, which will inform the response to the research questions set out in the following concluding chapter. A set of recommendations and areas for further research are also provided.

6. Conclusion

This research underlines that social needs are contingent on how social relations of property are understood and responded to in practice and in regulation and vice versa. Yet the processes and means to effect change are uneven and different types of mechanisms assist different groups in society and types of (social) asset in a fashion which reflects power asymmetries. This thesis has united the (new)commons literature with the well-established property rights literature and the social relations of property model specifically to provide a unique theoretical foundation for this research. This provides a lens that reveals that there are numerous means available where social value can be reflected and that the Localism Act provides a new set of tools designed to enable communities to claim social value for themselves. However the CRtBid and AsCV tools require market means to effectively exercise them. Furthermore they represent an effort to close-down future claims. This stands contrary to the social relations of property model and has implications for how communities in the future would be able to pursue claims to social value. This is notwithstanding current other institutional forms that in part act to integrate aspects of 'social' value (i.e. through listed buildings, through neighbourhood planning tools and through the operation of a planning system aiming to deliver sustainable development).

The tension between sustainability and efficiency can conflict with community needs, particularly where social value and the commons can be in competition with economic value and markets; which has been considered throughout this research through the focus of the CRtBid. The empirical findings of this research, collated via a mixed methods approach, delivers an original insight into a recently institutionalised 'community right' and the first land classification that overtly or specifically reflects shared and social values in England - an Asset of Community Value. This mechanism is one of the means through which social value may be formally communicated and acted upon. This research makes original contributions to the critical perspectives applied to the implications and effects of the post-2010 localism policy in England; by providing a national insight into how 'community rights' are being used and developing understandings of stakeholder interpretations and experiences of community rights, as well considering this in relation to contemporary debates over the commons.

The research is grounded in ongoing theoretical debates and has provided confirmation, in the case of the CRtBid at least, that there is a preference on part of the government in the UK – more specifically in England - since 2011 and landowners for the market to determine land use. This highlights a possible imbalance in the way private and collective property claims are recognised and responded to and mixed economy when other means are also in place that rely on non-market

decision-making (i.e. The land use planning system). The implications of relying upon the market to determine the balance or validity of a rights claim – in this case in relation to the most legitimate land use, and how the asset is to be managed - can lead not to a protection or promotion of social value but to the (en)closure of valued community assets. However, as demonstrated in this thesis, the effectiveness of the CRtBid policy in responding to alternative rights claims shows there continues to be obstacles to the inclusive or equitable recognition of community rights claims can be substantiated. This research has, therefore, prompted a need to include forms of co-governance to be considered as part of process associated to mechanisms aiming to recognise social value and other claims. This perspective is based on an understanding that such values are contested through interaction and therefore open means of deciding how to manage and use an asset are needed rather than neo-liberalised versions of localism discussed here which rely on the ability to express need or preference through the market. The insights gained from this study will be of assistance to all stakeholders, including activists involved with community assets but will also inform those who have influence over the outcomes of the policy, including LA decision makers and the policy makers. It should also be food for thought for reformers looking to evolve policy and practice in this area.

6.1. Use and interpretation of the social relations of property

The review in Chapter 2 demonstrated the richness (as well as complexity) of the property rights literature. However, the analysis also showed that very little is understood about how the social relations of property are interpreted and how competing property claims are reconciled through policy (as opposed to law) and in practice. This gap gave rise to the central research question; *RQ1: How has the CRtBid policy been utilised and interpreted and how are competing claims reflected in the outcomes?* This investigation has showed how rights exchanges are being managed and limited in this contemporary period through the CRtBid. The results, from the community surveys here, revealed that the policy is being utilised by community groups to express rights to claim or reclaim public and private assets as common, however the outcomes of the policy demonstrate neoliberal credentials (cf. Chapter 2 and Section 6.2). The outcomes are influenced by the interpretations of policy by those with the power to reject or ignore collective claims are also limited by the ability of communities to mobilise and substantiate their rights.

This brings into view how neo-liberal government claims to have responded to the closure of publicly- and privately-owned 'community assets' by providing a chance for community groups to have a greater say in and protect their future, as well as increase opportunities for communities to own and manage assets (DCLG, 2011b; 2011c; 2013; 2015). Often in a context of threat of loss, communities

have been typically reacting to circumstance and nominating assets in a time and place not in their control, which can sometimes be a last resort attempt to protect the only community asset in their area. Community groups carry the responsibilities associated with civil and political rights, namely to protect their relationship with property. Overall, it was found that policy outcomes at various stages largely do not reflect government intentions and community motivations and, show the imbalance towards economic priorities rather than social. A conclusion made here is that the enjoyment of these social relations and community rights are often limited to post-citizens who are willing and able to purchase them in an apparently laissez-faire but regulated market (Ravenscroft, 1998; Gibbard et al., 1999; Isin and Wood, 1999). Therefore, the CRtBid could be perceived as being used by the government in an instrumentalist move to gain buy-in to the neoliberal agenda - a type of hegemonic influence (Gramsci, 1971). It could also be suggested that the policy was introduced in an absolutist move to reify the social relations of property and valorise community value by providing a temporary 'space' to identify conflict and resolve it via a market test of community willingness to pay to protect the asset. This tests the strength of ownership claims in monetary terms and suggests that if they buy the property, only then they can have a claim to it or value it enough. Therefore, the use of the CRtBid is conditional and is essentially not a right for all. This is likely to be detrimental where communities are unable to purchase and enjoy their rhetorical community 'right.' This demonstrates the frustration and inequitable nature of the policy.

It was also noted in two of the scoping interviews that contextual factors have an impact on the attitudes of LAs, particularly in terms of the wider concepts of ownership of land and buildings, land value and use value, and as stated, the contrast lays in how the authority views values. Local government has a key role in influencing the way competing claims are reflected in the outcomes of the policy. They are responsible for the way social relations of property are validated, acknowledged and responded to through the CRtBid. However, LA survey responses chiefly confirmed that local government is becoming increasingly constrained due to austerity and budget cuts, which can influence how they might maintain or act in the public interest and interpret community value claims (cf. Tait, 2016; Campbell and Marshall, 2000). With this context in mind, this research has demonstrated that local government decision making can be influenced by the perceived dominance of private property rights within a judicialised arena. This was shown in survey responses, as some LAs were wary of the costly legal repercussions of approving a nomination should the landowner appeal or request compensation and this can be a deterrent from *validating* community value. However, in contradiction to commonly held perceptions in the literature and seen in operation, the judiciary are setting national precedents for the legal interpretation of the AsCV policy in line with collective value

claims (cf. Singer, 2000a; Chandler, 2002; Schudson, 2011). This finding that landowners are not riding roughshod over community claims is likely to be of significant interest to policymakers and neighbourhoods as this situation which empowers decision makers and community activists.

The creation of the CRtBid / AsCV approach co-exists with a planning system that has been the primary means of recognising societal need (through the cipher of public interest) administered through local and national government. This traditional approach has been criticised, but the aim was to consider and deliberate over different claims and to address and rectify market failure, or to enable economic prosperity, and social and environmental issues. Contrary to other means, the AsCV nomination process is supposed to be a grassroots approach to deepening the ways in which property is recognised. In this context the CRtBid has been introduced with the intention of inducing different claims to property and suggests a means of giving formal voice to feelings of ownership and to then have such values be of influence in planning decisions. However, the findings show that administrators of the policy were often unaware of how their planning colleagues interpret the ACV nomination, therefore further research is required to draw more definitive conclusions. The community respondents did show that, in some cases ACV status had no bearing on planning judgements and therefore offered no protection of the asset. However, there is evidence of planning officers (and the Planning Inspectorate) *acknowledging* community value as a material consideration.

Previously, little was understood about the relationship between landowners and the institutional policy spaces within the context of devolution (Moore and McKee, 2013). In the case of LA owned assets, a conflict of interest between administering the policy and LAs operating as market-oriented asset managers was indicated. This was evident in cases where community groups reported the LA as being unresponsive to AsCV and CRtBid, which is similar to the way that other private owners were behaving. They were also using private land agents, who advised LAs to pursue the narrow economic views of best value as opposed to balancing questions of public (or community interest) which they are supposed to maintain. Indeed, the use of property agents can be considered as part of the neoliberal agenda, through incorporating market principles into LA decision making. Furthermore, there is also a greater chance of success in pursuing community ownership of public assets outside of the CRtBid (Locality, 2015) and raises the question whether the CRtBid is suitable for LA owned assets. Or perhaps, as highlighted by a minority of LA respondents, an ACV nomination of a public asset could trigger a CAT process. This research has shown that most (private) landowners perceive policy changes as an infringement of their rights, often expressing their frustration, disengaging from the process and appealing decisions. Although, in the survey some landowners identified the community value of their

assets, all were selling the ACV because they were deemed surplus or economically unviable due to lack of use. This led some to question whether the asset was actually valued by the community – as evidenced through the debate featured in Section 5.2.1 specifically on pubs. Data from the landowner agent interviews show that landowners have been interpreting the nomination of their property as challenging their traditional relationship with their land and community, and the desire for owning a community asset. This can, as the findings show, trigger a decline in the relationship between landowner and community. In these cases, it can lead to socially undesirable outcomes for the future use and viability of the asset. However, a landowner respondent raised that landowners can in fact influence the future use of assets by inserting an overage clause in the contract of a sale. Although it is a way of having a stake in the uplift in exchange value if a future owner pursues the redevelopment of the asset, it can also act as a deterrent for future owners to change the use of the property.

6.2. The dynamics of community ‘ownership’ effected through the CRtBid

Chapter 3 identified a variety of challenges of community groups attempting to purchase assets and a number of associated research gaps. Through this investigation, the following gaps and policy interests were pursued: firstly, what motivates and inspires beneficiaries of assets and how they experience/engage with the assets (cf. scoping interviews; Moore and McKee, 2014). The findings identify the motivations of community groups in progressing claims to community assets (via an ACV nomination) and how asset owners engage with users (through CRtBid). Secondly, community assets can add value despite their ownership structure, this was showed in Section 3.2 and was considered in a scoping interview, where the concern was that an organisation’s purpose could be better served by other management or ‘ownership’ structures. Therefore, this research explored the benefits of community ownership as experienced or perceived by users of the CRtBid and identified whether alternative (to community ownership) mechanisms might be best suited. The collation of these findings responded to RQ2: *What are the dynamics of community ‘ownership’ effected through the CRtBid?* This research has shed new light on whether this localist policy, which aims to increase community ownership and responsibility, stimulates a development or change in the opportunities to purchase or engage in the management of community assets. Understandably in exploring this, it is important to identify community motivations in using their ‘community right’ - why they are expressing ownership claims - and whether they are willing and able to substantiate these claims.

Nominators have used the policy to express their views and values in a way that was not previously available to them. As the majority of community respondents showed, they used the nomination to

signify and 'justify' the importance of the social relations of community assets and the impact on social interests and wellbeing (cf. Rose, 1994). Expressions made in the nomination forms show that it is these assets that people feel most passionate about, shared spaces, where a sense of ownership is developed through customary use. They might be in public or private ownership but in common usage and could be interpreted as neighbourhood commons - as spaces where society and social life can be reproduced beyond the market and the state. Although the majority of community respondents recognised the asset would have greater potential if the community owned the asset, fewer intended to actually bid. They referenced a number of factors that prevented them from doing so (see RQ3 below) but a consideration here is that there were different motivators underlying the community use of the policy. A variety of (often overlapping) property claims were made by community groups in both nomination forms and community surveys, which were not always centrally about the community striving for legal ownership. The majority of community respondents used the policy for legal recognition of the community value, using it as an intermediary to legitimise their claim to AsCV (cf. Benda-Beckmann and Velde, 1992). This could be understood as a *socio-economic* claim to access and use the commons because of the largely claimed importance of AsCV in allowing social/cultural life to flourish. In this respect, they have used it in an attempt to strengthen, manage and preserve these assets where community is formed (cf. Hess, 2008; Arvanitakis, 2006). These expressions made by some indicate that because these assets are 'more than private property,' and that they are perceived in the nomination forms as becoming a rarity, they should therefore not be conceived as private property. This relates to other expressions identified in the nomination forms, particularly related to a dissatisfaction for the prioritisation of economic over community value. These can be understood as protest claims (a *liberty* right) against the commodification of the commons. In some cases, community value was claimed as being "held up" by private owners, which could suggest that there are community assets in a state of the tragedy of the anticommons (see RQ3 below; Rose, 1986). It was also evident in community survey responses that *solidarity* claims were being made for having a greater say in the governance of community assets or, interpreted here, as enabling further localised democratic involvement in considering the commons.

Community owned AsCV were often reported in the surveys as increasing accessibility, use and viability of assets due to the flexibility that community ownership offers in responding to community needs and preferences. This argument is understood as involving an assertion about community ownership having greater potential to increase the *lived* and *perceived* benefits of AsCV and achieve the comedy of the commons. Furthermore, the perceptions and realities of community ownership expressed in the nomination forms and community surveys could suggest that a more commons-

based perspective to property is pursued via community ownership based on property being considered as social in the first instance, and governance practices as more democratic and responsive to needs (cf. Peñalver, 2005; Keenan, 2010; Stavrides, 2016). For those who were motivated to purchase the asset, the long-term security of community use was the prime motivator in owning a community asset. Some community groups identified their responsibility and potential as a community asset owner because of their connectedness to the wider community. However, the headline figures from the database show that very few assets are purchased via the CRtBid (2% of AsCV). Although caution should be exercised for the numbers of successful purchases given that there is no official monitoring. Furthermore, when communities had raised a bid and attempted to purchase a community asset the majority of respondents reported unsatisfactory outcomes, sometimes with the ACV remaining vacant.

The challenges of acquiring community assets led respondents to reflect upon the potential of achieving community aims via other mechanisms. Public ownership and community management of community assets was considered by a minority as being the most progressive option. However, there were some users of the CRtBid who felt this was unrealistic due to the increasing economic pressure faced by LAs. The private sector was also evidenced in the community surveys as being able to effectively facilitate the governance of the commons, where a success factor in running a viable business and community asset is based upon being responsive to community needs and preferences, not simply economic demand (cf. Sandiford and Divers, 2014). However, these mechanisms do not provide long term security of community use or necessarily provide the processes that might enable community governance.

6.3. Factors that prevent effective use of the CRtBid

The CRtBid was introduced in response to widespread market failure, in the case of community assets, through offering a more democratic and institutionalised means for expressing community value. However, due to a lack of monitoring of outcomes and stakeholder experiences, very little was known about the factors that prevent effective use of the policy. This gave rise to RQ3; *What factors appear to prevent the effective use of the CRtBid?* Outcomes at various stages of the policy are, most often, not reflective of government intentions and community motivations. The present findings demonstrate that a variety of factors influence why this proliferation has not increased the protection and purchase of AsCV and why it hasn't translated into a more convincing shift to raise the recognition of community values in decision making.

There were various factors raised in the community and LA surveys that prevent the ACV nomination itself from protecting an asset. Some assets of community value were not afforded the opportunity to be protected because as the research showed LAs can be reluctant about the economic costs of their decision making, and therefore nominations were not considered on their merit. Also, nominators have no right to appeal a decision made on a nomination. For successful listings, if the ACV nomination is not acknowledged as a material consideration in planning decisions, then the classification can offer no planning protection for the future community use of the asset and can lead to the closing-off or extinguishing of the claim to community value (not its actual social value). In these cases, it is illustrated that the planning system, as a democratic institution (cf. Chapter 3), may well fail to respond to these expressions of value are likely. Whereas some community assets are stuck in a 'void', because the current use is considered economically unviable by landowners and are unable to gain planning permission to change it. Although the use is protected through planning, they remain vacant, therefore the policy lacks a mechanism to respond to these scenarios. Finally, community groups might be motivated to purchase or have a greater say in the governance of the asset but may never be presented the opportunity to do so because the landowner has not put the asset on the market or may not be receptive to community involvement.

The findings of this investigation complement those of earlier studies that identify the challenges associated with community organisations acquiring community assets (e.g. Locality, 2018). The challenges include difficulties with raising funds and competing on the market including development values. However, a missing element in the literature is the challenge of effectively communicating and negotiating with landowners -as indicated by some community and LA respondents. In some cases, a nomination made with no intention to bid, can be counter-productive if a landowner interprets this as an interest to purchase and a community group are unable to mobilise within the six-month moratorium period. This was described by two community respondents, who experienced the landowner selling to a developer and is no longer recorded as a community asset. Furthermore, communities can be deterred from mobilising to form a bid because landowners can simply decline or ignore a bid – a lack of right to first refusal for community groups. This research has shown that through competing on the market, the strength of private property rights is pitched against other citizen rights-claims (Ravenscroft, 1998; Parker, 2002) in what has been described by a respondent as a 'western showdown.' For some, 6 months is not long enough to form a group and bank account, if required, and attempt to raise the funds. Therefore, the dominance of private property rights appears to prevail in this regulatory space where market-based claims are recognised, and others are denied or rendered worthless not because they are materially or factually so but because they are invalid

according to neoliberal philosophy. Community itself can be at the mercy of the market. In essentially applying calculative practices (Callon, 1981) to community value, the CRtBid could be considered another inappropriate technical fix to the situation of commodifying something where a market should not exist (Ravenscroft, 2010). The adage of ‘knowing the price of everything, but the value of nothing’ can be recognised, encouraging a world of converting values into prices (Arvidsson and Peitersen, 2013) to which this mechanism could be susceptible. In this respect, we are continuing to witness a neglect of rights (Harvey, 2008) and an enclosure of culture and history. There is also evidence from some LA respondents that the CRtBid is not being enforced which can render the whole process and indeed ‘rights’ void.

Having a greater say in the management of community assets was a key motivator for communities in using the policy. However, to accept that AsCV are a neighbourhood common is to suggest that they face some of the classic problems of a common pool resource. These include problems with a lack of coordination which are also evident in AsCV. A unique insight gained in this thesis is applying the conceptualisation of the tragedy of the commons to the case of pubs. This was identified initially through the literature review and was further considered in the data analysis. The CRtBid fails to respond to these problems because it does not provide a mechanism to coordinate stakeholders, particularly between asset users, the wider community and land and business owners. This is identified in nomination forms and surveys and was reinforced by some LA respondents. It was considered that pubs are being shaped by social and economic influences that are distant from them and a disconnect exists between them and (land and business) owners. Some LA and community respondents suggested that this tragedy has been manufactured by owners in an attempt to render the business and land use economically unviable in order to justify and pursue the greatest exchange or development value of the asset. However, since there are numerous societal adjustments in the way we use community assets to develop relationships and wellbeing – including the use of virtual space to form relationships and increased (more affordable) entertainment at home (in private spaces) – it is likely these have affected the economic and social viability of these assets. Furthermore, as the literature has shown, people can like property without using it (Allison, 1975). But this gives rise to questions such as: if assets are not used then are they valued socially? and should they be protected? Would community assets be used more under different governance arrangements? Future research might explore these questions further (see Sections 6.3 and 6.4). The CRtBid as a localist policy, despite claims on its behalf as a radical policy tool, has appeared to largely fail. This is perhaps acutely observed if adhering to the Morris and Hess (1975) view of localism as a means to trigger a

movement moving from relying upon 'outsiders' to own and manage (the commons) to partaking in the formation of community value through taking *responsibility* for the governance of the asset.

Overall, the weight of the classification is at the discretion of local decision makers and the policy appears to simply put a pause on landowner rights and does not provide an obligation to respond to community needs and preferences or even a bid (or right to first refusal).

6.4. Recommendations

The findings of this study have several important implications for future practice and for further research. As reflected in the outcomes of the policy, there is scope for governance practices to be adapted or new ones formed in order to draw upon the progressive elements of the policy. In its current form this policy is potentially fuelling the destructive conflict over valued places, igniting the 'us' vs. 'them' polarities or sharp divisions between 'public,' 'community' and 'private' spheres, with the ultimate risk of the use value being retracted. Even with the CRtBid, privately - and publicly - owned community assets continue to be sold in pursuit of greatest profit regardless of social needs, with more assets set to close (Snowdon, 2014; Locality, 2018). Therefore, an urgent response to the (en)closure of community assets is required as communities appear to be increasingly homogenised, fragmented and immobilised. This research shows that whilst there is 'radical potential' in community ownership (Lefebvre, 1991) groups are unable to or reticent about pursuing community ownership and often require support and more time than that offered by the CRtBid. This research has highlighted that a variety of adjustments to the policy should be made in order to align outcomes to reflect government intentions and community motivations (see Table 10).

