

**Communities & Local
Government Select
Committee**

Community Rights



**CAMPAIGN
FOR
REAL ALE**

**A Response from CAMRA,
The Campaign for Real Ale
August 2014**

1. Executive Summary

- 1.1. As an independent consumer organisation with around 165,000 members, CAMRA is broadly supportive of the Community Right to Bid and works to support community groups in nominating pubs as Assets of Community Value¹.
- 1.2. However, the Right to Bid is at risk of being undermined by several loopholes, such as that ACV status can be ignored if an asset is sold as a 'going concern' or leased rather than sold. CAMRA is particularly concerned that permitted development rights allow pubs (including ACV listed pubs) to be demolished or converted to a range of other uses without planning permission. It is vital that these loopholes are closed so any change of use or demolition of a pub requires planning permission.
- 1.3. The Community Right to Bid should be developed into a more powerful tool for communities through business rate relief and extending the moratorium period from six to ten months.
- 1.4. Government should also show leadership and provide more guidance to Councils, communicating clearly that:
 - Councils must take a decision on a nomination within 8 weeks
 - Councils must avoid 'gold-plating' the requirements for nominations
 - Councils should publish information about the Community Right to Bid, and a list of ACVs, on their website
 - The statutory test must be applied correctly when considering nominations

2. Introduction

- 2.1. CAMRA, the Campaign for Real Ale is a consumer group with around 165,000 members and acts as the independent voice for real ale drinkers and pub goers. Our vision is to have quality real ale and thriving pubs in every community.
- 2.2. We are concerned that 31 pubs are closing every week², and gaps in planning law, coupled with high property values, are leaving pubs vulnerable.
- 2.3. CAMRA is therefore broadly supportive of the Community Right to Bid as one tool available to communities campaigning to protect local pubs, and we have been working since April 2013 to encourage community groups to nominate

¹ CAMRA does not have a position on the other community rights.

² CGA-CAMRA Pub Tracker, August 2014

valued pubs as Assets of Community Value (ACVs). The recent Local Government Information Unit (LGIU) report, “Public Houses: How councils and communities can save pubs”, commissioned by CAMRA, also found that “ACV is a partial solution to the problem of widespread pub closures.”³

2.4. CAMRA has invested significant staff and volunteer resources in supporting community groups in making nominations and advising Councils on the law. CAMRA is also a member of the Localism Alliance, an informal grouping of organisations supportive of greater powers for communities.⁴

2.5. While there are several areas where the Government should improve and strengthen the Community Right to Bid, we see a number of benefits to communities nominating pubs as ACVs such as:

- ensuring a pub can't be sold without the nominating group being informed
- putting a marker down that a pub is valued to deter developers
- ACV listing can be used as a material consideration by Councils when considering planning applications against the pub
- providing community groups with a 6 week (extendable up to 6 months) delay to a potential sale, in which to consider the options for saving a pub such as a community purchase.

2.6. The LGIU found that further benefits of ACVs include:

“ACV legislation... does start a conversation between the council and citizens, as well as between different tiers of local authorities and the parishes. This is an important step in galvanising a sense of pride and ownership in the things that exist within our communities.”⁵

ACVs can “help to buy time, to galvanise the community behind a campaign, and potentially deter owners and developers from selling or redeveloping their pubs.”⁶

3. What evidence is there that communities are aware of these rights and are using them?

³ “Public Houses: How councils and communities can save pubs”, *LGIU*, July 2014, available online at www.lgiu.org.uk/publications/public-houses/, p14

⁴ Members of the Localism Alliance include Civic Voice, Supporters Direct, the Plunkett Foundation, Theatres Trust and the National Association of Local Councils

⁵ *Ibid.*, p11

⁶ *Ibid.*, p14

Number of ACVs

3.1. The table below provides a breakdown by asset type of 1268 ACVs listed by local authorities in England. The below figures were provided to CAMRA by the Department for Communities & Local Government in June 2014 and CAMRA has since identified more ACV listed pubs.