Asset of Community Value Nomination	
Stage/issue	Recommendations
a. Knowledge and understanding of the community rights.	<ul style="list-style-type: none"> • Increase publicity amongst all stakeholders – ensure information is transparent. • Use of technology, such as platforms like Community 21 to facilitate online communication (Gant and Gittins, 2010) and improve monitoring and sharing of knowledge, and discussion outcomes, success factors etc.
b. Community value validation process	<ul style="list-style-type: none"> • Create a ‘community value’ tool (culminate impact on other financial values) • Introduce nominators right to appeal (by an independent organisation) • Report/publicise the national precedents set by the judiciary to all stakeholders
d. Weight of nomination in planning decisions.	<ul style="list-style-type: none"> • Change legislation to make ACV nominations a material consideration in planning decisions. • Advise Parish Councils and Neighbourhood Forums to map community assets during the development of their NDP • Introduce an ACV tax, where a percentage of profits are reinvested into developing community values?
Community Right to Bid process	
e. Community competing on the market.	<ul style="list-style-type: none"> • Introduce a community ownership fund and national investment bank that provide grants and low cost or 0% loans to communities • Make obligatory for stakeholders to consult regarding intentions and explore other options for ownership or management of the asset • Public assets nominated potentially trigger a process of CAT. • Independent body to carry out valuations and negotiations on behalf of the community group • Community groups to be given the opportunity to apply for an extension to the moratorium
f. Willingness of landowner to sell to community.	<ul style="list-style-type: none"> • Introduce a first right to refusal to community • Provide resource to enable CPO of AsCV
g. Compensation and appeals	<ul style="list-style-type: none"> • Reassess the compensation and landowner appeal processes (consider evidence that LAs are often deterred from listing assets due to costs involved and no budget)

Table 10: Recommendations for policy changes

The CRtBid has the potential to further build upon the community cohesion that AsCV foster and could provide a process for mediated dialogue between those who are making private and collective claims to property. New governance practices could be adopted to respond promptly to (en)closure and improve coordination amongst stakeholders. The purpose here is not to define specific details of the types of governance arrangements that might be suitable, as it deserves further critical examination. However, the ultimate goal of these arrangements should be to provide the institutional space to

foster property relations that promote the greatest socio-cultural, community and individual values. It will be beholden on government to reconsider the management and allocation of social and collective rights claims in the future. As this research has demonstrated, this should be through a 'mixed economy' of mechanisms featuring, market means, state –led intervention (e.g. through planning) and community based democratic forms. Although the current form of localism has been considered somewhat regressive, those who challenge a top-down approach towards place governance often consider localism to be a potential strategy for increasing democratic involvement (Healey, 2015). Therefore, localist policies might improve their effectiveness through democratically defining use rights and values and include those who co-produce the values and the wider community in decision making (cf. Mill, 1848; Lefebvre, 1991; Rawls, 2001; Williamson and O'Neil, 2009; Harvey, 2012; Singer, 2000, 2017). The social relational models considered in the literature (e.g. Singer, 2000, Alexander et al., 2009) fail to present the form or basis for defining democratic values. A contribution of this research therefore, is to suggest that these processes might be better conceptualised alongside overtly co-produced/co-managed formulations (Bovaird, 2007; Mitlin, 2008; Watson, 2014). Further insight could be derived from core principles designed for the sustainable management of the commons (Ostrom, 1990; Foster and Iaione, 2016; Foster, 2011; 2017). The CRTBid could be also be considered from the perspective of the recommendations made by Purcell (2002) in its mobilisation through an emphasis on rights to participate and appropriate the commons. In terms of the CRTBid, it could have greater potential in increasing the protection and community purchase of assets, but ultimately for communities to have a greater say in the governance of AsCV. An element of the quote used to introduce this thesis is pertinent here; it "is not the subversion of the system of individual property, but the improvement of it, and the full participation of every member of the community in its benefits" (Mill, 1848: pp.252-253).

6.5. Future research

This research has highlighted the need for further investigation of some of the specificities and stages of the policy, these are summarised in Table 6.2. The research has also raised attention to the need to carry out research about how the recommendations made above could be developed and mobilised and to aid a more nuanced understanding of the mixed economy of community asset mechanisms currently available and missing. A potential research question might be; *what is the involvement of local actors in shaping judgements about AsCV, particularly where conflicting property claims arise?*

Asset of Community Value Nomination	
Stage/issue	<i>Future research</i>
a. Knowledge and understanding of mechanisms to protect assets.	<ul style="list-style-type: none"> National study of landowners and community groups about the awareness of different mechanisms to 'protect' and/or 'purchase' community assets
b. Defining community value	<ul style="list-style-type: none"> Build on this research to create a 'community value' tool, to increase transparency and consistency amongst stakeholders Survey those who had their nomination declined (identify reasons for refusal, if they resubmitted, communication with LAs, what the demand is for a nominator right to appeal, what has happened to the asset) Formulate an accessible report and raise awareness of the national precedents set by the judiciary
d. Weight of nomination in planning decisions.	<ul style="list-style-type: none"> Further research on how planning decisions are influenced by ACV nominations at a local level and through the Planning Inspectorate Investigate the way the CRtBid is being used alongside other mechanisms – CAT, CPO, Neighbourhood Planning etc.
Community Right to Bid process	
e. Community competing on the market.	<ul style="list-style-type: none"> Explore in greater detail what the success factors of the policy have been through case studies Further research into the gap in knowledge between those who try to and those who are successful in substantiating their right to bid. Evidence, perceptions and barriers of LAs giving loans and Local Councils accessing loans
f. Willingness of landowner to sell to community.	<ul style="list-style-type: none"> Further research on owners of community assets and their relationship with communities Evidence, perceptions and barriers of the use of CPO (in and outside of the CRtBid) in cases of social value

Table 11: Suggestions for future research

Work should be done to investigate the challenges and opportunities of new forms of community-led spaces and relations via action research projects. These investigations might coordinate with other recommendations and issues related to the literature on co-production. This may fruitfully consider how a more democratic process at the scale of an asset might relate to the co-production role of planning (Albrechts, 2012; Parker and Street, 2017) and NDPs (Parker et al., 2015). Furthermore, such research might also explore the potential or whether there is a need for a 'co-production development worker' (Bovaird, 2007) in this context. A particular focus could be on Nordic models of governance,

where community organisations are identified as being involved as part of the co-governance of assets and services (cf. Jepperson, 2002). Here deliberation over property ‘use’ is prioritised before ownership (Trägårdh, 2007; Aiken et al., 2008; 2015). Future research could deepen the specific focus on pubs, to explore in greater detail the relationships between users, owners and LAs, under different (including alternative) ownership and management structures (including LA owned pubs). The production of an action-based online platform, which could involve mapping AsCV and encourage stakeholders to report the outcomes of different governance arrangements at the asset level could publicly log outcomes of research and would contribute to shared learning.

6.6. Reflection: property research and sociality

The profile of AsCV use and success/failure represents how spaces where community and relationships are formed in the conditions available. The (en)closure of community assets are continuing, often with irreparable repercussions, including the continuation of the fragmentation and destruction of communities. Unless governments adopt an alternative approach to the community spaces that are essential to personhood and humanity they will be lost forever. The critical need to address the governance of community assets pertains to distributive justice and should aim to respond to rising social isolation and the needs of the most vulnerable in society. Challenging rhetoric, as demonstrated in this thesis, may further develop the pursuit and experimentation of means to better consider and possibly reclaim commons for a new age; not just through means of legal ownership but through more democratic means. In the words of Mill, “mankind are capable of a far greater amount of public spirit than the present age is accustomed to suppose possible” (1848: II.1.12). While acknowledging the current situation is unclear about delivering outcomes of land use, the evidence from this research, which included LAs, landowners and communities, shows how the social relations of property are vital to local communities.

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Appendices

Appendix A: Pub closures

On a cultural note, homes have been described as a domestic shell, here Goldring refers to *The Broilerhouse Society* where it is observed that people don't range as freely as we used to, "people cross an environment without ever becoming part of it" (1969 in Oldenburg, 1999: p211). Writing in 1969, Goldring implies that "the Englishman's home today is not his castle. It is his centrally heated, bright, combined nesting-cage and exercise run. The family-sized television replaces the crowded cinema, the bottle of beer from the off-licence, the visit to the pub, the telly discussion, the pub argument" (*ibid.*). Overall a survey of tenant publicans identified that "pub companies (PubCos), supermarket pricing, taxation, the recession, the smoking ban, 'cultural change' and government regulation were the biggest challenges facing them in 2014" (Department for Business, Innovation and Skills in Snowden, 2014: p9).

Society

- Declining population in rural areas, little passing trade, impact of second homes (Gallent, 2007: p99; Muir, 2012).
- Other factors, such as the foot and mouth disease has had an impact on pub closures (Bennett et al. 2002)
- In urban areas preference of profitable use of land through residential and retail, permitted development rights allowing change of use without planning permission.
- 208 public houses were converted into supermarkets between Jan 2012-2014 (Nicholls, 2014)
- Travers et al. (2007 in Muir, 2012) state that 15 per cent of the London population have lived in their present location for less than a year, therefore not being able to establish a 'local'.
- Muir (2012) highlights that the ban really had an impact on expenses for creating outdoor smoking areas rather than decline in numbers. However, it is recognised that 'landlocked' pubs with no outdoor space have reported loss in trade (Observer 2008, Mintel 2008).

Lifestyle factors:

- Changing drinking habits, where "we have gone from an overwhelmingly beer-drinking country to a nation with more continental tastes, in particular a growing love for wine" (Muir, 2012: p15).
- Consideration for other cultures where drinking alcohol is not common.
- More considerate of health effects.
- There has been a rising consumption, but proportion of beer that is sold in pubs has gone down from 90% in 1975 to 56% in 2007, therefore more people are consuming beer at home (Muir, 2012: p16).
- Supermarket prices, more affordable to drink at home
- Social habits (increase in use of technology and home entertainment)

- Pint after work, workers no longer traditionally go to the pub on the way home
- Dining, families increase in dining out, therefore spending time in restaurants, new fit for purpose gastro-pubs being built

Industry

- Financial viability. Falling income, rising costs (rents, beer taxes and other business taxes, prices of barley (Muir, 2012: p17)) and operating costs for licensees.
- Furthermore, Muir (*ibid.*) highlighted that

“Government regulation is rightly concerned with promoting public health and reducing crime. However... costs are easily swallowed by the large pub chains which, incidentally, also tend to run the town centre bars that are most often associated with excessive drinking. Most community pub licensees, by contrast, are sole operators having to work within extremely tight margins, and the cumulative cost of increased regulation is much more difficult for them to carry” (Muir, 2012).
- PubCos. The dominance of large pub companies and multinational groups has increased the level of competition and reduced the potentials for small business and community enterprise.

Appendix B: PubCo / Brewer desktop study

The following is a summary on each of the breweries/ pubco's, specifically looking at strategy and any mention of community or recognition of the value of pubs:

	Enterprise Inns	Punch Taverns	Marston's Inns and Taverns	Greene King	Admiral Taverns	Fuller, Smith and Turner Plc	Brakspear
Founded	1991	1997	1834	1799	2003	1845	2002
No. of assets	C5,000	3,500	1700	1,600	C1,000	C400	132
No. of assets CRTBid database	9	7	5	5	1	2	1
CSR	Basic	Basic	Pubs are an "integral part of their communities".	Basic	"Champion of community pubs" "heartbeat of their local community"	"Mindful of our role in society". "beating heart" Family heritage	Family heritage
Strategy	Go beyond just leased/tenanted. sell up to 1000 outlets	Sell non-core assets. Jul 16 sell pub by pub rather than deals. Sold 158 to New River Retail	Focus on building new pubs. Food. Sold 200 to New River Retail	Food-led. Significant purchase of large stock of pubs made May 2015 (1,200 from Spirit Pub Company, which appears to be their entire stock)	US private equity firm purchased Admiral Taverns Jan 2013. Brought stock from Punch in 2007 (869)	Acquisition-focused growth strategy	Expanding in one-off purchases

From the desk research it has been identified that in general the companies appear to be nearing the end of their major stock disposals. But the following strategies are identified;

- **Enterprise Inns:** To sell up to 1000 assets. Increase managed pubs
- **Punch Taverns:** Sell non-core pubs, pub by pub
- **Marston's Inns and Taverns :** Focus on building new pubs. Food
- **Greene King:** Food-led. Made a large recent acquisition.
- **Admiral Taverns:**
- **Fuller, Smith and Turner Plc:** Acquisition focused growth strategy
- **Brakspear:** Expanding in one-off purchases

Enterprise Inns (largest pubco. 9 assets in database that had been identified as being put on market). Around 5000 pubs owned across the country. Although leased and tenanted pubs are at the core of their estate, this is only one end of property spectrum as they hold some assets as commercial properties and others are managed directly within 3 managed house operating models. Their strategy¹ includes a plan to sell up to 1000 outlets and increase number of managed pubs from just 16 to 850 (owned by the group, rather than an individual landlord). ² Basic CSR strategy... pub is hub donor. Share buy back³

Punch Taverns (2nd largest pubco. 7 assets in database). Strategic review of estate carried out in 2007, sold 869 non-core to Admiral Taverns, then at rate of c200/year. In 2015 they sold 158 to New River Retail (REIT focus on retail sector). Generally negative reputation online from previous licensees. Now strategy is to sell 400 pubs over next four years, selling pub by pub for capital investments, not debt.

Greene King (Pubco, brewer). Food-led strategy. In May 2015 Greene King made a significant purchase from Spirit Pub Company that increased ownership from 1,900 to c3,100. Had to dispose of 16 pubs as would have become rivals with one another⁴ On July 10th, 2016 they released that their strategy is to sell 90 worst performing pubs in small batches. Referring specifically about one of their pubs, a spokesperson for Greene King said: "We regularly review our estate and may explore other options around the future of our less sustainable sites, or where they **might better fulfil their potential for the local community under different ownership**".⁵

Admiral Taverns (pubco with c1,000 predominately wet-led pubs). They claim to be the "champion of community pubs" and recognise pubs as being "businesses at the heart of their local area" and "are the **heartbeat** of their local community". Ceberus Capital Management, a US private equity firm purchased Admiral Taverns Jan 2013 (1100 pubs) from Lloyds Banking Group (debt-for-equity swap in 2009). This deal worth £200m erases £150m of loans. In terms of strategy, in September 2014 they purchased 111 pubs from Heineken⁶ and they planned to offload c100 wet-led pubs in Jan 2013⁷.

¹ Detailed strategy online : <http://www.enterpriseinnsplc.com/en/about-us/our-strategy.html>

² <http://www.thisismoney.co.uk/money/markets/article-3078120/Enterprise-Inns-manage-pubs-response-new-powers-tenant-publicans.html>

³ <http://www.iii.co.uk/articles/304167/enterprise-inns-shares-oversold>

⁴ <http://www.harpers.co.uk/news/greene-king-set-to-dispose-of-16-pubs-to-push-through-acquisition-of-rival/519101.article>

⁵

[http://www.wiltshiretimes.co.uk/news/14693824.Potential pub sell off could lose heart of community /](http://www.wiltshiretimes.co.uk/news/14693824.Potential%20pub%20sell%20off%20could%20lose%20heart%20of%20community/)

⁶ <http://www.bighospitality.co.uk/Business/Heineken-agrees-sale-of-111-pubs-to-Admiral-Taverns>

⁷ <http://www.standard.co.uk/business/business-news/pub-group-admiral-taverns-finds-us-buyer-in-ceberus-8438595.html>

Marston's Inns and Taverns (pubco, brewer) Owned 2,250 pubs in 2005 after buying out more breweries. In 2015 opened 25 pub-restaurants and disposed of 117 smaller wet-led pubs. They “are proud that our pubs and breweries are an **integral part of their communities**. For many the relationship has been longstanding; our oldest brewery in Burton was founded in 1834, and our brewery in Wolverhampton in 1890. At Marston's we recognise that the relationship with our **community is an essential ingredient for the appreciation of the distinctiveness our beer brands, and an essential foundation for our pubs**. In terms of strategy, they look to build a portfolio of new builds, franchise agreements and disposal of unsustainable assets.”⁸ They sold 200 pubs to NewRiver Retail⁹ in Nov 2013, who **planned to convert pubs into convenience stores and restaurants**. “This disposal will enable us to reduce the cost of servicing our securitised debt, is consistent with our strategy and improves the quality of our estate.” Ralph Findlay, chief executive. Marston's have also reached an agreement with Daniel Thwaites PLC to acquire the trading operations of Thwaites' beer division on 31st March 2015¹⁰

Fuller, Smith and Turner Plc Fuller's Breweries was founded in 1845, Chiswick, West London. The last of the London brewers. They have a variety of establishments across the country (just under 400), ranging from historic listed buildings to modern bars. Stake itself in traditional values. Traditional, family business with more than **50% owned by the family**. In 2013, they saw a **change in tradition** by appointing a CEO outside founding families.¹¹

Turner had been reported to say that the company's property value is very much in excess of its book value and saw no need for a REIT structure. Discussed the smoking ban and was confident that wouldn't impact on the company as would focus on food and premium quality.¹²

The quotes that follow demonstrate acknowledgement of the impact of their pubs:

“Ever since we brewed our first beer in 1845, we've been **mindful of our role in society** and we continue to make sure our business impacts positively on the world around us. It's an ethos that finds its basis in *respect*. Respect for history and heritage, for our customers and staff. Respect for our local community and for the environment as a whole.”

“more than 380 Fuller's pubs providing the **beating heart** of town and village life right across southern England. We know our pubs have a key role to play in the communities they serve, far beyond providing a social resource, and we actively encourage our tenants and managers to build tight links with their local neighbourhoods. We like to **give something back** to the communities that support us, too, and aim to play our part by getting involved with local events and charities.” They became under pressure from outside investors to sell off their property, but they have resisted. Turner stated in 2006¹³ that “Sadly, we live in a **world made up of short-term interests**. It is quite easy to rape any business for short-term gain these days”.

He has been passionate about the institutional investors/asset strippers targeting breweries with short-term debt-financed strategies. Seen as the cause of the decline of Bass and Whitbread brewing

⁸ http://www.marstons.co.uk/docs/financials/2012_year_end_presentation.pdf

⁹ <http://www.nrr.co.uk/>

¹⁰ <http://www.marstons.co.uk/news/Marstons-plc-acquisition.aspx>

¹¹ <https://www.theguardian.com/business/2013/apr/05/fullers-smith-turner-brewery-chief-executive-family>

¹² <http://citywire.co.uk/money/brewer-fuller-smith-and-turner-to-split-shares/a283865>

¹³ <https://www.theguardian.com/business/2006/jun/10/2>

empires, causing diversification in the 1990s with little success in alternative leisure businesses from bingo halls to health clubs.

"We have always believed it is much better for the business to have long-term shareholders. They feel close to us and we see them on a regular basis," Mr Turner said. "We're 160 years on now, and it still seems to be working well." In January 2016, Simon Emeny and Richard Fuller discuss the long term view of shareholders. - "Beer is a challenging market," chief executive Simon Emeny tells *Business Voice*. Since 2012/13 they have had to brew more bottled beers and more beer for export. Policy that has seen Fuller's weather the recession, and even buy "trophy assets" when others in the sector were forced to sell.

"Historically, when the government has intervened in this industry, it hasn't been to the long-term benefit of either the consumer or the companies," says Emeny.

He doesn't think it's fair that pubs have to pay VAT on food sales, when supermarkets selling fresh food don't. And he is highly critical of the beer duty escalator, which – although now scrapped – saw tax on beer go up 40 per cent between 2008 and 2013. Although he is encouraged by recent moves to reduce tax, big concerns remain about the end of the centuries-old beer tie – whereby a tenanted pub is obliged to buy beer and other drinks from the company they rent from. The company is not directly affected by proposals – with 400 such pubs, it sits below the 500 threshold – but Fuller warns of unintended consequences. The last time an intervention like this was made was in 1989 following the Monopolies and Mergers Commission's report, which stopped big brewers running pubs, he explains. **"None of the big breweries are UK-owned anymore as a consequence of that."** Relying on an **acquisition-focused growth strategy**, Fuller bought five new pubs for £11.1 million, three freeholds and a majority stake in wholesale drinks business Nextar Imports for £2.7 million¹⁴.

Brakspear (Brewer, regional estate of 132 rural, community or town centre pubs). Their strategy is to expand in one off purchases unlike others¹⁵

¹⁴ <http://www.iii.co.uk/articles/325051/fullers-beer-sales-suffer-brewers-droop>

¹⁵ <http://www.morningadvertiser.co.uk/Legal/Property-law/Brakspear-buys-Warks-site-from-City-Pub-Co>

Appendix C: Other relevant policies, tools and legislation

Land Value Tax

Recent theoretical insights have led to recommendations of a 'land value tax' as an approach to reducing inequality (Piketty, 2014), has been the topic of a Communities and Local Government Committee inquiry (Parliament, 2018a) and formed a key point in the Labour manifesto in 2017 (Labour, 2017). The support for a land value tax is based on the fundamental of making of 'land common property' (George, 1879), by recapturing value for the common good. The argument is that this will act to increase wages, improve land use, and reduce the need for other taxes (e.g. council tax and business rates). In the past, based on recommendations made by the Uthwatt Committee (1942), the centrepiece of the Town and Country Planning Act (1947) was that betterment was collected at 75% of the increase in site value, not capital value. Although short lived (abandoned in 1951), "in an English compromise, the idea of separating the attributes of ownership and control became established. It has been crucial to British planning ever since" (Allison, 1975: p49). Since then, there was a "betterment levy" introduced in 1967 and "development land tax" in 1976, which was set at 80% of the increase in value, and although was continued by the Thatcher government at 60%, it was scrapped in 1985. Currently, the existence of the social obligation norm (Alexander and Peñalver, 2012) is present, "albeit perhaps only at the margins of jurisprudence" (Foster and Bonilla, 2011: p106) via distributing the 'planning gain' that occurs through the acquisition of planning permission (Section 106 'Planning Obligations,' in NPPF, 2012: p204; and Community Infrastructure Levy introduced in the Planning Act, 2008).

One Public Estate programme

One of the core aims of the One Public Estate is to allow surplus land to be used as a source of revenue by local authorities (raise capital receipts, reduce running costs). It is viewed as "a commitment to permitting 'capitalisation' – the transfer of capital income to revenue budgets – under certain circumstances. This would allow local authorities that are struggling with reductions in central grant funding to supplement their revenue from this source" (Sandford, 2017: pp. 19-20). In terms of impact, there is evidence that some LAs (such as Eastleigh, Crawley, and Basingstoke & Deane), "have developed commercial property portfolios to provide revenue for local services" (Sandford, 2017: p20). See also Thompson and Wilkes (2014).

The Social Value Act (2013)

On the surface recognises the social value of assets and services is *The Social Value Act* (2013), provides the opportunity for government bodies, councils, clinical commissioning groups and the

emergency services to leverage purchasing powers to derive community benefit via contracts. However, a particular challenge identified with the SVA is the lack of understanding from the community sector and it is recognised that a lack of measurement tool that specifically identifies how much social value can be derived from particular contracts, and how this social value gets measured has hindered the effectiveness of the policy. However, through the development of an online tool, has increased the potential for this mechanism by testing out 'innovative procurement approaches,' specifically it has led to the creation of the Social Value Exchange, where Social Value Credits are the unit of exchange between suppliers and community projects (see Symons and Ebanks, 2016).

Right to Contest

Introduced in 2014, it refers to land that is under used or derelict and is owned by central government and associated agencies (including LAs). Individuals can submit a form and demonstrate that they are surplus to requirements or could be "put to better economic use" (Sandford, 2017).

Appendix D: Summary of LA experience of CRtBid

LA area	Successful	Unsuccessful or removed	No. of assets on market	Experience
Adur	1	1	0	ACV
Allerdale	4	3	2	CRtBid
Amber Valley	8	1	0	ACV
Arun	64	0	0	ACV
Ashfield	1	2	0	ACV
Ashford	1	0	0	ACV
Aylesbury Vale	55	4	4	CRtBid
Babergh	12	1	3	CRtBid
Barking and Dagenham	1	0	0	ACV
Barnet	9	3	0	ACV
Basildon	1	5	0	ACV
Basingstoke and Dean	5	1	0	ACV
Bassetlaw	3	7	1	CRtBid
Bath&NE Somerset	5	0	2	CRtBid
Bedford	7	2	2	CRtBid
Bexley	38	6	0	ACV
Birmingham	5	5	0	ACV
Blaby	4	1	2	CRtBid
Blackburn	5	1	1	CRtBid
Blackpool	2	0	0	ACV
Bolsover	2	1	0	ACV
Bournemouth	8	2	1	CRtBid
Bracknell Forest	4	1	2	CRtBid

Bradford	25	12	6	CRTBid
Braintree	18	2	2	CRTBid
Breckland	4	0	2	CRTBid
Brent	4	2	1	CRTBid
Brentwood	6	0	0	ACV
Brighton and Hove	3	1	2	CRTBid
Bristol, City of	15	6	4	CRTBid
Broadland	15	0	5	CRTBid
Bromley	15	4	3	CRTBid
Bromsgrove	6	0	3	CRTBid
Broxbourne	1	0	0	ACV
Broxtowe	1	0	1	CRTBid
Burnley	1	1	0	ACV
Bury	5	1	1	CRTBid
Calderdale	6	3	2	CRTBid
Cambridge	3	1	0	ACV
Camden	15	5	1	CRTBid
Cannock Chase	1	0	1	CRTBid
Canterbury	5	4	1	CRTBid
Carlisle	3	1	2	CRTBid
Central Bedfordshire	23		0	ACV
Charnwood	4	2	1	CRTBid
Chelmsford	3	0	0	ACV
Cherwell	19	7	5	CRTBid
Cheshire East	11	2	2	CRTBid
Cheshire West & Chester Council	13	7	1	CRTBid

Chesterfield	1	2	0	ACV
Chichester	22	3	6	CRtBid
Chiltern	5	0	2	CRtBid
Chorley	1	0	0	ACV
Christchurch	1	3	0	ACV
Colchester	7	1	1	CRtBid
Copeland	2	1	0	ACV
Corby	1	1	0	ACV
Cornwall	82	47	21	CRtBid
Cotswold	7	4	1	CRtBid
County Durham	11	1	3	CRtBid
Coventry	2	1	0	ACV
Craven	7	3	1	CRtBid
Crawley	1	0	1	CRtBid
Dacorum	12	0	0	ACV
Darlington	6	0	2	CRtBid
Daventry	12	1	1	CRtBid
Derby	3	0	1	CRtBid
Derbyshire Dales	13	2	0	ACV
Doncaster	23	4	0	ACV
Dover	10	11	1	ACV
Dudley	1	0	0	ACV
Ealing	5	0	1	CRtBid
East Cambridgeshire	6	1	2	CRtBid
East Devon	10	8	3	CRtBid
East Dorset	4	1	1	CRtBid

East Hampshire	11	1	0	ACV
East Hertfordshire	3	5	0	ACV
East Lindsey	2	1	2	CRtBid
East Northamptonshire	7	2	4	CRtBid
East Riding of Yorkshire	12	18	0	ACV
East Staffordshire	2	1	0	ACV
Eastbourne	3	0	0	ACV
Eden	6	7	2	CRtBid
Enfield	1	7	0	ACV
Epping Forest	2	2	0	ACV
Erewash	3	0	0	ACV
Fenland	1	0	0	ACV
Forest of Dean	4	0	0	ACV
Fylde	1	0	0	ACV
Gateshead	3	0	0	ACV
Gedling	2	1	0	ACV
Gloucester	3	4	1	CRtBid
Gravesham	2	1	0	ACV
Great Yarmouth	2	3	0	ACV
Hackney	6	1	1	CRtBid
Hambleton	8	1	0	ACV
Hammersmith and Fulham	1	1	0	ACV
Harborough	7	1	1	CRtBid
Haringey	11	2	1	CRtBid
Harrogate	3	6	1	CRtBid
Hart	4	0	0	ACV

Hastings	2	1	0	ACV
Havant	1	0	0	ACV
Herefordshire	50	5	5	CRtBid
Hertsmere	4	2	1	CRtBid
High Peak	2	0	1	CRtBid
Hillingdon	0	0		ACV
Horsham	19	6	0	ACV
Hounslow	3	0	0	ACV
Huntingdonshire	28	12	2	CRtBid
Ipswich	2	0	0	ACV
Isle of Wight	8	4	1	CRtBid
Islington	7	5	0	ACV
Kensington and Chelsea	5	1	1	CRtBid
Kettering	3	1	0	ACV
King`s Lynn and West Norfolk	6	0	3	CRtBid
Kingston	4	2	2	CRtBid
Kingston upon Hull, City of	1	0	0	ACV
Kirklees	9	4	0	ACV
Knowsley	1	0	0	ACV
Lambeth	8	0	0	ACV
Lancaster	2	3	1	CRtBid
Leeds	37	9	2	CRtBid
Leicester	3	ref	0	ACV
Lewes	18	3	0	ACV
Lewisham	5	2	0	ACV
Lichfield	2	1	0	ACV

Lincoln	4	0	2	CRTBid
Liverpool	6	0	0	ACV
Luton	4	1	2	CRTBid
Maidstone	6	3	1	ACV
Maldon	6	3	3	CRTBid
Malvern Hills	9	6	0	ACV
Manchester	2	2	1	CRTBid
Mansfield	2	0	0	ACV
Medway	1	0	0	ACV
Melton	1	1	0	ACV
Mendip	1	3	1	CRTBid
Merton	1	9	0	ACV
Mid Devon	10	3	3	CRTBid
Mid Suffolk	19	2	0	ACV
Mid Sussex	10	2	3	CRTBid
Milton Keynes	14	0	2	CRTBid
Mole Valley	1	1	0	ACV
New Forest	2	1	0	ACV
Newark Sherwood	5	3	1	CRTBid
Newcastle under Lyme	6	2	0	ACV
Newcastle upon Tyne	2	0	1	CRTBid
North Devon	5	1	4	CRTBid
North Dorset	5	3	1	CRTBid
North East Derbyshire	3	0	1	CRTBid
North East Lincolnshire	1	0	0	ACV
North Hertfordshire	23	8	5	CRTBid

North Kesteven	4	1	1	CRTBid
North Lincolnshire	16	2	0	ACV
North Norfolk	14	8	0	ACV
North Somerset	10	6	2	CRTBid
North Tyneside	2	0	0	ACV
North West Leicestershire	6	1	2	CRTBid
Northampton	1	2	0	ACV
Northumberland	15	4	2	CRTBid
Norwich	6	0	3	CRTBid
Oxford	10	0	5	CRTBid
Peterborough	2	0	1	CRTBid
Plymouth	4	4	3	CRTBid
Poole	2	2	0	ACV
Preston	2	3	1	CRTBid
Purbeck	6	2	0	ACV
Reading	7	1	2	CRTBid
Redbridge	2	2	0	ACV
Redcar and Cleveland	1	0	1	CRTBid
Redditch	1	0	1	CRTBid
Ribble Valley	8	4	1	CRTBid
Rochdale	4	1	0	ACV
Rossendale	2	1	2	CRTBid
Rother	8	4	0	ACV
Rotherham	4	0	0	ACV
Royal Greenwich	12	2	0	ACV
Rugby	5	2	0	ACV

Rushcliffe	4	6	0	ACV
Rushmoor	1	0	0	ACV
Salford	2	1	1	CRtBid
Sandwell	1	0	0	ACV
Scarborough	1	1	1	CRtBid
Sedgemoor	9	1	3	CRtBid
Sefton	6	0	2	CRtBid
Selby	7	2	1	CRtBid
Sevenoaks	9	4	2	CRtBid
Sheffield	4	4	1	CRtBid
Shepway	5	1	0	ACV
Shropshire	37	7	8	CRtBid
South Buckinghamshire	7	0	0	ACV
South Cambridgeshire	40	4	6	CRtBid
South Derbyshire	3	4	0	ACV
South Gloucestershire	1	1	0	ACV
South Hams	10	11	2	CRtBid
South Holland	2	0	0	ACV
South Lakeland	8	2	0	ACV
South Norfolk	7	1	1	CRtBid
South Northamptonshire	29	2	1	CRtBid
South Oxfordshire	36	4	3	CRtBid
South Somerset	32	0	6	CRtBid
South Staffordshire	6	1	1	CRtBid
South Tyneside	1	1	0	ACV
Southampton	2	0	0	ACV

Southend-on-Sea	1	1	0	ACV
Southwark	8	2	2	CRtBid
St Albans	18	10	0	ACV
St Helens	2	0	0	ACV
Stafford	11	3	6	CRtBid
Staffordshire Moorlands	7	0	4	CRtBid
Stockport	10	3	1	CRtBid
Stoke	4	1	1	CRtBid
Stratford upon Avon	29	9	1	CRtBid
Stroud	39	20	6	CRtBid
Suffolk Coastal	17	1	2	CRtBid
Swale	8	3	3	CRtBid
Swindon	6	0	1	CRtBid
Tameside	2	0	2	CRtBid
Tamworth	1	0	1	CRtBid
Tandridge	12	2	1	CRtBid
Taunton Deane	17	0	0	ACV
Teignbridge	14	10	5	CRtBid
Tendring	5	0	1	CRtBid
Test Valley	18	1	3	CRtBid
Tewkesbury	11	1	2	CRtBid
Thanet	13	1	2	CRtBid
Three Rivers	1	0	0	ACV
Thurrock	1	1	0	ACV
Tonbridge and Malling	21	2	0	ACV
Torbay	1	1	0	ACV

Torridge	6	2	3	CRTBid
Tower Hamlets	4	0	0	ACV
Trafford	2	0	0	ACV
Tunbridge Wells	6	1	2	CRTBid
Uttlesford	171	30	3	CRTBid
Vale of White Horse	9	0	3	CRTBid
Wakefield	2	11	0	ACV
Walsall	5	1	0	ACV
Waltham Forest	10	0	1	CRTBid
Wandsworth	8	1	2	CRTBid
Warwick	26	5	0	ACV
Waveney	1	0	0	ACV
Waverley	8	2	1	CRTBid
Wealden	19	5	2	CRTBid
Wellingborough	1	1	0	ACV
West Berkshire	7	0	2	CRTBid
West Devon	3	2	0	ACV
West Dorset	11	1	6	CRTBid
West Lancashire	5	1	2	CRTBid
West Lindsey	13	4	1	CRTBid
West Oxfordshire	12	0	5	CRTBid
West Somerset	19	2	1	CRTBid
West Suffolk (Forest Heath & St Edmundsbury)	5	0	2	CRTBid
Westminster	4	0	0	ACV
Weymouth and Portland	5	2	2	CRTBid

Wigan	1	1	1	CRtBid
Wiltshire	49	11	6	CRtBid
Winchester	18	2	3	CRtBid
Windsor and Maidenhead	9	2	1	CRtBid
Wirral	1	3	0	ACV
Woking	1	0	0	ACV
Wokingham	6	0	2	CRtBid
Wolverhampton	3	0	0	ACV
Worthing	1	1	0	ACV
Wycombe	34	2	1	CRtBid
Wychavon	8	2	0	ACV
Wyre	4	1	1	CRtBid
Wyre Forest	10	1	2	CRtBid
York	3	1	0	ACV

Appendix E: Research Tools

a. Local Authority Questionnaire: Community Right to Bid (CRtBid)

General information

Thank you for taking the time to read this.

You have been sent this questionnaire given your involvement in the CRtBid process. **If you are unsure about whether you are the correct person to respond please contact me.**

The research is being undertaken to inform doctoral research on the CRtBid at the University of Reading. **Your input will be highly valued.** Very little research has been done on the CRtBid. This work seeks to highlight the issues and opportunities faced by those involved in the CRtBid process. The primary purpose is to understand more about Assets of Community Value (ACV) and stakeholder experiences of the CRtBid and what is involved, within the wider context of developing more resilient communities. Given that little research has been done, any information that you can provide will be useful for all involved and I will aim to share the results with all those who participate and I should be able to feedback on the national picture for LAs in the near future.

Specifically, the questionnaire focuses on:

Section B Nominations of Assets of Community Value (ACV); Section C Impact of CRtBid / ACV; Section D Resource/Capacity implications of CRtBid / ACV;

Section E Stakeholder experiences of CRtBid / ACV; Section F Other options for community management/ownership of assets.

Please leave the question blank if it is not relevant to you.

The questionnaire should take approximately 30 minutes, depending upon your experience with the CRtBid within your Authority. Please answer the questions with as much detail as possible and attach any documents that you may feel relevant.

All responses will remain anonymous in all publications, contact details are collated for follow-up if necessary. Responses from the completed questionnaires will be collated for analysis and used to form a crucial element of not only my doctoral studies but also to inform wider discussions with DCLG and Locality.

Please note this work has been reviewed by the relevant Head of School, and has been cleared under our ethical research policies.

Should you have any questions please do not hesitate to contact Tessa Lynn via email:

or telephone :

A. General information

Your name:

Email:

Telephone:

Local authority area:

Job title:

Department:

B. Nominations of Assets of Community Value (AoCV)

1. Are you aware of any cases where the landowner has chosen **to sell** to the community through the CRtBid? **YES / NO / UNSURE**

If **Yes**, which asset(s)?

i) Name: Asset Code/ ID:

2. Are you aware of any cases where the landowner, including the local authority, has chosen **not to sell** to the community? **YES / NO / UNSURE**

If **Yes**, who/yes, which asset? What has been the reason(s), if known?

i) Name: Asset Code/ ID: Reason(s):

3. How do you determine if an asset (i.e. a proposed AoCV) “*furtheres the social wellbeing or social interests of the local community?*”

.....

4. Do you apply any criteria for determining if an asset is of community value? **YES / NO / DON'T KNOW**

If **Yes**, please specify the criteria (or **please attach relevant document**):

1)

5. Does the local authority have a process for dealing with nominations concerning Local Authority owned land?

YES / NO / UNSURE If **Yes**, please specify the criteria (or **please attach relevant document or weblink**)

6. Have there been any **internal appeals** with regards to listing an AoCV in your Local Authority area? **YES / NO / UNSURE**

If **Yes** (i.e. an appeal), please provide details (**send/attach documents if applicable**):

Name / **Identifier of asset** **Appeal outcome**

i...../ Code/ ID **Outcome: successful / Unsuccessful / Partly successful**

Please comment on above (e.g. where partly successful what elements were altered...):

Asset i

7. Have there been any **tribunals** with regards to listing an AoCV in your Local Authority area? **YES / NO / UNSURE**

If **Yes** (i.e. an appeal), please provide details (**send/attach documents if applicable**):

Name / **Identifier of asset** **Appeal outcome**

i...../ Code/ ID **Outcome: successful / Unsuccessful / Partly successful**

Please comment on above (e.g. where partly successful what elements were altered...):

Asset i

C. Impact of CRTBid / ACV

8. Have there been cases where the registration of an ACV has influenced a planning outcome? **YES / NO / UNSURE** If yes, in what way has it influenced a planning decision? *Please provide details of each occasion*

i) Name: Code/ID:

Details of impact:

9. Conversely, have there been instances where an asset nomination has been triggered by a development proposal? **YES / NO/ UNSURE** (If **Yes** please identify):

i) Name: Code/ID:

10. Does the Local Plan recognise ACV as a consideration in decision making? **YES / NO / UNSURE**
If **Yes**, how?

11. If **Yes** above, has this local plan policy been deployed in a planning case ? **YES / NO / UNSURE**
Comments / further details – e.g. what happened?

12. Has the CRtBid improved engagement between the Local Authority and the community generally
IMPROVED / NO CHANGE / WORSENERD
Other comments:

Resource/Capacity implications of CRtBid / AoCV

13. What is the annual budget for managing the CRtBid process (exc compensation)? £.....

14. In reference to the above figure does this leave the Local Authority:

Under-resourced / Over-resourced / About right

15. Have the Local Authority budgeted for Compensation? **YES / NO / DON'T KNOW**

IF yes what figure per annum is allocated? £

16. Have your LA paid any compensation to a landlord due to a **delay caused by an interim moratorium** (the 6 weeks period)? **YES / NO / DON'T KNOW** if **Yes** please specify:

i. Name and ID of asset concerned:.....; Amount paid: £.....

17. Have you paid any compensation to a landlord due to a **delay caused by a full moratorium** (6 months)? **YES / NO / DON'T KNOW** if Yes

please specify:

i. Name and ID of asset concerned:.....; Amount paid: £.....

18. Have you paid any compensation to a landlord to **cover legal expenses for a successful appeal to the First-Tier tribunal**? **YES / NO / DON'T KNOW** if Yes **please specify:**

i. Name and ID of asset concerned:.....; Amount paid: £.....

19. Does the Local Authority have a protocol for determining an appropriate amount of compensation?
YES / NO / DON'T KNOW

20. What process and criteria are applied in your Local Authority to determine an appropriate amount of compensation? (send / attach relevant doc if possible) – Please outline:

21. Have your Local Authority experienced an appeal/First-Tier Tribunal yet regarding the amount of compensation awarded? **YES / NO / DON'T KNOW** IF Yes **please add details**

i. Asset name / ID..... Was the amount changed: **Upwards / Downwards / No change**

22. Have there been any other costs accrued to the Local Authority concerning the CRtBid? **YES / NO / UNSURE**
Please explain:

23. What support/training/other resources (e.g. financial support, legal advice) have you had in order to manage the CRtBid process? And from whom?

Specify what: i) ii)iii)

From whom?: i) ii)iii)

24. Overall, how would you rate the advice/support available to Local Authorities?

Excellent ☐

Very Good ☐

Good ☐

Satisfactory ☐

Poor ☐

Not available ☐

Comments/Why do you say this?

25. How could the advice/support available to the Local Authority be improved?

D. Stakeholder experiences of CRtBid / AoCV

26. Have you had any feedback from landowners regarding the operation of CRtBid?

YES / NO / DON'T KNOW

If **Yes**, please provide key points

27. How would you rate the CRtBid as a tool for nominating bodies "to protect locally important community assets"?

i. Ineffective in protecting assets..... ☐

ii. Good way to protect assets ☐

iii. Excellent way to protect assets ☐

iv. Other ☐ Please state

Comments:.....