Type of Asset	Numbers (DCLG figures)	%
Pub	398	31%
Other Building ⁷	152	12%
Community Centre	101	8%
Playing Field	63	5%
Church	50	4%
Community Shop	38	3%
Library	38	3%
Car Park	38	3%
Allotments	38	3%
School	38	3%
Sports Ground	38	3%
Park	38	3%
Post Office	13	1%
Other Public Space	13	1%
Land	13	1%
Village Green	13	1%
TOTAL	1268	100%

3.2. Certain Councils have acted as trailblazers in taking up and promoting the legislation, such as Uttlesford District Council:

“Uttlesford District Council was an early adopter of the Community Rights legislation. It is a rural area in which over 170 assets have been listed so far. They are seen as a key mechanism for the council to engage with the community. Even though the asset in question may not be under threat at the time, there is value in supporting members of the community to come together and make a statement about the things in their community that mean something to them.”⁸

“By listing so many assets in such a short space of time the council has demonstrated that the process is reasonably straightforward... It is seen as

⁷ Breakdown not provided

⁸ Public Houses: How councils and communities can save pubs”, *LGIU*, July 2014, available online at www.lgiu.org.uk/publications/public-houses/, p20

part of the place-shaping agenda that may reap potentially big rewards in the future.”⁹

Pubs listed as ACVs

3.3. The below table shows the number of pubs that have been listed as ACVs. We have collected this data by accessing publically available information on Council websites.

Date	Number of ACVs listed
April 2013, CAMRA Campaign Launches	50
July 2013	60
August 2013	100
October 2013	200
November 2013	240
December 2013	270
February 2014	300
April 2014	386
1 st August 2014	489

Regional breakdown

3.4. The regional breakdown shows a significant north-south divide.

Region	Number
South East	131
East of England	111
South West	81
West Midlands	47
East Midlands	38
London	32
North West	24
Yorkshire and the Humber	21
North East	4

Nominator breakdown - Pubs

Nominator	Number
Nominee not published	190
Parish Council	182

⁹ Ibid., p20

Unincorporated Body	68
Community Interest Group or Neighbourhood Forum	44
Town Council ¹⁰	5

3.5. These figures make clear that, where the nominator is known, Parish and Town Councils have made the most nominations for ACV listings. This is reinforced by the LGIU’s findings:

“Parish councils also have a key strategic role in carrying [the ACV] agenda forward. In fact, parishes can nominate assets to be listed so are particularly well placed to ensure that the message is spread across communities.”¹¹

4. If communities are not using the rights, what is the reason?

4.1. Although it is welcome that 489 pubs have been successfully listed, community groups have raised with CAMRA a wide range of problems and difficulties with the Community Right to Bid.

4.2. While these issues can partly be attributed to Councils finding their feet with new legislation (in the context of Council staff and budget cuts), several Councils have ‘gold plated’ the legal requirements by requiring unincorporated bodies to provide more information than necessary before accepting nominations (such as constitutions or articles of association). These additional barriers for community groups can dissuade them from making nominations. Part of the reason for this approach by Councils is that they are increasingly mindful of the possibility of an appeal by the asset owner.

Council take-up of Community Right to Bid

4.3. The majority of Councils publish their list of ACVs (as required by the Localism Act). CAMRA has successfully improved Council take-up of the Right to Bid by producing our own template nomination forms for community groups, and writing to Councils explaining the legislation. However there remain 37 Councils with nothing at all on their website and no published list of assets, of which 19 have responded to CAMRA’s requests for information confirming they have so far received no nominations (see Appendix A).

¹⁰ It is not entirely clear in the legislation whether Town Councils are eligible to make nominations.

¹¹ Public Houses: How councils and communities can save pubs”, *LGIU*, July 2014, available online at www.lgiu.org.uk/publications/public-houses/, p5

4.4. A handful of Councils have even asked for a Freedom of Information Act request in order to release details of ACV nominations: this should certainly not be required.

4.5. Even where Councils have not received any ACV nominations, information should be provided on Council websites to raise awareness of the powers and assist community groups considering making nominations.

Council Status	Number
List of ACVs published, including at least one pub	169
List of ACVs published but no pubs ¹²	98
Information on ACVs published, but ACV list not published	21 (<i>of which 11 have informed CAMRA they have received no nominations</i>)
No ACV information or list published	37 (<i>of which 19 have informed CAMRA they have received no nominations</i>)

5. How successful are communities in using community rights to achieve their objectives?

5.1. The objective of a community group when they turn to the community rights is generally to protect the asset (i.e. pub). Often, the pub is already under threat of redevelopment.

Community Right to Bid protecting pubs: Material Consideration

5.2. ACV status can be used as a material consideration in planning applications against pubs (examples below). It is for Councils to decide how much weight they afford to ACV status when considering applications.

Bittern, Southampton. Planning permission was refused to convert the Bittern to a drive-through McDonalds. The key reason for refusal was the loss of a community facility given the pub listed as an ACV.

Black Horse, Amberley, South Downs. The planning inspector upheld the Council's original decision to refuse planning permission. As well as the loss of heritage value, strong public support and communal value, the inspector also cited the pub's ACV status as contextual background in making the decision.