28. Have you had any experience with external solicitors in relation to the CRtBid? **YES / NO**

29. If **Yes**, have they experienced any problems with the CRtBid? **YES / NO**

If **Yes**, please explain

30. Have you had any experience with "other parties" in relation to the CRtBid? **YES / NO**

If **Yes**, who?

31. If **Yes**, have they experienced any problems with the CRtBid? **YES / NO**

If **Yes**, please explain

32. Have the Local Authority held any workshops or other promotional events **for (potential) nominating bodies** regarding the CRtBid/AoCV? **YES / NO** Please provide details.....
33. Have the Local Authority held any workshops or other promotional events **for landowners** regarding the CRtBid/AoCV? **YES / NO** Please provide details.....
34. Have the Local Authority held any workshops or other promotional events **for other stakeholders** regarding the Community Right to Bid? **YES / NO** Please provide details
35. What advice/support is needed for **nominating bodies**? Please specify
.....
i) Does it need improving? **YES / NO**
ii) If **Yes**, how?
36. What advice/support is needed for **landowners**? Please specify
.....
i) Does it need improving? **YES / NO** If **Yes**, how?
37. What information is needed for the **general public**? Please specify
.....
i) Does it need improving? **YES / NO** If **Yes**, how/
38. What other improvements should in your view be made to the CRtBid/AoCV as a policy tool for communities to protect/take ownership of assets? Please explain
- E. Other options for community management/ownership of assets**
39. Are there other viable ways of protecting valued assets? **YES / NO / DON'T KNOW**
If **Yes**, please explain
40. Has the Local Authority, within the last 5 years, carried out any Community Asset Transfers?
YES / NO / DON'T KNOW If **Yes**:
Number of assets
Types of asset (e.g. public house, allotment, open spaces, library, community centre)
41. Has the Local Authority, within the last 5 years, rented assets at less than market rate?
YES / NO / DON'T KNOW
If **Yes**:

Number of assets

Types of asset (e.g. public house, allotment, open spaces, library, community centre)

- 42.** Has the Local Authority entered into partnership(s) with a community organisation(s) concerning the management of an asset(s)? **YES / NO / DON'T KNOW** If **Yes**:

Number of assets

Types of asset (e.g. public house, allotment, open spaces, library, community centre)

- 43.** Has the Local Authority provided any grants to community organisations wishing to manage or own assets?
YES / NO / DON'T KNOW If **Yes**, please provide details

- 44.** Has the Local Authority used CPO powers on private property in the past 5 years? **YES / NO / DON'T KNOW**
If **Yes**, please provide details

Final comments

- 45.** Please provide details of any other impacts of the CRtBid

I may wish to call you for clarification or to discuss your responses. Please tick if you are **not** happy for me to do so ☐

b. Nominating body questionnaire: CRtBid Research

General information

Thank you for taking the time to read this.

You have been selected to take part in this questionnaire due to your involvement in the community right to bid process, specifically the asset(s) you have listed and/or submitted an intention to bid for, has been offered for sale. **If you are unsure about whether you are the correct person to respond please contact me.**

The research is being undertaken to inform doctoral research on the Community Right to Bid (CRtBid) at the University of Reading. **Your input will be highly valued** as very little research has been done on the CRtBid and this work seeks to highlight the issues and opportunities faced by those involved in the CRtBid process. The primary purpose is to understand more about Assets of Community Value (ACV) and stakeholder experiences of the CRtBid and what is involved, within the wider context of developing more resilient communities. Given that little research has been done, any information that you can provide will be useful for all involved and I will aim to share the results with all those who participate.

Please leave the question blank if it is not relevant to you.

Specifically, the questionnaire focuses on: *Stages of the CRtBid; Motivations, Expectations and Experiences; the Intention to bid; and CRtBid Overall.* The questionnaire should take approximately 30 minutes, depending upon your experience with the CRtBid. Please answer the questions with as much detail as possible and attach any documents that you may feel relevant.

All responses will remain anonymous in all publications, contact details are collated for follow-up if necessary. Responses from completed questionnaires will be collated for analysis and used to form a crucial element of not only my doctoral studies but also to inform wider discussions with DCLG and Locality.

This project has been agreed by the relevant by the Head of School, under the University's ethical policy for research. Should you have any questions please do not hesitate to contact me via email: _____ or telephone _____

A. General details

i. *Your name:*

- ii. *Your Email:*
- iii. *Telephone no:*
- iv. *Your Local Authority area:*
- v. *Name of Organisation:*
- vi. *Your role / connection to the Organisation*
- vii. *Type of Organisation:*
- Parish / Town Council ☐
 - Established Community Org. (e.g. Residents Group, Local Amenity Group) ☐
 - Neighbourhood Forum ☐
 - Other (please specify) ☐
- viii. Are you part of an 'Unincorporated Body' under the Localism Act 2011?
YES / NO / UNSURE
- ix. Did you need to create an organisation specifically in order to put a nomination together? **YES / NO**
- x. How did you find out about the CRTBid?
Voluntary Organisation (e.g. CAMRA, ACRE, Rural Community Council, Locality) ☐
(Please state which voluntary sector org):
Local Councillor ☐ Who.....
Internet search ☐
Social Media ☐
Colleague or Neighbour ☐
Other ☐
If 'Other' Please state where/who.....

B. Stages and decisions involved in the CRtBid / AoCV process

1. Are you the nominating body or an organisation intending to bid?

Nominating Body / Organisation intending to bid

2. Name and address of the landowner

3. When was the asset put onto the market (i.e. when did the interim moratorium / six week period commence)? **Date: Day:..... / Month..... / Year**

4. Has the 'protected' period of 18 months finished? **YES / NO**

If **Yes** please indicate the date this period finished: **Day:..... / Month:..... / Year:**

5. Did your organisation originally (when nominating) intend to put a bid together if the asset came onto the market? **YES / NO / MAYBE**

i. Has the intention to bid changed over time? **YES / NO**

ii. If **Yes** or **Maybe**, why/in what way has the intention to bid changed over time?

.....

6. If the asset is within the interim moratorium (6 weeks), do you intend to trigger the full moratorium? **YES / NO / MAYBE**

If **No**, why not?

If **Yes** or **Maybe**, do you intend to bid? **YES / NO**

If you are within the interim moratorium, please move to Q14

7. Has **your** organisation triggered a full moratorium? **YES / NO**

If **No**, why not?

8. Has another organisation(s) triggered the full moratorium? **YES / NO**

If **Yes** who?

If your organisation did not trigger the full moratorium, move to Q12

9. If you are within the full moratorium period, do you intend to bid? **YES / NO**

10. Has your organisation submitted a bid? **YES / NO**

If **No**, why not?

11. Has your organisation successfully purchased the asset? **YES / NO**

If **NO** please indicate:

- i. Currently unresolved ☐
- ii. Landowner chose not to sell to you ☐
- iii. Intended to bid but unable to raise funds ... ☐
- iv. Other (please specify).....

12. If you **did not** purchase the asset, what has happened to the asset?

13. If you **did** successfully purchase the asset where did the funds come from?

Tick all that apply:

- i. Bank ☐
- ii. Community Shares ☐
- iii. Big lottery funding ☐
- iv. Charitable foundation ☐
- v. Private Donors (local people, businesses, philanthropist) ☐
- vi. Other ☐ (please specify)

14. How did the nomination application go? **WELL / OK / NOT SO WELL**

Please explain

15. Did you have any issues with identifying the landowner(s)? **YES / NO**

If **Yes** what were they?

16. Did you have any communication with the landowner prior to submitting your nomination?

- Did not try to contact ☐
- Successful ☐
- Unsuccessful ☐

Please explain

C. Motivations, Expectations and Experiences

17. What does the asset currently do for the area? Please summarise in 100 words

18. What could be done to increase the impact that the asset has on the wider community?

19. Would a change in ownership increase the impact it has on the community?

YES / NO / MAYBE Please explain

20. Has your organisation nominated multiple assets that are of community value in your area? **ALL / MANY / FEW / ONE / NONE**

21. Would you rather enter into an agreement to manage the asset as opposed to own/to have a right to bid? **YES / NO / MAYBE**

If **Yes**, why?

If **No**, why do you feel that ownership is important?

If **Maybe**, please explain

22. Do you feel that it should be someone else's responsibility to protect this asset? **YES / NO**

If **Yes**, who?

23. Do you feel that another organisation or authority is better suited to manage the asset?

YES / NO / MAYBE

Please explain why and If **Yes**, who?.....

24. Do you think that the asset would have greater potential if under the control of the community? **YES / NO / MAYBE**

Please explain

25. Prior to the nomination, did your organisation have an involvement with the asset? **YES / NO**

If **Yes**, in what way?

26. Why have you listed the asset? (tick all that apply)

- a. To enable the opportunity to purchase the asset ☐
- b. To have it recognised legally as an asset of community value ☐
- c. To influence a particular planning decision ☐
- d. To create more time to create a campaign against the sale/development of asset .. ☐
- e. Other (please explain)

27. When compared against claimed benefits of the CRtBid/AoCV, has the process:

- i. Allowed you to “protect the asset”

YES/NO/SOMEWHAT

- ii. Provided more opportunity to take control of assets and services **YES/NO/SOMEWHAT**

- iii. Levelled the playing field (due to providing time to prepare a bid) **YES/NO/SOMEWHAT**

- iv. Given a fair chance to make a bid

YES/NO/SOMEWHAT

28. How would you rate the CRtBid as a tool for community organisations “to protect locally important community assets”?

- i. Ineffective in protecting assets..... ☐
- ii. Good way to protect assets ☐
- iii. Excellent way to protect assets ☐
- iv. Other (please state)..... ☐ Comments:.....

29. Has the nomination of the asset influenced a planning decision(s)?

YES / NO / DON'T KNOW If **Yes**, how has this played out?

30. Are there alternative options that you are aware of that could (have) achieve(d) the aims of your organisation in relation to the asset?

Please explain:.....

D. Intention to bid for an AoCV

31. Do you intend to put a bid forward in order to purchase the asset?

YES / NO / MAYBE

If **No or Maybe**: Why not? What are the obstacles?

If you **do not bid**, what do you expect to happen to the asset?

32. Do you know of another organisation who intends to bid for the asset? **YES / NO**

If **Yes**, who?

If you do not intend to bid, please move to Q41

For those *who intend to submit a bid to purchase the asset OR have already submitted a bid* (either successfully or unsuccessfully)

33. What is/was the motivation for purchasing the asset? (tick all those that apply)

- a. Threat of closure/vacancy ☐
- b. Protect from change of ownership ☐
- c. Protect from change of use ☐
- d. To assist the aims of your organisation ☐

34. Have the motivations expressed above changed over time? **YES / NO**

Please explain how and why

35. Has your determination to place a bid changed over time?

INCREASED / DECREASED / NO CHANGE

36. Is/would ownership of the asset (be) important to the mission of your organisation? **YES/NO** If **Yes**, how/in what way?

.....

If **No**, why do you intend to bid?

37. For those intending to or have placed a bid, what are the perceived benefits (added value) of you or another community organisation purchasing/owning the asset?

38. What are the other benefits of you or another organisation purchasing the asset?

39. Is there/has there been any lack of skills and/or knowledge within your group/network to draw upon to help with making a bid? **YES / NO /**

DON'T KNOW If **Yes**, what would be or could have been useful?

Sufficient / A Little / None

- i) Property valuation ☐ ☐ ☐

ii)	Town planning knowledge	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
iii)	Community engagement	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
iv)	Other Please state.....	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

40. Have you used (or intend to use) consultants? **YES / NO / DON'T KNOW**

For what?

41. Have there been any other costs associated with putting a bid together? **YES / NO**

If Yes, Please state:

E. CRtBid Overall

42. Due to the nomination of the asset(s), what impact has this had on the following relationships?

	<i>Improved</i>	<i>Declined</i>	<i>No Change</i>
i. Current owners/tenants	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
ii. Other organisations	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
iii. Within the community	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
iv. Local Authority	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
v. Other (Please specify.....)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Please provide any further details/comments on the above:

43. With regards to the CRtBid, how would you rate communication with the following:

	Excellent / Good / Reasonable / Satisfactory / Unhelpful
i. Local Authority	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
ii. Wider Community	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
iii. Organisations	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
iv. Consultants	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>

Other stakeholders you have engaged with (please specify):

v..... ☐ ☐ ☐ ☐ ☐

vi..... ☐ ☐ ☐ ☐ ☐

44. Please provide further comments (if any) on engaging with the stakeholders mentioned above

45. What do you think could be improved or simplified about the CRtBid/AoCV process?

46. What else do you think could be done to help communities protect valued assets?

47. Given the above, how would you rate the CRtBid as a tool “to protect locally important community assets”? **Excellent / Very Good / Good / Satisfactory / Poor**

Comments/Why do you say this?

48. How would you rate the advice/support available to communities?

Excellent / Very Good / Good / Satisfactory / Poor

Comments/Why do you say this?

I may wish to call you to discuss. Please tick if you are not happy for me to do so ☐

Thank you for your time and consideration

c. Landowner telephone Interview: semi-structured interview proforma

1. Are/were you the: **freeholder/leaseholder / Agent** of this asset?
2. How would you describe yourself or client?
3. Portfolio of land and property:
4. Details of other Assets of Community Value held:
5. AoCV that have been put on market:

1. **Name: Date: Day:..... / Month..... / Year**

2. **Name: Date: Day:..... / Month..... / Year**

6. Is the asset still within your/your clients ownership? **YES / NO**
7. Do you think that the asset(s) in question is of community value (or could be)? **YES / NO**
Please explain
8. Do you think that the CRtBid has had an impact on your/your clients private property rights?
9. Do you think it has had a
Major Impact / Minor Impact / No Impact
10. Do you think that the CRtBid restricts who you can sell your asset to? **YES / NO**
Please explain
11. Do you think the CRtBid affects the price and/or value that you or your client can sell your asset for? **YES / NO**
Please explain
12. Do you feel that the regulations are fair? **YES / NO / NOT SURE** (*If agent, what is their professional view of the regulations being fair?* **YES / NO / NOT SURE**)
Please explain
13. Have you / client requested an internal review? **YES / NO** If **Yes**, what was the outcome?

Successful / Unsuccessful / Partly Successful

14. Have you / client requested an oral hearing? **YES / NO**

If **Yes**, what was the outcome?

Successful / Unsuccessful / Partly Successful

15. Have you / client requested a First-Tier Tribunal? **YES / NO**
16. If you/ client requested a review, an oral hearing or tribunal, what were you appealing against? (tick all those that apply)
The eligibility of the asset ☐
The eligibility of the nominator ☐
New factors that have come to light since the original decision was made ☐
Irrelevant/improper matter was taken into consideration when the LA made the decision ☐
17. If you requested a review, please provide further comments on **why** you appealed against the listing of your asset
18. If you are still within the moratorium, do you intend to sell to the community organisation?
YES / NO / MAYBE
19. Have you made a claim for compensation due to a delay caused by a moratorium? **YES / NO**
If no, why not?
20. Have you **chosen to** sell the asset to a community organisation? **YES / NO / Considering it**
21. Have you **chosen not to** sell the asset to a community organisation? **YES / NO**
If **No** have you sold the asset? **YES / NO**
If **No** what do you intend to do with the asset?
If **Yes**, what are the reasons to **not** sell to the community group?
22. How would you rate your experience of the CRtBid?
Excellent / Very Good / Good / Satisfactory / Poor Comments
23. What do you think should be changed (if anything?)
24. How should this be changed?

d. Questions for semi-structured interviews with pubco's and breweries

Introduction to research

This research is being undertaken to inform doctoral research at the School of Real Estate and Planning, Henley Business School on how government reforms to local planning and governance are being implemented and received by a range of stakeholders. This part of the research is crucial as very

little has been done to collate the landowner's perspective of the reforms. In particular, the way that the Community Right to Bid and asset transfer under the Localism Act have been performing and affecting the rights and responsibilities of landowners.

This interview schedule covers the following key themes:

- A. Landholdings and strategy**
- B. Policy and Planning regulations**
- C. Community Right to Bid and Assets of Community Value (ACV)**

All responses will remain anonymous in all publications; contact details are collated for follow-up if necessary. Responses from the completed questionnaires will be collated for analysis and used to form a crucial element of not only my doctoral studies but also to inform wider discussions with relevant national organisations.

Please note this work has been reviewed by the relevant Head of School, and has been cleared under ethical research policies.

A. Landholdings and strategy

1. How many pubs does your company own?
2. How have the number of pubs your company has owned changed over past 10 years? *Prompt: Strategy, motives*
3. Does the *company* own any other property, other than public houses? **Yes / No / Don't Know.** Comments
4. What is your current asset management strategy? Is there a particular desire to own more of one type of public house (freehouse, leased/tenanted/managed)? Why? Which ones are having the most success? (MOT)
5. How has your strategy changed over the past 10 years? What has caused the change? (MOT)
6. What do you feel are the greatest opportunities with regards to your landholding(s) for the future?
7. What do you feel are the greatest barriers with regards to your landholding(s) for the future?

B. Public Houses

8. What do you feel are the main causes of the closure of pubs over recent years?
9. How would you define a public house?
10. Do you think that there is a value beyond the public house's price tag? **Yes / No / Don't Know.** Comments (VAL)
11. If yes, how should this value be reflected? (VAL, MOT) *Prompt: How should this value be highlighted/recognised, if at all?*
12. Do you think the value of the Great British Pub has changed over recent years? **Yes / No / Don't Know.** Comments (VAL, MOT)

13. Do you feel that you have a responsibility to protect these pubs? **Yes / No / Don't Know.** Comments (RES) (Prompt: Whose responsibility?)

C. Policy and planning regulations

14. What do you think are the most appropriate ways the government could help protect community **valued** assets? (RIG) (What limitations on these assets, if any, should be in place?)

15. What difference has the Localism Act made to your company? (MOT, RIG, OWN)

16. Do you feel that the Localism Act / Community Right to Bid effects your rights as a landowner? **Yes / No / Don't Know.** Comments (RIG)

17. Do you feel that the Pubs Code regulations and the Article 4 Direction 2016 effect your rights as a landowner? **Yes / No / Don't Know.** Comments (RIG)

18. Have your shareholders expressed any opinion on the Localism Act (and Pubs Code, Article 4 Direction)? (RIG, RES)

D. Community Right to Bid and Assets of Community Value

19. Have you sold a public house to a community group through the CRtBid? **Yes / No / Don't Know.** (Prompt: **Yes**, *Why did you choose to sell to a community group?* **No**, *Has there been any reasons for not selling to a community group?* Have you sold a public house to a community group other than CRtBid) **Details** (Assets)

20. In the case of XXX you decided to do XXX, could you talk me through how you came to that decision?

21. Have you been involved in an appeal(s) or tribunal(s) regarding a listing of an AoCV? **Yes / No / Don't Know.** Details (date, why, documentation?)

22. Of the listed assets that you currently or previously own(ed), do you feel that they are or have been of community **value**? Yes – in what way; No – why not?

23. What would you have liked to have done with the assets involved in the Community Right to Bid process as opposed to what has happened to the asset(s) discussed?

24. What are the issues with the CRtBid? (Prompt: *Why is this an issue? What impact is this having?*)

Tessa Lynn

Tessa Lynn

Appendix F: Considerations for deciding if an asset is of community value.

- The ownership of the land; for instance, local authorities may wish to consider whether land constitutes an asset of community value because it is publicly owned (for example, by the local authority or a government department).
- The occupier of the land (where this is not the same as the owner), for example, if there were a key statutory service, such as the Police, occupying a building as a leaseholder.
- The current or former use of the land (i.e. if a building is currently unused but has recently been used as an asset of community value) as this will be an important factor for local authorities in considering whether a piece of land or a building is an asset of community value.
- Evidence of the strength of community feeling supporting the asset being maintained for community use.
- The price, or value, of the land, which could perhaps allow the local authority to refuse a nomination on the grounds that it was beyond the realistic reach of a community organisation.
- Statutory provisions that relate to the land, which would allow for specific reference to be included for land that is subject to restrictions on its sale, e.g. there are statutory provisions governing the sale of trust ports and statutory allotments”

Source: DCLG, 2011a

Appendix G: CRTBid summary of the national database

No.	Local Authority	Name of asset	Type of asset (current (1st) / former use)	Type of organisation	Owner	Date of listing	Notice from owner to dispose (S95(2))	Full moratorium
1	Bedford	The Red Lion Pub	Public House	Town/Parish Council	Unknown	15.04.2013	05/11/2013	05/05/2014
2		Three Compasses PH	Public House	Town/Parish Council	Unknown	02/09/2013	10/10/2013	10/04/2014
3	Darlington	Former Arts Centre	Music/Arts/Theatre	Co-operative or Community Benefit Society	Unknown	20/03/2013	09/07/2013	no
4		Club house and car park, former Blackwell Grange golf club	Sports Facility and/or Grounds	Unincorporated Body	Unknown	23/10/2013	11/11/2013	11/05/2014
5	Durham	Middleton-in- Teesdale Studies Centre	Sports Facility and/or Grounds	Charity / CIO	Unknown	20/05/2014	03/11/2014	
6		Stanley Day Centre	Semi-Residential	Charity / CIO	Unknown	23/07/2014	03/11/2014	
7		Feryemount Residential Care Home	Semi-Residential	Company Limited by Guarantee	Unknown	05/03/2015	19/03/2015	17/09/2015
8	Northumberland	CROWN AND ANCHOR INN	Public House	Town/Parish Council	Unknown	03/12/2012	21/12/2012	
9		ROSE AND CROWN	Public House	Charitable Trust	Unknown	03/12/2012		
10		THE BLACK BULL	Public House	Unincorporated Body	Unknown	03/03/2014		Feb-15
11	Cheshire East	AP Sports and Social Club	Sports Facility and/or Grounds	Town/Parish Council	Sanofi Aventis (French company)	03/12/2013	20/12/2013	20/06/2014
12		Vale Allotments	Allotment	Unincorporated Body	Unknown	17/10/2014	23/10/2014	24/04/2015

13	Cheshire West and Chester Council	Burton Manor	Outdoor Amenity and Open Spaces	Company Limited by Guarantee	Unknown	16/05/2014	20/05/2014	20/12/2014
14	Allerdale	The Lion Inn, Ireby	Public House	Unknown	Unknown	02/05/2014	08/05/2014	08/12/2014
15		Moot Hall, Keswick	Hall	Town/Parish Council	Unknown	18/12/2014	09/01/2015	09/07/2015
16	Eden	Pategill Back Field	Outdoor Amenity and Open Spaces	Unincorporated Body	Eden DC	10/01/2013	10/01/2013	09/07/2013
17		Wooded area off Brent Road	Outdoor Amenity and Open Spaces	Unincorporated Body	Eden District Council, Town Hall, Penrith	10/01/2013	10/01/2013	09/07/2013
18	Bury	Buildings, car park and Football Ground, Bury Football Club, Gigg Lane, Bury BL9 9HR (Refer to attached plan)	Sports Facility and/or Grounds	Co-operative or Community Benefit Society	The Bury Football Club Co Ltd	21/02/2014	02/02/2015	
19	Manchester	Hough End Hall	Hall	Charity / CIO	Unknown	20/05/2014	20/05/2014	20/11/2014
20	Salford	Former Council Offices	Office	Charity / CIO	Salford City Council	29/01/2013	29/01/2013	31/07/2013
21	Tameside	Formerly Mossley Market Ground	Other	Unincorporated Body	Unknown	10/09/2014	12/09/2016	24/04/15
22		land at the corner of Hulme Road and Windsor Road	Outdoor Amenity and Open Spaces	Unknown	Unknown	17/02/2012	17/02/2012	
23	Wigan	The Old Springs Public House	Public House	Unincorporated Body	Marston's Pubs Ltd	12/08/2013	03/09/2013	no
24	Lancaster	The Ship Hotel,	Public House	Unknown	Daniel Thwaites Plc	06/06/2013	14/10/2013	13/04/2014
25							27/01/2015	26/07/2015
26	Preston	YMCA	Semi-Residential	Unknown	Unknown	18/01/2013	05/01/2015	05/07/2015
27	West Lancashire	Burscough Police Station	Police/Fire/Ambulance Station	Town/Parish Council	Unknown	28/11/2012	28/11/2012	no

28		Land at Jubilee Colliery	Outdoor Amenity and Open Spaces	Unincorporated Body	Unknown	23/03/2015	19/03/2015	19/09/2015
29	Wyre	The Mount Methodist Church	Religious Building	Community Interest Company	The Trustees of the Methodist Church, North Fylde Circuit	29/11/2013	19/12/2013	19/06/2014
30		Garstang Business Centre	Community Centre	Town/Parish Council	Wyre Borough Council	06/02/2014	19/06/2014	19/12/2014
31	Stratford on Avon DC	The Greig Centre	Community Centre	Town/Parish Council	Unknown	15/02/2013	14/03/2013	13/09/2013
32	Sefton Metropolitan Borough Council	Birkdale Library	Library	Charity / CIO	Unknown	07/01/2014	06/02/2015	07/08/2015
33		Aintree Library	Library	Religious Organisation	Unknown	08/08/2014	06/02/2015	07/08/2015
34	Harrogate	Punchbowl Inn Site in Burton in Lonsdale	Public House	Town/Parish Council	Daniel Thwaites PLC	11/02/2014	24/03/2014	24/09/2014
35		Darley Village Store and Post Office	Post Office	Town/Parish Council	Unknown	06/03/2014	13/03/2014	no
36	Scarborough	The White Swan Hotel	Public House	Town/Parish Council	Unknown	19/07/2013	08/08/2013	07/02/2014
37	Selby	Former Methodist Church Former Methodist Church	Religious Building	Town/Parish Council	Unknown	03/06/2014	22/01/2015	
38	Calderdale	Former Hebden Bridge Police Station	Police/Fire/Ambulance Station	Residents Association	Unknown	03/10/2013	03/10/2013	04/04/2014
39		Holywell Inn	Public House	Unincorporated Body	Unknown	04/03/2013	29/05/2013	29/11/2013
40	Leeds	Former Sheepscar Library	Library	Charity / CIO	Unknown	14/01/2013	20/02/2013	21/08/2013

41		Headingley Community Centre	Community Centre	Co-operative or Community Benefit Society	Unknown	19/12/2014	16/04/2015	
42	Derby	SITE OF DERBY HIPPODROME - ALSO KNOWN AS WALKERS BINGO AND SOCIAL CLUB	Sports Facility and/or Grounds	Charitable Trust	Unknown	14/02/2013	18/04/2013	18/10/2013
43		Anglers Rest Hotel	Public House	Co-operative or Community Benefit Society	Unknown	30/04/2013	21/05/2013	19/11/2013
44	Blaby	Land Occupied by Meadows Sports Association Ltd	Outdoor Amenity and Open Spaces	Unknown	Unknown	25.3.2014	02.04.2014	01.10.2014
45		Stoney Stanton Social Club	Sports Facility and/or Grounds	Charity / CIO	Unknown	01.07.2014	04.08.2014	03.02.2015
46	Charnwood	Rosebery St. Peter's Community Centre	Community Centre	Company Limited by Guarantee	Unknown	05/06/2014	11-Jul-14	11-Jan-15
47	Harborough	Garages Paget Road Lubenham	Other	Town/Parish Council	Unknown	15/11/2013	04/01/2014	04/07/2014
48	North West Leicestershire	The Jolly Sailor,	Public House	Town/Parish Council	Unknown	11/06/2014	23/04/2015	
49		Moir Road car park,	Car Park	Town/Parish Council	Unknown	21/10/2014	27/02/2015	26/09/2015
50	EAST LINDSEY DISTRICT COUNCIL	The Lion Theatre	Music/Arts/Theatre	Company Limited by Guarantee	Unknown	18/09/2014	15/01/2015	14/07/2015
51		Pier Field	Outdoor Amenity and Open Spaces	Unincorporated Body	Unknown	09/03/2015	09/03/2015	09/09/2015
52	Lincoln	The Lawn	Outdoor Amenity and Open Spaces	Unknown	Unknown	15/01/2014	20/03/2014	01/11/2014
53		Ivy Tavern	Public House	Unincorporated Body	Unknown	27/03/2015	07/04/2015	
54	North Kesteven	The Nags Head	Public House	Unincorporated Body	Unknown	11/02/2015	28/01/2015	11/08/2015
55	West Lindsey	Allotments	Allotment	Town/Parish Council	Unknown	10/11/2014	26/03/2015	26/09/2015
56	Daventry	Yelvertoft Stores and Post Office	Shop	Town/Parish Council	Gareth L Howard and Christopher	19/03/2013		no

					Elmes 80a High Street Yelvertoft Northants NN6 7LQ			
57	South Northamptonshi re	Swan Inn Public House	Public House	Town/Parish Council	Unknown	05/01/2015	27/01/2015	26/07/2015
58	Bassetlaw	Winston Green,	Outdoor Amenity and Open Spaces	Unknown	Mattersey Parish Council	08/09/2014	31/10/2014	16/06/2015
59	Broxtowe	New White Bull	Public House	Unincorporated Body	Greene King Retailing Limited / Paragon Property Developme nt	18/07/2013	06/08/2013	12/03/2014
60	Newark Sherwood	Former Working Men's Club	Sports Facility and/or Grounds	Town/Parish Council	Unknown	12/05/2014	13/05/2014	13/11/2014
61	Herefordshire	St John Kemble	Semi-Residential	Town/Parish Council	Unknown	24/10/2013	12/09/2013	04/03/2014
62		West End Stores	Shop	Unknown	Unknown	14/01/2015	12/09/2013	04/03/2014
63		Castle Inn	Public House	Unknown	Unknown	20/03/2013	29/04/2013	28/10/2013
64		Royal George Inn	Public House	Unincorporated Body	Pun ch Taverns	05/02/2013	25/02/2013	25/08/2013
65		The Slip Tavern, Watery Lane	Public House	Unknown	Unknown	27/04/2015	27/04/2015	26/10/2015
66	Shropshire	The Cross Keys Inn	Public House	Unincorporated Body	Unknown	19/06/2014	25/06/2014	25/12/2014
67		Donnington Church Centre	Hall	Unknown	Unknown	06/06/2014	06/10/2014	06/04/2015

68		Ford Bowling Green	Sports Facility and/or Grounds	Unknown	Unknown	23/05/2014	03/10/2014	03/04/2015
69		Bear Steps	Music/Arts/Theatre	Town/Parish Council	Unknown	30/01/2014	16/01/2015	
70		The Crown Inn, Newcastle, Craven Arms	Public House	Town/Parish Council	Unknown	02/12/2013	03/12/2013	03/06/2014
71		Sheriffhales Playing Field	Outdoor Amenity and Open Spaces	Unknown	Unknown	25/10/2013	04/11/2013	04/05/2014
72		The Ironworks	Music/Arts/Theatre	Unknown	Unknown	13/09/2013	14/11/2013	14/05/2014
73		The Pheasant Inn	Public House	Unknown	Unknown	11/06/2013	05/08/2013	05/02/2014
74	Stoke	Former Fenton Library	Library	Residents Association	Stoke on Trent City Council	08/05/2014	17/06/2014	16/12/2014
75	South staffordshire	The Crown Public House, Codsall Wood	Public House	Unincorporated Body	Marston's PLC	13/11/2013	16/12/2013	16/06/2014
76		Holly Bush Inn	Public House	Town/Parish Council		07/10/2013	06/12/2013	06/06/2014
77		The Royal Oak	Public House	Co-operative or Community Benefit Society	Marston's Brewery	22/04/2014	19/05/2014	17/11/2014
78	Staffordshire Moorlands	The White Hart	Public House	Unincorporated Body	Marston's Inns and Taverns,	24/07/2014	29/07/2014	27/01/2015
79		British Red Cross Building	Office	Charity / CIO	Unknown	05/02/2015	10/03/2015	07/09/2015
80	Tamworth	Wilnecote Board School	Education Centre/School	Residents Association	Staffordshire County Council	05/12/2014	16/04/2015	16/10/2015
81		Catshill Library	Library	Town/Parish Council	Unknown	4 th April 2013		N/A
82	Bromsgrove	Bromsgrove Museum	Education Centre/School	Charity / CIO	Unknown	5 th June 2014		20/12/14
83	Wyre Forest	County Buildings and Land	Office	Civic Society	Unknown	11/12/2014	19/01/2015	18/07/2015

84		Old School Site	Education Centre/School	Unknown	Unknown	14/06/2013	13/05/2014	
85	Cambridge	Royal British Legion Hall	Hall	Neighbourhood Forum	Unknown	28/11/2013	13-Mar-14	
86		Sturton Street Methodist Church and Church Hall	Religious Building	Unincorporated Body	Unknown	18/08/2014	1 September 2014	1st March 2015
87	East Cambridgeshire	The Three Blackbirds	Public House	Town/Parish Council	Unknown	20/05/2014	05/06/2014	04/12/2014
88		Bus shelter	Other	Town/Parish Council	Unknown	03/06/2013	08/07/2013	
89	Braintree	Sible Hedingham Billiards and Social Club	Hall	Town/Parish Council	Unknown	12/07/2013	15/07/2013	14/01/2014
90		Cross Keys	Public House	Town/Parish Council	Unknown	18/09/2014	16/10/2014	15/04/2015
91	Colchester	Former West Mersea Police Station	Police/Fire/Ambulance Station	Town/Parish Council	Unknown	11/08/2014	21/08/2014	21/02/2015
92	Maldon	Norton Public House	Public House	Company Limited by Guarantee	Unknown	14th Oct 2013	31st October 2014	
93		The Rose and Crown Public House	Public House	Unincorporated Body	Unknown	7th February 2014	7th February 2014	
94		The DuCane Arms	Public House	Town/Parish Council	Unknown	18th Nov 2013	19th November 2013	
95	Uttlesford	Fairycroft House	Community Centre	Unknown	Essex County Council	19/02/2013	10/12/2013	10/06/2015
96		Methodist Chapel	Religious Building	Unknown	Unknown	09/05/2013	14/11/2013	14/05/2014
97		Clarance House	Education Centre/School	Unincorporated Body	Unknown	19/02/2013	27/03/2014	27/09/2014

98	Hertsmere	Three Horseshoes Public House	Public House	Town/Parish Council	Unknown	24/05/2013	10/06/2013	10/12/2013
99	North Hertfordshire	Royston Hospital site	Medical and Health Care Services	Charity / CIO	Unknown	04/04/2013	Apr-13	04/10/2013
100		Royston Market Place	Other	Town/Parish Council	Unknown	15/10/2013	yes	
101		Sir John Barleycorn PH	Public House	Unincorporated Body	Unknown	01/11/2013	yes	
102		The Cricketers PH	Public House	Town/Parish Council	Unknown	09/07/2014		
103		British Legion House and former Paynes Park Social Club	Sports Facility and/or Grounds	Unincorporated Body	Unknown	01/08/2014		
104	Breckland	The Fox Inn	Public House	Town/Parish Council	Unknown	27/01/2014	22.05.14	22.11.14
105		The Blue Lion	Public House	Company Limited by Guarantee	Unknown	21/09/2013	01.11.13	01.05.14
106	Norwich	Silver Rooms Day Centre	Community Centre	Charity / CIO	Unknown	30/01/2013	30/01/2013	31/07/2013
107		Royal British Legion Jubilee Hall	Hall	Unknown	Unknown	21/03/2014	04/04/2014	05/10/2014
108		The Marlpit Public House	Public House	Unincorporated Body	Unknown	07/07/2014	24/09/2014	25/03/2015
109	South Norfolk	Woodland, Marsh & Car Park	Outdoor Amenity and Open Spaces	Other	Unknown	24/07/2014	03/09/2014	04/03/2015
110	Babergh	The Case Is Altered Public House	Public House	Co-operative or Community Benefit Society	Unknown	15/07/2013	15/07/2013	14/01/2014
111		The Corn Exchange	Music/Arts/Theatre	Town/Parish Council	Unknown	27/11/2014	20/04/2015	20/10/2015
112		Belle Vue House and adjacent former swimming pool	Office	Company Limited by Guarantee	Unknown	31/03/2015	02/04/2015	01/10/2015
113	West Suffolk (Forest Heath and St Edmundsbury)	The Fox, Pakenham	Public House	Town/Parish Council	Unknown	18/09/2013	04-Nov-14	
114		Weeping Willow, 39 Bury Road, Barrow	Public House	Unknown	Unknown	11/03/2015	04-Nov-14	

115	Suffolk Coastal	Engineers Arms Public	Public House	Town/Parish Council	Adnams Plc, Sole Bay Brewery, Southwold, Suffolk. IP18 6JW	6th August 2013	6th August 2013	06/03/2014
116		The Old Chequers Pub	Public House	Town/Parish Council	The Hartley SSAS 1535 Ltd	24/06/2014	22 October 2014	
117	Hackney	Prince Albert Public House	Public House	Residents Association	Unknown	17-Nov-14	13-Apr-15	
118		Sunstone Womens Gym 16A Northwold Road London N16 7HR	Sports Facility and/or Grounds	Charity / CIO	Unknown	17.10.14	11/11/2014	
119	Haringey	Antwerp Arms	Public House	Residents Association	Unknown	09/09/2013	24/10/2013	27/05/2014
120	Kensington and Chelsea	The London Lighthouse	Office	Charity / CIO	Unknown	02/09/13	04/09/2013	04/03/2014
121	Southwark	The Grange Public House	Public House	Unknown	Unknown	30th July 2013	16th September 2013	16th March 2014
122		The Huntsman and Hounds Public House	Public House	Unincorporated Body	Unknown	8th August 2013	30th September 2013	30th March 2014
123	Wandsworth	The Trafalgar Arms	Public House	Unincorporated Body	Unknown	11-Nov	23-Dec-13	NO
124		Tooting Constitutional Club	Sports Facility and/or Grounds	Community Interest Company	Unknown	07-Feb-15	13/02/2015	12/08/2015
125	Brent	Kensal Rise Library building and land at the junction of Bathurst Gardens and College Road	Library	Unknown	Unknown	11/12/2012	13/11/2014	

126	Bromley	Penge Library	Library	Religious Organisation	Unknown	02/04/2014	10/10/2014	10/04/2015
127		Public Conveniences	Public Conveniences	Residents Association	Unknown	9 December 2014	19/06/2015	
128		Public Conveniences	Public Conveniences	Residents Association	Unknown	2 February 2015	03/07/2015	
129	Ealing	Acton Library	Library	Unknown	Unknown	04/10/2013	13/01/2014	15/07/2014
130	Kingston	Former Fairmead Day Nursery Site	Education Centre/School	Community Interest Company	Unknown	02/04/2013	14-Feb-13	01-Mar-14
131		Queen's Head Public House	Public House	Residents Association	Unknown	21/05/2015	03-Jun-15	02-Dec-15
132	Waltham Forest	Lord Rookwood Pub	Public House	Residents Association	Unknown	05/11/2014	26/06/2015	26/12/2015
133	Bracknell Forest	The Rose and Crown	Public House	Unincorporated Body	Unknown	08-Jul-14	17-Jul-14	17-Jan-14
134		Blue Mountain Golf and Conference Centre	Sports Facility and/or Grounds	Town/Parish Council	Unknown	20-Aug-14	03-Oct-14	03-Apr-15
135	Brighton and Hove	Saltdean Lido	Sports Facility and/or Grounds	Community Interest Company	Unknown	09/01/2014	16/01/2014	16/07/2014
136		Rose Hill Tavern	Public House	Unincorporated Body	Unknown	19/05/2014	02/04/2015	02/10/2015
137	Isle of Wight	Old Library	Library	Religious Organisation	Isle of Wight Council	12/12/2012	22 July 2014	22 January 2015
138	Reading	Kings Meadow Pool	Sports Facility and/or Grounds	Unincorporated Body	Unknown	28 January 2013	28 January 2013	27-Jul-13
139		Albert Road Day Centre/Arthur Clarke Care Home and environs 1 Albert Road RG4 7AN	Community Centre	Residents Association	Unknown	17 September 2013	11 July 2014	no
140	Aylesbury Vale	The Pilgrim Pub & Restaurant	Public House	Town/Parish Council	Meaujo Bell Ltd. of The Unicorn, 12 High Street,	23-Oct-13	23-Oct-13	N/A

					Cublington, Bucks, LU7 0LA)			
141		Elmhurst Community Centre	Community Centre	Charity / CIO	Aylesbury Vale DC	14-Jan-14	25-Mar-14	24-Sep-14
142		The George and Dragon Public House	Public House	Town/Parish Council	Darren John Curtis and Charlotte Anna Curtis	08-Apr-14	08-Apr-14	
143		The Shoulder of Mutton	Public House	Town/Parish Council	Nutball Limited	25-Apr-14	06/03/2015	
144		The Crown Public House	Public House	Town/Parish Council	Unknown	22-Jan-13	y	
145	Chiltern	The White Lion Public House	Public House	Town/Parish Council	Unknown	13th April 2014	22nd May 2014	22nd November 2014
146		The Pheasant Inn	Public House	Town/Parish Council	Unknown	11th July 2013	10th Sept 2014	10th March 2015
147	Wealden	Land and buildings at Pine Grove, Crowborough	Office	Unknown	Unknown	07/11/2013	07/11/2013	07/05/2014
148		The Lamb Inn, Ripe	Public House	Unknown	Shepherd Neame	08/04/2014	28/01/2015	28/07/2015
149	Test Valley	The Former Polic Station	Police/Fire/Ambulan ce Station	Town/Parish Council	Unknown	14/12/2012	12/12/2014	11/06/2015
150		Ampfield Village Hall	Hall	Town/Parish Council	Unknown	06/02/2015	24/02/2015	23/08/2015
151		Chilbolton Post Office & Village Stores	Post Office	Town/Parish Council	Unknown	19/02/2015	25/02/2015	25/08/2015
152	Winchester	Mead End Inn	Public House	Religious Organisation	Unknown	05/03/2014	11/03/2014	n/a
153		The Fox and Hounds Public House	Public House	Town/Parish Council	Unknown	11/02/2013	22/03/2013	22/09/2013
154		Kings Country Store / Micheldever Stores	Shop	Town/Parish Council	Unknown	18/03/2013	02/04/2013	02/10/2013