Community Right to Bid protecting pubs: Community Buy Out

¹² Includes Councils which have made it clear on their website that no nominations have been received, or which have published blank lists having received no nominations

5.3. At least 10 pubs have been bought by their local community following ACV listing (see Appendix B).

5.4. There have however been occasions where a community group keen to purchase a pub has been prevented from doing so by the pub company owners, for example:

Red Lion, Sidbury, Devon

The pub owners, Punch Taverns, put this pub (the only pub in the village) up for sale and in response, a local community group formed to retain this community facility. The community listed the pub as an ACV, undertook extensive local research, forged Sidbury Community Enterprises, developed refurbishment plans and through community shares raised £100,000.

From the beginning the community encountered several barriers to purchase. They have informed us that initially Punch Taverns and its agent were unwilling to discuss the purchase of the pub, despite the community group being the only potential bidder at the time.

The community group undertook advice from an independent valuation officer and a building surveyor to form a realistic offer in consideration of the marketable value of the pub. After extensive pressure, negotiations with Punch Taverns did begin, but the community's offer was rejected. The community group have now been formally advised that Punch Taverns have accepted an alternative offer for the purchase of the Red Lion.

Going concern loophole

5.5. We are concerned that the Community Right to Bid may be undermined by a potential loophole whereby ACV status can be ignored if an asset is sold as a 'going concern' – even if the buyer is clearly a developer with no intention of retaining the pub. The Localism Act states that the usual moratorium process does not apply “if the disposal is of an estate in land on which a business is carried on and is at the same time, and to the same person, as a disposal of that business as a going concern.”¹³

5.6. One example is the Anglers Rest in Bamford. It was the last pub in the village but was closed by Admiral Taverns. The community came together to list it as an ACV and then produce a business plan to buy it. Admiral Taverns then attempted to avoid a community purchase by disposing of the pub as a going

¹³ Localism Act (95 (5) (f))

concern. Following extensive public and media pressure, Admiral Taverns have now sold the pub to the community.

Planning loopholes undermining the Community Right to Bid

5.7. The Community Right to Bid is sadly often not sufficient to deter against a determined developer. Communities are regularly stymied by planning loopholes which mean a pub (even if it is ACV listed) can be demolished, or converted to A1, A2 or A3 uses without planning permission due to permitted development rights. These uses include small supermarket stores, restaurants and estate agents.¹⁴

5.8. The flexibility for a pub to be converted to these other uses without planning permission has created a market distortion and has artificially inflated the land value of pubs on sites especially attractive to businesses seeking to avoid an extensive battle over planning permission.

5.9. Conversion to small supermarket stores in particular represents a very serious threat to pubs. CAMRA conducted research which found that two pubs a week were converted to supermarkets between January 2012 and January 2014.

5.10. There are several cases where the Community Right to Bid has already been undermined by planning loopholes, including:

The George IV, Brixton, London Borough of Lambeth.

ACV Status granted but converted to supermarket

The George IV pub was designated as an ACV in April 2013 but had already been purchased by a supermarket chain and not used as pub for some time. It is now a Tesco Express.

5.11. CAMRA is calling for the Government to close these planning loopholes, so any demolition or conversion involving the loss of a pub would require planning permission. An EDM has been tabled (number 208) in support of these changes which currently has the support of 44 MPs.

5.12. The LGIU found that there is a demand from Councils for these loopholes to be closed:

¹⁴ A full list of permitted development rights is available at www.pubsmatter.org.uk/the-campaign

“Although [local authorities] have the aspiration and the will, it remains challenging for councils to act decisively when a community pub is under threat.”¹⁵

“33 out of 49 local authorities [surveyed by the Parliamentary Save the Pub Group] disagreed or strongly disagreed that existing planning regulations give sufficient protection to public houses from change of use or demolition.”¹⁶

Removing permitted development rights for ACV listed buildings “could add significant weight to the ACV legislation, giving local authorities more leverage in decisions that matter to their communities.”¹⁷

Extending the moratorium period

5.13. The current full moratorium period of six months can be too short to give a community group time to put together a bid and successfully save the pub. A recent Plunkett Foundation report found that “the time taken to save and reopen a pub as a co-operative is on average ten months; four months longer than the protected period provided by the Assets of Community Value legislation through the Localism Act in England”, and recommended “increasing the protected period to a minimum of 10 months.”¹⁸

5.14. CAMRA would support an extension of the moratorium period from six months to ten months.

Other issues preventing communities from using the Community Right to Bid to save pubs

5.15. Other issues standing in the way of communities saving their pubs using the Community Right to Bid powers include:

- High property prices (particularly in London), meaning that communities seeking to purchase a pub are unable to compete with the high prices developers are willing to pay to convert properties to other (mostly residential) uses
- Councils can remove pubs from their ACV list after having accepted them, following representations by the owner. One example of this is the Crown in Borehamwood, nominated by the Save the Crown group and successfully listed. However in January 2014 Hertsmere Council upheld

¹⁵ “Public Houses: How councils and communities can save pubs”, *LGIU*, July 2014, available online at www.lgiu.org.uk/publications/public-houses/, p3

¹⁶ *Ibid.*, p4

¹⁷ *Ibid.*, p5

¹⁸ Plunkett Foundation, “Co-Operative Pubs 2014: A Better Form of Business. Available to download at <http://www.plunkett.co.uk/resources/publications.cfm>, p8-9

an appeal by the owner and removed the pub from the Council's list of ACVs. We are concerned that this case may set a precedent whereby pubs which Councils accept are valued local assets can be de-listed shortly afterwards, even though the circumstances do not change.

- A small minority of pub owners have leased ACV designated pubs (for less than 25 years) rather than selling them, for example to a supermarket, thereby circumventing the legislation.

6. How helpful is the guidance and assistance that has been made available to communities and local authorities to help them use and understand community rights?

6.1. The Act and the accompanying Non-Statutory Advice Note for Local Authorities represent the principal forms of information provided to Councils to assist them in navigating the legislation. Locality's advice service (funded by Government) has also provided some assistance.

6.2. Central Government has not provided sufficient leadership to Councils to encourage adoption of the rights, nor has Government provided sufficiently detailed guidance to Councils. CAMRA would like to see the Government communicating clearly to Councils the following:

- Councils must take a decision on a nomination within 8 weeks
- Councils must avoid 'gold-plating' the requirements for nominations
- Councils should publish information about the Community Right to Bid, and a list of ACVs, on their website
- How to correctly apply the statutory test in considering nominations

6.3. The statutory test is clear. Councils must satisfy themselves that:

- the asset is of community value
- the building has been used as a community asset in the recent past
- there is a realistic prospect that the building will be used as a community asset in the next five years

6.4. We have encountered several cases where Councils have, in our view, failed to correctly apply the statutory test, such as:

Weymouth & Portland Borough Council rejected the Albert Inn, Weymouth, as an ACV on the grounds that there is another pub "approximately 0.7km from the nominated asset and therefore there are alternative premises providing similar social value to the local community." The Council's justification for this is that the decision needs to consider the statutory test "within the local context" and that

“the removal of an asset in a village or rural area where there is limited assets would have far greater impact than the removal of one of several such assets in a town or urban area”.

Wiltshire Council rejected the listing of the Plough Inn, Kington Langley. One of the grounds for this decision was that “Kington Langley has another pub within the village and on the basis of the facts provided it was impossible to distinguish the different offerings of the pubs to conclude that the Plough warranted listing as an Asset of Community Value”. However CAMRA believes that the fact there is another facility of the same use in a locality should not form part of the decision process.

St Albans City Council rejected King Offa pub, St Albans. Among the reasons cited were that “it is not a ‘village’ pub that is the heart of the community, being located in a Housing Estate close to the city centre” and that “although this property has the potential to be an important hub for the community, potential is specifically excluded from the criteria.” This is clearly not the case as potential community value is specifically included in the criteria.

Dover District Council rejected the Hope Inn, Canterbury, on the grounds that “the property is not in current use and so does not fall within the scope of Paragraph 88 (1) (a) of the Localism Act 2011. Whilst it is recognised that the property has the potential to be used for the benefit of the community there is another property within the vicinity fulfilling this requirement. It is also noted that the property has already been on sale for many months.”

6.5. There has also been limited guidance addressed specifically to those making nominations. CAMRA has therefore produced a whole range of our own guidance to assist members, branches and the general public in nominating pubs as ACVs.¹⁹

6.6. CAMRA would also like to see Government being more proactive in challenging Councils not properly implementing the legislation, and doing more to inform the general public about the availability of the rights.

6.7. One further instance of a Council falling well short of the legal requirements is the case of the Vine pub (Adur & Worthing Councils). A nomination was made to list the Vine pub on 30th September 2013. Despite numerous letters requesting updates, the Council did not take a decision until 6th May 2014 (31 weeks later) at which point it declined to list the pub, partly on the grounds that there is another pub nearby. This decision has been seriously disheartening for the local community.