155	Canterbury	Mill Centre	Community Centre	Town/Parish Council	Canterbury City Council	07/03/2014	28/02/2015	28/08/2015
156	Dover	The Bricklayers Arms	Public House	Town/Parish Council	Unknown	22/01/2014	19/02/2015	
157	Maidstone	Hook & Hatchet Public House	Public House	Town/Parish Council	Unknown	20/03/2015	24th March 2015	24th September 2015
158	Sevenoaks	27-37 High Street (Meeting Point)	Community Centre	Unknown	Unknown	13/06/2013	25/04/2014	25/10/2014
159		Former Library Building	Library	Unknown	Unknown	19/07/2013	20/08/2013	20/02/2014
160		Fox & Hounds Public House	Public House	Unknown	Unknown	03/02/2015	17/04/2015	no
161	Swale	Whitehill Methodist Church	Religious Building	Town/Parish Council	Unknown	01/04/2014	23/09/2014	24/03/2015
162		Four Horseshoe Public House	Public House	Town/Parish Council	Unknown	28/07/2014	08/09/2014	09/03/2015
163		Southlands Assessment Unit	Unknown	Company Limited by Guarantee	Unknown	04/08/2014	11/09/2014	12/03/2015
164	Thanet	Pierremont Hall	Hall	Town/Parish Council	Unknown	08/09/2014	02/06/2015	01/12/2015
165		Retort House	Community Centre	Unknown	Unknown	25/07/2014	02/06/2015	01/12/2015
166	Tunbridge Wells	The Royal Oak Public House	Public House	Town/Parish Council	Unknown	29-Oct-13		no?
167		Tunbridge Wells & Rusthall Commons	Outdoor Amenity and Open Spaces	Charity / CIO	Unknown	17-Apr-14		23-Dec-14
168	Cherwell	"The Crown" Public House, Charlton on Otmoor	Public House	Co-operative or Community Benefit Society	Osprey Pubs Limited	06/08/2013	02/09/2013	01/03/2014
169		The North Arms, Wroxton	Public House	Town/Parish Council	James Richard William Martindale and Birgitte Martindale	09/12/2013	10/03/2014	09/09/2014

					of Kinwell House, Shenington, Banbury, OX15 6NQ			
170		The Red Lion, Bloxham	Public House	Town/Parish Council	Fuller, Smith & Turner Plc	06/01/2014	06/01/2014	05/07/2014
171		Blacks Head Inn, Bletchington	Public House	Unknown	Bankside Developments Limited	17/03/2014	04/02/2015	
172		The Bell Inn, Shenington	Public House	Unknown	Unknown	13/04/2015	14/04/2015	
173		Fairview Inn	Public House	Unknown	Unknown	14/05/2013	15/07/2013	
174		The Post Box	Other	Co-operative or Community Benefit Society	Unknown	31/05/2013	23-Jul-13	23-Jan-14
175		The Gladiator Club	Community Centre	Company Limited by Guarantee	Unknown	02/09/2013	05-Nov-13	05-May-14
176		Temple Cowley Pools	Sports Facility and/or Grounds	Community Interest Company	Unknown	03/03/2014	07-Apr-14	7 October 2014
177		Stansfeld Outdoor Education Centre	Education Centre/School	Town/Parish Council	Unknown	28/04/2014	02-Mar-15	02-Sep-15
178		SS Mary and John School	Education Centre/School	Religious Organisation	Unknown	14/12/2014	17-Mar-15	17 September 2015
179		Half Moon	Public House	Unknown	Unknown	21/07/2014		24/03/2015
180		Bottle and Glass	Public House	Town/Parish Council	Brakspear	18/11/2013	10/12/2013	10/06/2014
181		The Fox Inn	Public House	Unknown	Unknown	29/10/2013	19/11/2013	19/05/2014
182		North Star	Public House	Unknown	Unknown	01/04/2015	19/05/2015	19/11/2015
183		The Hare Inn	Public House	Unincorporated Body	Greene King	25/09/2014		
184		Old Abbey House	Office	Unincorporated Body	Vale of White Horse	14/07/2014	22/06/2015	22/12/2015

					District Council			
185	West Oxfordshire	The Carpenter's Arms	Public House	Company Limited by Guarantee	Unknown	27/06/2013	27/06/2013	26/12/2014
186		The Carpenter's Arms	Public House	Company Limited by Guarantee	Unknown		25/11/2014	
187		The Quart Pot	Public House	Unknown	Unknown	03/12/2013	03/12/2013	
188		The Quart Pot		Unknown	Unknown		22/06/2015	21/12/2015
189		The Saddlers Arms	Public House	Town/Parish Council	Unknown	10/04/2014	28/04/2014	27/10/2014
190		The Red Lion	Public House	Town/Parish Council	Fuller's brewery	10/04/2014	19/03/2015	16/09/2015
191		The Masons Arms	Public House	Unknown	John Rodger, developer	13/06/2014	30/06/2014	29/12/2014
192		The Langdale Hall	Hall	Unincorporated Body	Unknown	17/12/2014	17/12/2014	16/06/2015
193	Tandridge	Part of Hunters Moon Allotments (AKA Burstow Gardens Allotments)	Hall	Town/Parish Council	Unknown	14/04/2015	04-Jun-15	04/12/2015
194	Waverley	Haslemere Police Station	Police/Fire/Ambulance Station	Unknown	Unknown	17/09/2013	05/11/2013	05/05/2014
195	Sedgemoor	Church Hall/Parish Room	Hall	Town/Parish Council	Chilton Polden Parochial Church Council	31st July 13	5 th September 2013	no
196		Burtle Inn	Public House	Town/Parish Council	Christopher Dyson	4 th October 13	Thursday 6 th March 2014	Tuesday 30 th September 2014

197		Hope Inn Public House	Public House	Town/Parish Council	Land Promotions Ltd	29/09/2014	13th October 2014	no
198	South Somerset	Barrington Oak Public House	Public House	Town/Parish Council	Unknown	09/05/2013	27/01/2014	
199		Cocklemoor Off Parrett Close	Outdoor Amenity and Open Spaces	Town/Parish Council	Unknown	04/07/2013	01/11/2013	30/04/2014
200		Working Mens Club, proposed - hall	Sports Facility and/or Grounds	Town/Parish Council	Unknown	04/11/2013	04/11/2013	no
201		Club house	Sports Facility and/or Grounds	Town/Parish Council	Unknown	13/06/2014	13/06/2014	
202		Access to recreation area	Outdoor Amenity and Open Spaces	Town/Parish Council	Unknown	16/07/2014	25/07/2014	24/01/2015
203		The Kings Head	Public House	Unincorporated Body	Unknown	06/08/2014	19/08/2014	no
204	South Hams	Tally Ho Inn	Public House	Town/Parish Council	Unknown	20/12/2012	10/01/2013	10/07/2013
205		The Crooked Spire Inn	Public House	Town/Parish Council	Unknown	28/08/2013	11/09/2013	11/03/2014
206	Chichester	Midhurst Library	Library	Town/Parish Council	Unknown	14th June 2013		26th May 2014
207		Stedham Campsite	Other	Town/Parish Council	Unknown	21st August 2013		19th September 2014
208		Keepers Arms	Public House	Town/Parish Council	Unknown	11th February 2014	?	
209		(closed)	Public House	Town/Parish Council	Unknown	4 th February	?	
210		St Michael's Hall	Hall	Town/Parish Council	Unknown	16th April 2014	?	
211		The Mill Tavern	Public House	Town/Parish Council	Unknown	12th May 2014	?	
212	West Berkshire	Greenham Control Tower and surrounding land	Other	Town/Parish Council	West Berkshire Council	14/12/2012	06/03/2013	07/09/2013

213		Tally Ho Public House	Public House	Unincorporated Body	Acres Developments	28/01/2013	24/05/2013	22/11/2013
214	Windsor and Maidenhead	Holyport Real Tennis Courts	Sports Facility and/or Grounds	Unincorporated Body	Unknown		?	
215	Wokingham	161 Finchampstead Road	Education Centre/School	Town/Parish Council	Holme Grange School, Heathlands Road, Wokingham RG40 3AL	22nd March 2013	30th April 2013	
216		Social Clubhouse	Sports Facility and/or Grounds	Town/Parish Council	Royal British Legion	24th April 2013	29th November 2013	
217	Milton Keynes	Suffolk Punch	Public House	Town/Parish Council	The Parks Trust		02/12/2014	02/06/2015
218		Creed Street Theatre and Arts Centre	Music/Arts/Theatre	Town/Parish Council	Creed Street Theatre & Arts Centre Ltd (prev. The MADCAP Trust Ltd)		20/03/2014	20/09/2014
219	Lambeth	Type Museum	Education Centre/School	Unincorporated Body	Unknown	11/03/2013	25/10/2013	25/04/2014
220	King's Lynn and West Norfolk	King's Arms Public House	Public House	Town/Parish Council	Unknown	16/04/2013	20/06/2013	20/12/2013
221		Area of land between Church	Outdoor Amenity and Open Spaces	Town/Parish Council	Unknown	16/07/2013	21/01/2015	21/07/2015
222		Amenity Land	Outdoor Amenity and Open Spaces	Unincorporated Body	Unknown	18/07/2014	28/08/2014	28/02/2015

223	Broadland	Salhouse Post Office and Convenience Store	Post Office	Town/Parish Council	Unknown	05/03/2013	Sale In progress	no
224		Salhouse Sorting and Delivery Office	Office	Town/Parish Council	Unknown	05/03/2013	14-Feb-14	no
225		Acle Post Office	Post Office	Town/Parish Council	Acle Post Office, Priory Close, Acle	03/12/2013		
226		Herondale Residential Care Home	Semi-Residential	Town/Parish Council	Norfolk County Council, County Hall, Norwich	03/12/2013	01-May-14	
227		The Gordon Public House	Public House	Town/Parish Council	Enterprise Inns plc, 3 Monkspath Hall Rd, Solihull, West Midlands B90 4SJ	26/06/2014	14-Jul-14	no
228	Tendring	The Cross Inn Public House Great Bromley	Public House	Town/Parish Council	Unknown	05.05.2015	05.05.2015	
229	South Cambridgeshire	The Three Tuns Public House.	Public House	Town/Parish Council	Unknown	26/03/2013	11-Apr-13	11-Oct-13
230		The Queen Adelaide Public House	Public House	Town/Parish Council	Unknown	26/03/2013	26 March 201	26-Sep-14
231		Scout campsite	Other	Town/Parish Council	Unknown	09/05/2013	09-May-13	09-Nov-13
232		The Waggon and Horses	Public House	Town/Parish Council	Unknown	08/04/2014	16/09/2014	16-Mar-15

233		The Little Rose	Public House	Unincorporated Body	Unknown	02/07/2014	24-Feb-15	24-Aug-15
234					Unknown		05 May 2015 -	
235					Superintendent Minister of Cambridge Methodist Church	25/06/2014	04-Jul-14	04-Jan-15
236	Luton	Sundon Park Library	Library	Unincorporated Body	Unknown	14/07/2014	18 July 2014	17-Jan-15
237		Saints Community Centre and Milan Day Centre site	Community Centre	Unknown	Unknown	10 November 2014	28-May-15	27-Nov-15
238	Peterborough	Green Back Yard	Outdoor Amenity and Open Spaces	Charity / CIO	Unknown	28/05/2013	11/09/2014	10/03/2015
239	Cannock Chase	Pied Piper Public House	Public House	Unincorporated Body	Unknown	21/08/2014	27/08/2014	
240		Hand and Cleaver Inn	Public House	Town/Parish Council	Unknown	29/08/2013	21-Jan-14	21-Jul-14
241		Red Lion Inn	Public House	Charity / CIO	Unknown	29/08/2013	2 September 2013	02-Mar-14
242		Roebuck Inn	Public House	Town/Parish Council	Unknown	2 September 2013	3 September 2013	03-Mar-14
243		The West Way Public House	Public House	Religious Organisation	Unknown	15/04/2014	29-Apr-14	29-Oct-14
244		Rickerscote Arms	Public House	Other	Unknown	19/06/2014	19-Jun-14	19-Dec-14
245		Westbridge Park	Outdoor Amenity and Open Spaces	Town/Parish Council	Unknown	16/07/2014	9 April 2015 (part only)	09-Oct-15
246		The Old Nags Head	Public House	Town/Parish Council	Unknown	02/09/2013	23/09/2013	23/03/2014
247	East Northamptonshire	Highways Depot (part - see map)	Other	Charity / CIO	Unknown	09/01/2014	11/02/2014	11/08/2014
248		The Prince of Wales Public House	Public House	Town/Parish Council	Unknown	14/02/2014	14/03/2014	

249		The Cock Inn	Public House	Town/Parish Council	Unknown	19/09/2014	29/10/2014	
250	Sheffield	551 Bellhouse Road	Education Centre/School	Unknown	Unknown	22/12/2014	20/03/2015	18/09/2015
251	Ribble Valley	Land/buildings cricket ground Kirkfield Chipping	Sports Facility and/or Grounds	Town/Parish Council	Leasehold - Chipping Cricket Club (freehold - SCPI Bowland Ltd.)	12/03/2014	20/03/2014	20/09/2014
252	Rossendale	Bacup Conservative Club	Sports Facility and/or Grounds	Charity / CIO	Unknown	03/10/2013	09/04/2014	09/10/2014
253		Haslingden Baths	Sports Facility and/or Grounds	Other	Unknown	15/09/2014	15/09/2014	15/03/15
254	Stockport	The Travellers Call	Public House	Unincorporated Body	Unknown	11-Mar-15	29-Apr-15	
255	Carlisle	The Co-op Store, Hallbankgate	Shop	Co-operative or Community Benefit Society	Unknown	20/02/2015	20/02/2015	20/08/2015
256		Land related to the Co-op Store, Hallbankgate	Outdoor Amenity and Open Spaces	Co-operative or Community Benefit Society	Unknown	14/05/2015	14/05/2015	14/11/2015
257	Blackburn	Hare & Hounds	Public House	Unincorporated Body	Unknown	6/8/2013	22/08/2013	
258	Newcastle upon Tyne	City Pool	Sports Facility and/or Grounds	Unincorporated Body	Newcastle City Council	03/12/2013	02/02/2015	02/08/2015
259	Stroud	Allotments Coombe	Allotment	Unincorporated Body	Mrs Susan Ballinger, Slade's Cottage, Uphill, Coombe, Wotton Under Edge,	29/06/2015	10th July 2015	

					Glos, GL12 7NF			
260		Kings Stanley Church of England Primary School	Education Centre/School	Town/Parish Council	Diocesan Board of Education, Gloucester. Mr Robert Stephens (01452 835537).	23/01/2015	23th January 2015	23rd July 2015.
261		Tipputs Inn	Public House	Unincorporated Body	Pheasant Pluckers Ltd Rooksmoor Stroud GLSSNB	09/07/2014	16th April 2015	
262		Land at Castle Street	Outdoor Amenity and Open Spaces	Town/Parish Council	Gloucestershire County Council Shire Hall Gloucester GL1 2TG	22/08/2014	27th November 2014	27th May 2015
263		The Full Moon Mount Pleasant	Public House	Unincorporated Body	Kappa Dulay, Woodbourne Homes Ltd., 16 Vernon Road, B16 9SH - 012145475 92 0121 455 4856	17/06/2013	10-Jun-13	10-Dec-13

264		The Bell and Castle Public House	Public House	Town/Parish Council	Alex Kerr	15/04/2013	?	n
265	North East Derbyshire	Ridgeway Craft Centre	Shop	Unincorporated Body	Unknown	03/11/2014	14-Nov-14	13-May-15
266	Huntingdonshire	Royal Oak Public House	Public House	Town/Parish Council	Unknown	23/01/2013	18/12/2014	18/06/2015
267		The Fox Inn	Public House	Unincorporated Body	Unknown	09/08/2013	28/05/2015	28/11/2015
268	Wycombe	The Bernard Arms	Public House	Unknown	Unknown	09/01/2014	27/02/2014	29/08/2014
269	West Somerset	Minehead Old Hospital	Medical and Health Care Services	Company Limited by Guarantee	Unknown	05/12/2012	18/02/2013	18/08/2013
270	Mendip	The Redan Inn	Public House	Unincorporated Body	Unknown	16/09/2013	27/06/2014	27/12/2014
271	Tewkesbury	Kayte Lane Field	Outdoor Amenity and Open Spaces	Unincorporated Body	Unknown	11/11/2014		11/06/2015
272		Royal British Legion, Vicarage Lane , Brockworth , Gloucester , Gloucestershire , GL3 4EZ	Hall	Town/Parish Council	Unknown	11/02/2015		
273	Gloucester	St Aldates Hall	Hall	Company Limited by Guarantee	Unknown	09/10/2014	20/05/2015	No
274	Cotswold	Brewery Arts Workshops and the Niccol Centre	Education Centre/School	Unknown	Unknown	05/09/2013	21/07/2015	21/07/2015
275	West Dorset	The Broadwindsor Stores	Shop	Town/Parish Council	Unknown	04-Jan-13	04-Feb-14	05-Aug-14
276		Mosterton Post Office and Stores	Post Office	Town/Parish Council	Unknown	08-Oct-13	14-Apr-14	15-Oct-14
277		The Bottle Inn	Public House	Unincorporated Body	Unknown	04-Dec-13	03-Feb-14	04-Aug-14
278		The Black Dog Inn	Public House	Unincorporated Body	Unknown	08-Jan-14	21-Jan-14	No
279		The Corner House Stores and Post Office	Post Office	Unincorporated Body	Unknown	08-Jan-14	24-Apr-15	22-Oct-15
280		Shave Cross Inn	Public House	Co-operative or Community Benefit Society	Unknown	20-Aug-14	20-Aug-14	No

281	Weymouth and Portland	The Kimberlin Social Club and Westcliffe Community Centre	Community Centre	Religious Organisation	Unknown	20-Aug-14	11-Aug-14	11-Feb-15
282		Underhill Junior School	Education Centre/School	Company Limited by Guarantee	Unknown	03-Jun-15	10-Jun-15	
283	East Dorset	The Drovers Inn, Gussage All Saints	Public House	Unincorporated Body	Unknown		17-Feb-15	
284	North Dorset	Wheatsheaf Inn	Public House	Unincorporated Body	Unknown	27-Mar-15	04-Jun-15	
285	Exeter	Putford Methodist Chapel	Religious Building	Town/Parish Council	Unknown	22/05/2013	18/07/2013	NA
286		The Molesworth Arms	Public House	Other	Unknown	30/10/2013	03/07/2015	
287		The Springfield Centre	Community Centre	Town/Parish Council	Unknown	11/12/2014	10/05/2015	
288	Teignbridge	Community Resource Centre	Education Centre/School	Town/Parish Council	Devon County Council	23/04/2013	15/05/2013	27/12/2013
289				Unknown	Unknown		17/11/2014	No
290		Area of green space	Outdoor Amenity and Open Spaces	Town/Parish Council	Teignbridge District Council	23/04/2013	23/12/2013	04/08/2014
291		Car Park of the Seven Stars Public House	Car Park	Town/Parish Council	Mr P Norrish	11/10/2013	23/12/2013	04/08/2014
292		The Limes Surgery	Medical and Health Care Services	Town/Parish Council	The Westbank Surgery	10/02/2014	22/07/2014 (part of site)	04/03/2015
293		St John Ambulance Hall	Hall	Unincorporated Body	St John Ambulance	04/06/2015	04/06/2015	
294		Bovey Tracey Town Hall	Hall	Unincorporated Body	Bovey Tracey Town Council	29/07/2015	27/08/2015	09/04/2016
295	North Devon	Ring O'Bells	Public House	Unincorporated Body	Unknown	02.07.13	09.08.13	09.02.14
296		The Snare & Gin Trap	Public House	Unknown	Unknown	04.07.13	23.10.13	

297		The Stag	Public House	Town/Parish Council	Unknown	15.05.14	20.5.14 (part of)	20.11.14
298		The Stag	Public House	Town/Parish Council	Unknown	15.05.14	24.6.15 (remaining part)	
299	Mid Devon	Mare & Foal Inn	Public House	Town/Parish Council	Unknown	4.3.2014	2.4.14	
300		Checkers Stores and Post Office	Post Office	Town/Parish Council	Unknown	13.3.2014	27.5.14	
301		The Black Dog Inn	Public House	Town/Parish Council	Unknown	4.6.15	4.6.15	
302	East Devon	Kings Arms Inn	Public House	Town/Parish Council	Unknown	09-Aug-13	09-Aug-13	08-Feb-14
303		The Red Lion	Public House	Unincorporated Body	Unknown	11-Sep-13	11-Sep-13	10-Mar-14
304		Harpford Hall	Hall	Town/Parish Council	Unknown	08-Jul-14	08-Jul-14	10-Jan-15
305	Wiltshire	The Peterborough Arms	Public House	Charitable Trust	Wadworth	28/06/2013	28/06/2013	29/12/2013
306		The Wheatsheaf Public House	Public House	Town/Parish Council	Unknown	28/06/2013	13/08/2013	13/02/2014
307					Unknown		17/02/2015	17/08/2015
308		The Cross Keys Public House	Public House	Town/Parish Council	Unknown	24/01/2014	29/04/2014	NO BID RECEIVED
309		The Duke of York	Public House	Unincorporated Body	Unknown	21/01/2014	05/06/2014	NO BID RECEIVED
310		The Rose and Crown Public House	Public House	Town/Parish Council	Unknown	20/08/2014	20/08/2014	
311		St George & Dragon Public House	Public House	Town/Parish Council	Unknown	18/05/2015	20/05/2015	20/11/2015
312	Swindon	The True Heart	Public House	Town/Parish Council	Unknown		25/07/2014	24/01/2015
313	Plymouth	The Friendship Public House	Public House	Unincorporated Body	Unknown	04/02/2013	13/11/2014	13/05/2015
314		Hyde Park Public House	Public House	Unincorporated Body	Unknown	04/04/2013	26/09/2013	24/03/2014
315		Peverell Park Methodist Church	Religious Building	Unincorporated Body	Unknown	19/11/2013	09/12/2013	09/06/2014
316	North Somerset	Bristol House Inn	Public House	Unincorporated Body	Unknown	26-Jun-13	Yes	
317		The White Hart Inn	Public House	Unincorporated Body	Enterprise Inns	23-Oct-13	Yes	27/11/2014

318	City of Bristol	The Vassall Centre and its grounds	Office	Company Limited by Guarantee	Unknown	06/02/2013	19/02/2013	18/08/2013
319		Scout Hut and land	Hall	Charity / CIO	Unknown	22/03/2013	18/08/2014	16/01/2015
320		The Brigade Centre	Community Centre	Co-operative or Community Benefit Society	Unknown	25/12/2013	11/06/2014	11/12/2014
321		Bristol Observatory Litfield Road	Education Centre/School	Charity / CIO	Unknown	28/07/2014	28/07/2014	28/01/2015
322	Bournemouth	Dean Park Cricket Ground	Sports Facility and/or Grounds	Residents Association	The Alice Ellen Cooper Dean Charitable Foundation Unity Chambers 34 High East Street Dorchester DT1 1HA		11-Dec-13	11-Jun-14
323	Bath &NE Somerset	The Pack Horse inn	Public House	Co-operative or Community Benefit Society	Unknown	04/02/2013	11/10/2013	11/04/2014
324		The Richmond Arms	Public House	Unincorporated Body	Unknown	22/07/2013	20/11/2013	20/05/2014
325	Crawley	Land situated to the rear of houses in Ely Close, Oxford Road, Winchester Road and Worcester Road, Tilgate, Crawley.	Outdoor Amenity and Open Spaces	Unincorporated Body	Unknown		01-Apr-14	01-Oct-14
326	Mid Sussex	Cuckfield Youth Club	Community Centre	Town/Parish Council	Unknown	17/12/2013	14/12/2013	13/06/2014
327		Land Parcel adjacent to Newbury	Outdoor Amenity and Open Spaces	Town/Parish Council	Unknown	30/12/2013	30/12/2014	29/06/2014
328		The Royal Oak	Public House	Town/Parish Council	Unknown	15/09/2014	20/03/2015	20/09/2015

329	Cornwall	Trevisker St Eval Community Centre (Building 750)	Community Centre	Town/Parish Council	Unknown	06/12/2012	17/12/2012	17-Jun-13
330		Former youth centre building (Child Development Centre) (Building 750)	Community Centre	Town/Parish Council	Unknown	06/12/2012	17/12/2012	17-Jun-13
331		Former Sports Hall (Building 767)	Hall	Town/Parish Council	Unknown	06/12/2012	17/12/2012	17-Jun-13
332		Religious ministry/family service centre (Building 768)	Religious Building	Town/Parish Council	Unknown	06/12/2012	17/12/2012	17-Jun-13
333		Roads, parking, and other access routes to American Buildings and	Hall	Town/Parish Council	Unknown	06/12/2012	17/12/2012	17-Jun-13
334		Playing Field and its associated hardstandings	Outdoor Amenity and Open Spaces	Town/Parish Council	Unknown	06/12/2012	17/12/2012	17-Jun-13
335		Recreational land (various parcels) at St Eval	Outdoor Amenity and Open Spaces	Town/Parish Council	Unknown	06/12/2012	17/12/2012	17-Jun-13
336		Former motor sports area	Other	Town/Parish Council	Unknown	06/12/2012	17/12/2012	17-Jun-13
337		Former NAAFI Buildings and Sports Changing Rooms	Sports Facility and/or Grounds	Town/Parish Council	Unknown	06/12/2012	17/12/2012	17-Jun-13

338		Pre-School Portacabin	Education Centre/School	Town/Parish Council	Unknown	06/12/2012	17/12/2012	17-Jun-13
339		Tennis Courts	Sports Facility and/or Grounds	Town/Parish Council	Unknown	06/12/2012	17/12/2012	17-Jun-13
340		Castle Hill Allotments	Allotment	Unincorporated Body	Cornwall Council	06/12/2012	17/12/2012	17-Jun-13
341		The Bullers Arms	Public House	Co-operative or Community Benefit Society	Unknown	09/09/2013	09-Sep-13	09-Mar-14
342		Site at Carboth Lane	Outdoor Amenity and Open Spaces	Unknown	Unknown	23/12/2013	24-Apr-15	Midnight 22 October 2015
343		Former Ladies Toilets Kingsand	Public Conveniences	Unknown	Unknown	23 March 2014	02-Jun-14	none
344		The New Inn	Public House	Unknown	Unknown	27/05/2014	y	26-Nov-14
345		Rosewarne Car Park and Extension	Car Park	Town/Parish Council	Unknown	20/10/2014	03/03/2015	
346		New Inn. Revised informationn received and dates revised	Public House	Unknown	Unknown	26 Novemebr 2014	11-Mar-15	08-Sep-15
347		St Johns Ambulance Hall	Hall	Town/Parish Council	Unknown	13/04/2015	05-May-15	none
348		Godolphin Arms	Public House	Residents Association	Unknown	17/04/2015	21-Apr-15	19-Oct-15
349		Archer Arms	Public House	Unknown	Unknown	01/05/2015	27-May-15	19 November 2015
350	Redcar and Cleveland	Toad Hall Arms	Public House	Unknown	Unknown	27/07/2015	28/06/2015	
351	Bradford	Heaton Royds Special School	Education Centre/School	Company Limited by Guarantee	Bradford Council	06/11/2013	12/09/2014	20/04/2015
352		1214 Leeds Road	Office	Company Limited by Guarantee	Unknown	26/06/2014	09/09/2014	

353		The Manor House & 2-6 Castle Yard	Other	Charity / CIO	Unknown	11/09/2014	23/02/2015	01/10/2015
354		The Royal Oak Public House	Public House	Town/Parish Council	Unknown	23/10/2014	26/02/2015	no
355		Former Bradford Register Office	Office	Charity / CIO	Unknown	10/12/2014	11/12/2014	11/06/2015
356		Parkway Land	Outdoor Amenity and Open Spaces	Unincorporated Body	Unknown	22/01/2015	23/02/2015	
357	Redditch	Redditch Youth House	Community Centre	Co-operative or Community Benefit Society	Unknown	13th February 2013	26th Feb 2013	13th August 2013
358	East Hampshire	The Anchor	Public House	Town/Parish Council	Unknown	30/11/2012	29/04/2013	
359		Petersfield Police Station	Police/Fire/Ambulance Station	Company Limited by Guarantee	Unknown	24/09/2013	24/07/2014	28/08/2014
360		The Forge	Sports Facility and/or Grounds	Other	Unknown	06/03/2014	21/01/2015	24/02/2015
361		The Cedars Pub	Public House	Town/Parish Council	Unknown	01/04/2014	09/07/2014	15/08/2014
362		Maple Inn Pub	Public House	Town/Parish Council	Unknown	02/09/2014	06/10/2015	20/10/2015
363		The Sun Inn	Public House	Town/Parish Council	Unknown	02/03/2015	05/03/2015	
364		The Star	Public House	Town/Parish Council	Unknown	02/03/2015	29/07/2015	

Appendix H: Judiciary decisions and observations

Reference	Summarise precedent	Quotes	Supporting cases
Nomination process	The Judiciary recommend that the motivation of the community group who is listing the asset is not to be considered material in making a decision regarding a listing.	“the motivation of the Town Council (even if true) does not, I find, have any material bearing on how the Tribunal should approach the question of whether use of the playing fields is ancillary” (Idsall School v. Shropshire; para. 13)	Curtis Sloane Ltd. v Bassetlaw DC; Idsall School v. Shropshire
	The judiciary “deprecate” landowners providing a bill for compensation that would be claimed if an asset was listed	“deprecate this manner of proceeding because of the apparent pressure it places upon the public official whose job it is to give a decision on the review” (para. 36)	St. Gabriel v. London Borough of Lewisham
	The judiciary state that social wellbeing and social interests are to be considered.	“Section 88(2)(a) of the Act as having the same meaning as if the word “social” appeared in respect of both “wellbeing” and “interests”” (Para. 26/27)	St Gabriel Properties v. London Borough of Lewisham
Current use	The value of public houses is accepted positively within judiciary decisions	<i>See summary below</i>	St. Gabriel Properties v. London Borough of Lewisham; Crostone Ltd. v. Amber Valley BC; Hawthorne Leisure Acquisition Ltd. v. Northumberland County Council
	Visual amenities are not deemed to be a community value in respect of the Act.	<i>See summary below</i>	Gullivers Bowls Club ; Banner Homes v. St. Albans,
Ancillary use	The judiciary state that it is not necessary for the community use to be the primary use, but the definition of ancillary is contextual. This has been demonstrated in cases of school playfields and religious buildings.	<i>See summary below</i>	Kassam Stadium ; Dorset County Council v. Purbeck, CR/2013/0004; Idsall School v. Shropshire CC, CR/2014/0016; New Church v. Bristol CC
Trespass	The judiciary are respectful of “ownership rights” but will still account for the use arisen from trespass.	“The fact that the residents no longer have a right to use the land is relevant; as are the owner’s intentions... In my judgement, however, Ms Ellis’ [the appellants’] submission goes too far in suggesting that the absence of a legal right to use the land means that I must ignore the use altogether... No doubt it is unusual for a non-ancillary use of a piece of land to be an act of trespass; but then again, these are unusual circumstances. No doubt in the last century there were many more stretches of derelict or fallow land which were the subject of informal community use. It is all a question of fact” (Higgins Homes plc. v. Barnet LBC; Para 18/10)	Higgins Homes plc. v. Barnet LBC (CR/2014/0006); Banner Homes Ltd. v. St. Albans City and District Council (CR/2014/0018)

Reference	Summarise precedent	Quotes	Supporting cases
Recent past	The timeframe defined as recent past is contextual, not 5 years as in the future condition to be satisfied	"it seems to me illogical to seize on the period of five years... the figure is chosen because it is the length of time specified by Parliament over which the future condition is to be assessed."	Worthy Developments v. Forest of Dean DC). In Hawthorn Leisure v. Chiltern DC; Worthy Developments v. Forest of Dean
Realistic future	The 'realistic' future condition can be satisfied based on one of many potential futures for the asset and may not even be the most realistic. The landowners' intentions are an important factor in this.	Evenden Estates v. Brighton and Hove City Council the judge stated "that what is "realistic" may admit a number of possibilities, none of which needs to be the most likely outcome." However, in Gibson v. Babergh DC the judge added that the proposed use must not be "fanciful" (para. 18) or be "entirely speculative" (New Church v. Bristol CC, para. 29). Landowners intentions; "It would seem to follow that that an owner need only say "I have set my face like flint against any use of community value" and listing will be avoided. This almost makes the scheme voluntary. I think it more reasonable to take into account Mr Patel's intentions as part of the whole set of circumstances. After all, they are the current owner's present intentions and the legislation requires an estimate of what will happen over the next five years." (Para. 11, M. Patel v. London Borough of Hackney)	Patel v. Hackney BC CR/2013/005; Evenden Estates v. Brighton and Hove City Council; Gibson v. Babergh DC
Realistic future	The commercial or long-term viability has not been a factor in determining whether the future realistic condition is satisfied, thus meaning that an ACV is listed even if not deemed commercially viable and recognises issues with PubCos and Brewers (evidence of them causing the unviability of pubs)	The asking prices have been too high, which was deemed to be "deliberately designed to deter anyone who had a genuine interest in it. The unrealistic nature of the price being sought by the appellant for the Beehive was brought into sharp focus by comparing the sales particulars of nearby pubs. There were many examples of community owned pubs operating successfully. The Friends could offer ownership that was not geared to profit and which had the scope for such things as volunteer assistance. The imagination of the village had been captured." (Hawthorn Leisure Ltd. v. St. Edmundsbury)	Reed v. Shropshire CC (Dismissed at tribunal, now a community pub); Martin Moat v. North Lincolnshire District Council; J. Haley v. West Berkshire DC; Hawthorn Leisure Ltd. v. St. Edmundsbury; Evenden Estates v. Brighton and Hove City Council

Reference	Summarise precedent	Quotes	Supporting cases
Other	The judiciary recognised the issues faced in the industry also the possibilities of community ownership to revive	“True it is that the pub trade nationally is in the doldrums but there are examples... of pubs being revived in the area in the last couple of years” (St Gabriel Properties v. London Borough of Lewisham, Para. 34). Worthy Developments v. Forest of Dean: the judge recognised that “the remoteness of the public house which must compound the general malaise affecting public houses nationally”. However, the judge determined that the backing of the community is considered; “It is important, however, not to confuse commercial viability with what altruism and community effort can achieve”.	St Gabriel Properties v. London Borough of Lewisham; Worthy Developments v. Forest of Dean
Other	A business plan from the community organisations is not deemed necessary in determining the future condition or required to trigger the full moratorium.		Spirit Pub Co. Ltd. v. Rushmoor Borough Council CHECK: Evenden Estates, Worthy Developments
Other	The outcome of planning permission decisions (whether refused or accepted) tend contribute to the decision of the judge in determining whether the future condition is satisfied.		Spirit Pub v. Rushmoor BC (CR/2013/0003); Moat v. North Lincolnshire DC (CR/2014/0014)

Tribunal decision making summary

Nomination process

Motivation of the listing. Landowners have demonstrated their concern regarding the asset being listed to prevent development or other motivations as opposed to wanting to purchase the asset. This was seen in *Curtis Sloane Ltd. v Bassetlaw DC*, where “the appellant’s intention is to develop the site for residential purposes”. The landowner stated that the Parish Council is “simply to prevent us from redeveloping the site, rather than it being a genuine application to retain the building as a community asset”. This case was dismissed. Similarly, this was witnessed in *Idsall School v. Shropshire* (para. 13); “the School considers that the Town Council’s actions represented an improper use of the 2011 Act, being motivated by a desire to preclude development on the playing fields, which properly falls to be addressed through the legislation relating to development control, rather than the 2011 Act... In the present case, the motivation of the Town Council (even if true) does not, I find, have any material bearing on how the Tribunal should approach the question of whether use of the playing fields is ancillary” (*Idsall School v. Shropshire Council*). The Judiciary recommend that the motivation of the community group who is listing the asset is not to be considered material in making a decision regarding a listing.

Compensation. It is not deemed effective to provide evidence to the LA as to the amount of compensation they would claim if a property is listed (or if an appeal had failed). On this matter (*St Gabriel Properties v. London Borough of Lewisham*) the judge stated that they “deprecate this manner of proceeding because of the apparent pressure it places upon the public official whose job it is to give a decision on the review” (para. 36).

Defining social value. An outcome of one of the cases was to highlight that the wording in the Act is different when considering the past condition, but is construed that “Section 88(2)(a) of the Act as having the same meaning as if the word “social” appeared in respect of both “wellbeing” and “interests”” (*St Gabriel Properties v. London Borough of Lewisham*, Para. 26/27).

Eligibility of nominating bodies. CAMRA nominating body? (*Anthony Hibbert v. Wycombe DC*) Disputes CAMRA being nominating body. In order to avoid similar issues arriving in the future, the Tribunal considers that it would be expedient for local authorities to request from nominators actual names and addresses for the purposes of regulation 4. Landowners have also been concerned about the validation of the community group nominating the asset, in *St. Gabriel Properties* case, the South East London branch of CAMRA submitted the application, which was deemed invalid.

Current use

Public houses were disputed as being of community value within the tribunals. In *St. Gabriel Properties v. Lewisham LBC* (CR/2014/0011) the need to reduce alcohol consumption has harmed the social wellbeing of the community, this was rejected by the judge. In a case regarding a public house, the owner implied that “even a MacDonald’s restaurant would fall within the ambit of s88”. The judge did not accept this and further stated that defining something that furthers the social wellbeing is “a highly contextual question” (*Crostone Ltd. v. Amber Valley BC*, para. 16). In *Hawthorne Leisure Acquisition Ltd. v. Northumberland County Council* (CR/2014/0012), it was proposed that the asset was a hotel rather than a pub, which was rejected by the judge as there were many local events, the floor space for the public house was larger than the bedrooms and the revenue taken was mostly through the

public house. Public houses are generally positively accepted as being ACVs. In *Gullivers Bowls Club*, it was stated that the residents from the care homes adjoining enjoyed overlooking the bowling greens, this was not deemed to be material for ACV. Also in *Banner Homes v. St. Albans*, suggested that enjoying the flowers along the footpaths was not a 'physical' use therefore not counted. Visual amenities are not deemed to be a community use.

Ancillary use

There has been some discussion on how to define ancillary use. In the *Kassam Stadium* case, the football use of the stadium was seen as enough, the judiciary felt that it was not necessary for the community use to be the primary use. However, the use of a football and cricket club of a school playing field can be viewed as ancillary use (e.g. *Dorset County Council v. Purbeck*, CR/2013/0004), whereas in *Idsall School v. Shropshire CC*, CR/2014/0016, the listing was upheld because there was substantial use by a local community leisure centre, whom had a formal agreement with the school. Although the judiciary state that it is not necessary for the community use to be the primary use, the definition of ancillary is contextual and highlighted further in terms of religious buildings. Religious buildings are not seen to be ACVs, however it is recognised that there can be significant use by the community to warrant a listing. Although in *New Church v. Bristol CC*, the main purpose was a church, with very minimal use by community groups, therefore "the reality was that the church was still a church; not a community or social centre," therefore the minimal use by the community was ancillary.

Trespass

There were two cases where the local community using an open green space that has been listed as an ACV have been classed as trespassers. A highly contested case in *Higgins Homes plc. v. Barnet LBC* (CR/2014/0006), whereby the community had been leased the land in 1910, which expired in 2006 and was purchased by a developer, but the local residents continued use, thus being classed as trespassers. The outcome was that the current informal recreational use satisfies section 88(1)(a) of the Act; "I have no doubt that current legal rights attaching to the listed land ought to be taken into account. The fact that the residents no longer have a right to use the land is relevant; as are the owner's intentions... In my judgement, however, Ms Ellis' [the appellants'] submission goes too far in suggesting that the absence of a legal right to use the land means that I must ignore the use altogether... No doubt it is unusual for a non-ancillary use of a piece of land to be an act of trespass; but then again, these are unusual circumstances. No doubt in the last century there were many more stretches of derelict or fallow land which were the subject of informal community use. It is all a question of fact" (Para. 18/19)

With regards to the future condition of the Act, the judge recognises; "the owner's right to prevent trespass. Of course, that right exists and is to be taken into account... At present, however, the status quo seems to be maintained. No doubt it is a delicate balance. The company must insist on its ownership rights – and the local community do not dispute those. The resident's association, for example, has deliberately stopped holding formal events on the field. On the other hand, there is a sense in which the company might find a strict enforcement of their rights to be unpalatable. It might be bad local PR. It might even be that the residents' careful and tranquil use of the land is a cheap form of security. There is no planning permission to change the present use" (Para. 21). It was also in this case that the "owner's representative referred to ECHR Protocol 1 Article 1". The judge was not certain that this article was provoked "because this part of the Localism Act seems to me to be a law

that the state has deemed necessary to control the use of property in accordance with general interest”” (Para. 23)

Trespass was also an issue in the case of *Banner Homes Ltd. v. St. Albans City and District Council* (CR/2014/0018), which involved a meadow of which Banner Homes had applied for planning permission for residential, they had highlighted that the recreational use of the land was in fact trespass. It was deemed ‘material’ that there had been no unlawful activity taken place on the land and that the use related to that of the town and village green legislation. Also Banner Homes, after the listing, put a wire fence along the length of the footpaths with signs stating “private land no unauthorised access,” which was suggested to protect the owners liability to trespassers, the judge responds to this by stating that “the timing of the decision to fence the footpaths – coming hard upon the listing under the 2011 Act – strikes me as material” (Para. 38). The judiciary, even though trespass was deemed to be taking place on the ACV, defined that the assets were still ACVs.