¹⁹ Available at www.camra.org.uk/listyourlocal

7. What more, if anything, might be required to encourage more widespread use of these rights?

7.1. The Government should encourage more widespread use of the rights by strengthening and developing them into an even more useful tool for communities. CAMRA is therefore calling for the Government to:

- Introduce a genuine Community Right to Buy for ACVs – so any market-level bid by local community groups must be accepted
- Remove permitted development rights for ACVs, so planning permission would always be required before the change of use of an ACV²⁰ (South Cambridgeshire Council passed a motion in January 2014 calling for this²¹)
- Make funding available for discretionary business rate reductions for pubs listed as ACVs²²
- Introduce a nominator right of appeal if a nomination is denied by a Council. Once a nominated asset is added to a Council's list of unsuccessful nominations, a community is currently powerless to combat this, even if they feel the Council did not correctly apply the statutory test
- Extend the moratorium period from six to ten months

7.2. CAMRA also supports extension of the Community Rights to Wales.

8. Conclusion

8.1. The Community Right to Bid has been a fairly successful tool in encouraging local communities to act to protect the assets that they value. There are some cases where these new powers have helped to save threatened pubs.

8.2. However, the Government should do much more to give the Community Right to Bid more teeth and encourage take-up, so that more communities can save their valued local assets.

8.3. CAMRA is calling for the Government to show leadership and provide more guidance to Councils. Loopholes in planning law that allow developers to sidestep ACV protection should be closed, and the Community Right to Bid should be developed into a more powerful tool for communities through business rate relief and extending the moratorium period to ten months.

²⁰ As recommended in the LGIU Report, p34

²¹ "Public Houses: How councils and communities can save pubs", *LGIU*, July 2014, available online at www.lgiu.org.uk/publications/public-houses/, p5

²² As recommended in the LGIU Report, p34

Appendix A – Councils with no information and no list of ACVs published on their website (information correct July 2014)

Councils with no information on their website:

Adur & Worthing Councils	Harlow Council
Barrow-in-Furness Borough Council	Isles of Scilly Council
Bolton Metropolitan Borough Council	Kingston upon Hull City Council
Boston Borough Council	London Borough of Hammersmith & Fulham
Cannock Chase District Council	Mid Sussex District Council
Chorley Borough Council	Oldham Metropolitan Borough Council
City of London Corporation	Redcar & Cleveland Council
Epsom & Ewell Borough Council	Runnymede Borough Council
Gosport Borough Council	Trafford Metropolitan Borough Council

Councils with no information on their website, and who have informed CAMRA they have received no nominations:

Basildon Borough Council	North Tyneside Council
Corby Borough Council	Richmondshire District Council
Hinckley & Bosworth Borough Council	Sandwell Metropolitan Borough Council
Ipswich Borough Council	Stockton-on-Tees Borough Council
London Borough of Croydon	Sunderland City Council
London Borough of Havering	West Lancashire Borough Council
London Borough of Hillingdon	Westminster City Council
London Borough of Sutton	Woking Borough Council
London Borough of Tower Hamlets	Worcester City Council
Newcastle-under-Lyme Borough Council	

Appendix B – ACV pubs which have been bought out by the local community

The Fox and Goose, West Yorkshire

Listed as an ACV: April 2013

Bought by the community: March 2014

West Yorkshire's first co-operative owned pub. After the pub came under threat in 2013, more than 200 local people rallied together to support the campaign and become shareholders. They raised over £130,000 and were supported by the Co-operative Enterprise Hub.

Norton Community Pub, Denby

Listed as an ACV: October 2013

Bought by the community: September 2012

Threatened with permanent closure in 2007, the villagers formed a committee to run the pub and safeguard its future. In September 2012, the committee announced that the share issue has raised over £100,000. This has enabled the committee to organise a mortgage to purchase the pub outright and implement the plans for its long-term future.

The Ivy House, Nunhead

Listed as an ACV: October 2012

Bought out by the community: August 2013

The Ivy House is London's first co-operatively owned pub and the first pub listed as an ACV. In April 2012 the pub was closed and sold to a property developer who wanted to convert the property to residential accommodation, so the community got together to fight to save the pub.

The Anglers Rest, Bamford:

Listed as an ACV: April 2013

Bought by the community: September 2013

The Greyhound Inn, Cumbria

Listed as an ACV: January 2014

Bought by the community: Unknown

Kings Arms, Norfolk

Listed as an ACV: August 2013

Bought by the community: January 2014

Rose and Crown, Northumberland

Listed as an ACV: March 2012
Bought by the community: August 2013

Tally Ho, Devon
Listed as an ACV: December 2012
Bought by the community: November 2013

Tally Ho, West Berkshire
Listed as an ACV: January 2013
Bought by the community: November 2013

Fox and Hounds, Charwelton
Listed as an ACV: December 2012
Bought by the community: February 2014