Recent past

Many seem to have taken 5 years as being “recent past,” which is the time frame recommended by parliament for the future condition, however the judge deemed that a timeframe had been kept out for a reason (see *Worthy Developments v. Forest of Dean DC*). In *Hawthorn Leisure v. Chiltern DC*, 7 years is classed as recent past due to the long history of the pub before that, therefore it is contextual as to what this time frame is. In *Worthy Developments v. Forest of Dean*, the pub had been open for 18months in the five years prior to the appeal due to unsuccessful tenants and the owner had submitted evidence to state that there was no realistic prospect for its future as a pub. The judge responded to this by stating that it is not necessary to approach it in this way, “it seems to me illogical to seize on the period of five years... the figure is chosen because it is the length of time specified by Parliament over which the future condition is to be assessed.” The judiciary recognise the nature of the PubCos, how they function, causing unsuccessful tenancies and thus how community ownership can be successful, being free of the ties.

Realistic prospect (future)

Landowners intentions should be taken into consideration “as part of the whole set of circumstances” (para. 11 *Warren, J. in Patel v. Hackney BC* CR/2013/005), although not being the only basis for a decision. This contributes to making the decision as to whether it is realistic to assume that community use is viable in the future. In *Patel v. Hackney*, the owner’s investment strategy was to convert the public house into residential, it is noted that he had paid in between the valuation as a public house and that of the residential valuation (which was 3 times that of the pub). However, the judge determined that there were three outcomes, one that there would be a refusal on the planning application, which combined with evidence that the pub was profitable and there is keen interest from the community, therefore it was concluded that it is realistic to assume future use by the community. The judge highlights the issue with giving a “determinative factor” in making the decision, because “if correct, it would seem to follow that that an owner need only say “I have set my face like flint against any use of community value” and listing will be avoided. This almost makes the scheme voluntary. I think it more reasonable to take into account Mr Patel’s intentions as part of the whole set of circumstances. After all, they are the current owner’s present intentions and the legislation requires an estimate of what will happen over the next five years.” (Para. 11, *M. Patel v. London Borough of Hackney*). In *Evenden Estates v. Brighton and Hove City Council* the judge stated “that what is

“realistic” may admit a number of possibilities, none of which needs to be the most likely outcome”. However, in *Gibson v. Babergh DC* the judge added that the proposed use must not be “fanciful” (para. 18) or be “entirely speculative” (*New Church v. Bristol CC*, para. 29).. Therefore, the future ‘realistic’ condition can be satisfied based on one of many potential futures for the asset and may not even be the most realistic. The landowners intentions are an important factor in this.

The viability of public houses has been a main feature within the tribunals, whereby owners have claimed that the public house is no longer viable (*Dismissed: Reed v. Shropshire CC* – please note: this is now a community pub). In *Martin Moat v. North Lincolnshire District Council* the owner purchased the public house with the intention to turn into a family home but in response to the local community reopened it as a pub, tried for two years and reporting a loss closed the pub, the planning permission for turning into a residence was refused. The judge deemed that it satisfies section 88(2)(b) and could also be used for “some other form of social meeting-place, such as a café” (Para. 18). *J. Haley v. West Berkshire DC*, planning permission for change of use refused, claimed unviable, however the second respondent had received funding from the Plunkett Foundation to carry out a viability report by Morgan and Clarke (specialist for over 40 years in licence/leisure business) which stated that offering food would make this a successful public house. There is also evidence of landowners marketing public houses beyond their market value to account for development value. In *Hawthorn Leisure v. Chiltern DC* the judge recognises that just because a bid wasn’t received by the community within a first moratorium is not a sign that it is unrealistic to re-open as a public house. It is also highlighted the asking price is significant to deter purchasers; “I find on balance that the figure of £650,000, at which the Kings Head was advertised, was not a realistic asking price for a building whose permitted use was as a pub, and not solely a private residence.” In the case of *Hawthorn Leisure Ltd. v. St. Edmundsbury*, planning permission for change of use had been refused, yet “only some fifteen to eighteen months after Greene King had sold for £235,000, the property was being marketed at £475,000,” which was deemed as being “deliberately designed to deter anyone who had a genuine interest in it. The unrealistic nature of the price being sought by the appellant for the Beehive was brought into sharp focus by comparing the sales particulars of nearby pubs. There were many examples of community owned pubs operating successfully. The Friends could offer ownership that was not geared to profit and which had the scope for such things as volunteer assistance. The imagination of the village had been captured.” Also in this case, it demonstrates that major brewers/PubCos could be using tactics to force tenants out, whereby the last tenant of the public house was “supposedly paying a rent to Greene King of £23,000 per annum but Greene King was paying the tenant around £450 a week just to stay.” It was considered that there had been a “number of unfortunate errors on the part of the former owners. Because – contrary to the claim made by the appellant – the recent tenants had been operating successful businesses, Greene King had raised the rent which, in retrospect, had been unwise.” Another case of poor trading history was in *Evenden Estates v. Brighton and Hove City Council*, where the judge recognises that ““Pub Cos” such as Enterprise Inns, had faced criticisms in Parliament over their relationship with their licensees, and were regarded as being more in the nature of property companies” (Para. 10). The judge also considered an increase of a local student population by 430 people. Overall the commercial or long-term viability has not been a factor in determining whether the future realistic condition is satisfied, thus meaning that an ACV is listed even if not deemed commercially viable.

With regards to **Public houses**, the judges seem to be open to the public house industry facing challenging times, but remain positive and open to the possibilities of community ownership; “True

it is that the pub trade nationally is in the doldrums but there are examples... of pubs being revived in the area in the last couple of years” (St Gabriel Properties v. London Borough of Lewisham, Para. 34). Worthy Developments v. Forest of Dean: the judge recognised that “the remoteness of the public house which must compound the general malaise affecting public houses nationally”. However, the judge determined that the backing of the community is considered; “It is important, however, not to confuse commercial viability with what altruism and community effort can achieve”. Landowners feel that if organisations cannot realistically raise the funds and provide a robust business plan then the listing should not be permitted (Spirit Pub Co. Ltd. v. Rushmoor Borough Council) or that they should be given the initial moratorium to pull these plans together. In many of the reviews and appeals, the landowner argued that the community had not submitted a business plan. The judges have determined that considering a business plan from the organisations is not deemed necessary (see also Evenden Estates, Worthy Developments). However, in Spirit Pub v. Rushmoor BC (CR/2013/0003) it was determined that it is not realistic to think that there would be community use in the future as McDonalds had been granted planning permission to use the property as a restaurant/takeaway, making any other use unrealistic because the community would find it difficult to raise more substantial funds to purchase it now. Another factor considered was that it had been closed for five years before the appeal. Moat v. North Lincolnshire DC (CR/2014/0014) the judge accounted for the outcome of an appeal against the refusal of planning permission to convert the public house into residential. It has been demonstrated from the outcomes of the tribunals that planning permission decisions (whether refused or accepted) contribute to the decision of the judge in determining whether the future condition is satisfied.

Property yet to be constructed. Within the Kassam Stadium case, it was deemed that the yet to be constructed west stand will also be part of the listing (para 18). In another case, it was suggested that if the appellant received planning permission for building on a car park of a public house, the judge highlighted that “it would be open to Punch to contend that a new planning unit has been created and, accordingly, to seek to have the Council remove that part of the land from the 2011 Act list” (Punch Partnerships v. Wyre BC).

Evidence from NDP. In Curtis Sloane Ltd. v. Bassetlaw DC evidence from a Neighbourhood Plan had been submitted which indicated the communities support for recognising their local pub as an asset and in Crostone Ltd. v. Amber Valley BC evidence from the NP had demonstrated a significant interest in seeing the public house reopen.

Residential element of the listing. In Carol Gibson v. Babergh DC the public house had a dwelling attached that had a planning condition that could only be used by employees/owner of pub, in Wellington Pub Company v. Royal Borough of Kensington and Chelsea), the owner appealed against the residential element of the public house being listed, the judge deemed that “there is a sufficient physical and a functional relationship between the residential accommodation and the pub... But for that residential use, the land in question would be eligible for listing as an asset of community value” (Para. 28).

Successful Appeals

The following summarises the successful appeals and why

- a case where McDonalds had planning permission to convert it, thus not realistic for future use (Spirit Pub Co. Ltd v. Rushmoor Borough Council)

- ancillary use of a playing field by a football and cricket club; (Dorset County Council v. Purbeck District Council)
- Pub had not been used for 6 years (GK Scott v. South Norfolk District Council)
- Community use of a religious building ancillary to the use (The General Conference of the New Church v. Bristol City Council)
- Planning permission had been received to convert a public house into residential (STO Capital Ltd. v. LB Harngey)
- “Taken together, the inability of the Appellants to make a success of the business despite significant investment, the absence of any commercial or any meaningful voluntary sector interest in running this public house in this location and the absence of any evidence that proposals which might improve the viability of the Cross Keys being acceptable to the First Respondent in this location lead me to conclude that it is not realistic to think that public house use could be made of the building within the next five years.” (Fernwick Ltd. and Mr R Hammond v. Mid Suffolk DC)
- CAMRA SW Branch not classed as a legible nominating body (Hamna Wakaf Ltd.v. LB Lambeth)
- Future use of the golf course and club house deemed not realistic (Haddon Property Development Ltd. v. Cheshire East Council)
- A woodland adjacent to the garden of a public house was not deemed as being an ACV due to there being little use by the users of the pub (New River Trustee 7 Ltd. New River Trustee 8 Ltd. v. Wyre Forest DC)

Appendix I: Findings on alternatives/supplements to CRtBid

There are a variety of ways that ownership rights have been limited in order to account for other rights claims (including environmental claims). The LA respondents were asked if there were any other viable ways of protecting the assets of value, this split opinion and a number of tools were mentioned; the planning process (3) (designations, building control, protected areas/controlled development, legislation through LPs (5), stronger planning powers) listing of buildings (3), asset transfer (9, one stated in limited cases), charitable trusts (2), local green space designation, neighbourhood plan, co-delivery partnerships, deliberation, Article 4 directions, funding to allow competitive bids. In terms of designations, a LA mentioned a case where “a nominated pub has just been granted Grade II listed building status which will provide a greater level of protection against redevelopment than ACV listed status. This is a rare case however.” Another recognised that “a valued asset could be anything from a pub to a telephone box: the scope is so wide ranging! There is legislation to protect swathes of assets already”.

The table below summarises the use of alternative options of contributing to or protecting community assets.

Summary of the use of other options by LA in the past 5 years					
	Community Asset Transfer (CAT)	Less than market rate	Partnerships	LA grant distribution	Compulsory Purchase Orders (CPO)
Yes	35	43	33	45	22
No	42	12	34	18	33
Unsure	25	45	33	37	44
answered question	102	100	100	100	99
skipped question	37	39	39	39	40

CAT was considered by some LAs as a “a more appropriate procedure” than the CRtBid. However, this research has identified that LAs are acting as a ‘judge’ as to whether the rights claim to ACVs are ‘practical’ or viable, considering only those “assets which are viable and cost effective to do so” and to avoid the transfer of an “asset that could potentially bankrupt the group or has a limited life span” and “the condition and onerous maintenance liabilities are a key factor when considering an asset transfer.” Therefore, the CRtBid provides an opportunity for LAs to consider alternative, “more appropriate” options to sale on the open market, demonstrating that some LAs are not as financially constrained to be forced to consider market price for assets.

In the past five years, the LA respondents stated that a variety of different types of assets have been transferred to community groups via CAT. The types of asset mentioned were community centres (15), public toilets, civic halls (2), town/village halls (4) park land/public open space (5), library (5), allotments (5), market facility (2), public toilets, play areas (3), museums, heritage assets, sports facilities (4), public conveniences (4), concert venue, scouts hut (3), play and youth buildings (2), leisure properties, community café, former school, former chapel in a cemetery, depot, swimming baths, arts centre, land for community orchard. One mentioned a theatre, which was listed as an ACV. Some stated how many assets had been transferred (3, two said 5, two said around 10, 14, 17, 20, c40), however one stated that there were “too many to quantity,” because “a large number of assets

have been transferred to town and parish councils and a number of other asset have been transferred to partner organisations,” another also stated that they “had a programme of transferring land to Parish & Town Councils over the last few years, and has been very pro-active in doing so.” One stated that the policy was never passed and two recognised that similar transfers have taken place outside an official CAT. Some recognised that there had been other leases established, such as “shorter term leases of nominal rent” that haven’t been through the CAT process but are “based on normal asset management decisions that will generate social value. These include youth clubs, former town halls, schools and offices”. Two highlighted “providing land for free or discounted for affordable housing developments,” both also offering land and buildings to communities for free or nominal rent. This leads to the following section.

The LA respondents stated that CPOs have been used “primarily to support infrastructure development, and not to protect assets,” LAs referred to the assembly of sites for residential development (3), regeneration projects (4), link roads/highway development (4), flood defences, secure a Gypsy Traveller Site and a cemetery extension. CPOs are also commonly used on vacant/derelict residential property (5). One referred to an unsuccessful attempt to use CPO powers. Finally, an ACV nominator had approached the LA to use CPO to support their bid “but it refused”.

Rented assets at less than market rate/ peppercorn rents. These assets, similar to above, community centres/halls (13, 1 stated that all (9) are peppercorn rented), include open spaces (4), scout huts, charity shop, sports facilities (7) and small community buildings, town and village halls, over 60's club, libraries/former (4), former youth centres, allotments (2), care centres, greenhouse, barn, hall annex, swimming baths, ski slope, museum and office building (2). Former Council office accommodation (to a local Chamber and the CAB), playgrounds, parish offices, arts groups and accommodation for voluntary organisations (2). Two mentioned Tourist Information Offices. The numbers of assets that have this arrangement with the LA range; 8, 10, 20, c50, 101, “significant number,” whereas one stated “We possibly have, but it would be unusual.” One recognised the traditional relationship of letting particular types of assets; “for example scout huts, sports pavilions, allotments, play areas etc. to local groups / Parish Councils.” Whereas another looked to the future; “Our asset transformation programme (ongoing) is likely to see numerous further assets being managed via communities e.g. youth clubs, small office spaces.”

Some respondents picked up on the labelling of market value;

“The Council has a policy of letting everything at market value but CAT have their rent offset by valuing the 'worth' they bring to the City”

“We also rent allotments, children’s play areas and other open spaces at pepper corn rates but it is difficult to claim that these are let at less than market rent when this indeterminate”

“For many LA owned assets (allotments, community centres, sports pavilions, e.g.) the 'market' is limited to community groups with limited resources so 'market rate' is a somewhat nebulous concept”.

There is a recognition that under this type of arrangement community organisations are responsible for their own repairs and maintenance;

“the Scout Hut and Community Hall are on a leasehold basis for a peppercorn but the tenants have controlling interest and repairs responsibilities for the asset”

“The Council lease their Community Assets for less than market rate as there is no market for the types of and the Associations rely on funds and grants to operate and these funds are limited. They are however, liable for their own repairs under the terms of the lease. Consequently, the Council leases these at a peppercorn rent in order to acknowledge ownership of the Title of these Assets. Furthermore, these properties are classed as a Specialized Property on the Council’s Asset Portfolio, which refers to certain types of properties which are rarely, if ever, sold in the open market, except by way of a sale of the business of which they are a part (called the business in occupation), due to their uniqueness arising from the specialised nature and design of the buildings, their configuration, size, location or otherwise”

Another reflected that if they were maintained they may be let at market value, otherwise they are “let at a peppercorn due to significant maintenance backlog and future maintenance obligations to the Council.” Finally, one respondent stated that “Typically these are of 2 types - CDC has an industrial estate for start-up businesses (approx. 40 units) where concessions against full cost of lease are permitted for varying terms dependant on demand for space. CDC also has a historic portfolio of community used spaces (e.g. a scout hut) where historic tenants are paying objectively less than the market rate for a building of its size - but it is also questionable if anyone would occupy that space or pay any more for it”.

Partnerships typically involved community centres (10), leisure centres, museum, allotments (2), open spaces, civic hall, heritage centres, guild hall, school (run by local community trust), Libraries (2), Children’s Nursery’s, Sporting facilities (2), Public Conveniences/ Markets/ Tourist Information Centres. The CATs are seen as partnerships by some.

Grants from local councils have been distributed to community groups, assets mentioned included community centres (3), public conveniences, a chapel to be run as a community hub and former libraries. Five mentioned that they distribute grants relating to CAT (e.g. one said “to subsidise critical repairs as part of the transfer”). Two mentioned only through s106 monies. Two had but have stopped recently due to cuts in funding. There were three cases that mentioned distributing grants toward groups wishing to protect public houses, one LA had provided funds to start the process of raising a bid, a further two LAs referred to having a “loan arrangement” with community groups wanting to purchase their public house, however this was returned on both occasions as the bid was unsuccessful.

Finally, a community respondent recognised that the CRtBid wasn’t the right tool for them in that “it appears that the only way to protect such sites is via other means such as a Village Green designation.”

Appendix J: Successful Acquisitions

a. Summary of successful acquisitions identified through the research process

Total = 48 confirmed.

No.	Name of Asset	Asset Type	Previous owner (if known)
1	Denton West End Library	Library	
2	Anglers Rest	Public House	Admiral Taverns
3	St John Kemble	former Church	Belmont Abbey
4	The Royal Oak, Macclesfield Road, Rushton Spencer, SK11 0SE	Public House	
5	The White Hart, 18, High Street, Alton, Staffordshire ST10 4AQ	Public House	
6	British Red Cross Building South Bank Street Leek ST13 5LS	Hall	
7	Chesham Arms	Public house	
8	Ivy House	Public house	
9	Mead End Inn	Public house	
10	Fox and Hounds	Public house	
11	Greenham Control Tower	Other	
12	Turkish Baths	Swimming pool	
13	The Co-op Store, Hallbankgate and the associated land	Shop	Scottish Midland Co Op
14	Woodland at Geldeston Locks	Woodland	Broads Authority
15	Cuckfield Youth Club	Youth club	West Sussex County Council
16	Market Square, Royston	Public space	
17	The Brigade Centre	Hall	Avon Boys Brigade
18	Ampfield Village hall	Hall	Hampshire Women's Institute
19	Harpford Hall	Hall	
20	The Antwerp Arms	Public house	
21	Kings Arms Public House	Public house	Punch Taverns
22	Silver rooms	Retirement home	Norfolk county council
23	Red Lion, Sidford.	Public house	
24	Tempest Arms, Coleby ACV06	Public house	
25	Petersfield Police station	Police Station	
26	Norton Public House, Cold Norton	Public house	
27	The Peterborough Arms, Dauntsey Lock, Chippenham, Wiltshire, SN15 4HD	Public house	
28	AP Sports and Social Club	Health and Wellbeing	
29	Vale Allotments	Allotments	
30	Kayte Lane, Bishop's Cleeve	Unknown	
31	Ex Methodist Church, Sheerness – 11513280	Religious building	
32	Whitehill Methodist Church – 11531336	Unknown	
33	The Drovers Inn, Gussage All Saints	Public house	
34	Horspath weslyan Chapel, Horspath (SODC district)	Unknown	
35	The Plough, West Hanney, (Vale of White Horse District)	Public house	
36	The Case is Altered, Bentley, IPSWICH, Suffolk	Public house	
37	The King's Arms, Shouldham	Public house	
38	Black Bull in Lowick	Public house	

39	The Dolphin Inn, Bishampton	Public house	
40	Tippits Inn Tiltups End, Horsley, Stroud, GL6 0QE, Gloucestershire, GL6 0QE	Public house	
41	Ex Methodist Church, (Sheerness Youth Centre) – 11513280	Unknown	
42	The Angel Hotel	Public house	
43	Ridgway Craft Centre	Arts and Crafts	
44	Melbourne Toilets	Unknown	
45	Tally Ho Public House Hungerford	Public house	
46	The New Inn, Mannaccan. 2014-15	Public house	
47	2013/001 - Public Open Spaces, Mallows Grange	Unknown	
48	The Bedford Arms	Public house	

b. Funding sources for community respondents who successfully purchased an ACV

Source of funding that community respondents acquired in successfully purchasing their asset	
Answer Options	Response Count
Bank loan	4
Community Shares	7
Big lottery funding	4
Charitable foundation	2
Private Donors (local people, businesses, philanthropist)	3
N/A	53
Other (please specify)	13
Total: 74	

Other: Organisations reserves (2); Donation from local parish trust. Big Lottery - power to change; Public Works Board Loan (3) (2 of which- Permission from SOS to apply for a public works loan board loan - had to go through County Association then DCLG and they gave borrowing approval and then had to use to get the Public Works Board Loan; Applied for a loan - public works loan board - £204,000. Purchase of the youth club and incidentals); private donors; The Co-operative Finance Group; Combination of loan (Architectural Heritage Fund) and grant (Social Investment Business Group; Personal interest free loan from an individual