

Those of us managing private rural estates will most likely have a small field or patch of land in the village that is owned by the estate but also used by the local community, maybe due to a footpath that crosses it, or if it forms what is viewed by many as the 'village green'. The use of this land can often become a contentious issue due to the conflict of uses on the land and the variety of assumptions made by local people as to the use of 'their' land.

Often what the estate views as a field for agricultural purposes, for example, may be seen completely differently by the local community. This was seen in a recent case where a client's field that is registered for BPS and either cut for hay or grazed was nominated on two separate occasions by the local community to become an Asset of Community Value, or ACV. The reasons given in the application were varied but included the following: "a dog walking area, a recreation space for children and families to enjoy picnics, and allows children to run and skip freely not in a straight line down the narrow pavement and an area that adds joy and community spirit"!

ACVs have been with us some time as they were introduced by the Localism Act of 2011 which requires district councils to keep a list of 'community assets', also known as the community 'right to bid'. This 'right to bid' only applies when the owner of an asset decides to dispose of it and having the asset listed does not give first refusal to the community group, unlike in Scotland.

Assets of land or buildings can be nominated by a parish group or a group with a connection to the community, but not by an individual, and the group

# BATTLES ON THE VILLAGE GREEN

must be able to demonstrate it has been used by the community in the 'recent past'. Certain types of assets, most notably residential property, are exempt from being placed on the register and listing an asset cannot in itself prevent the asset from being sold but merely allows the local community the opportunity to bid for the asset once it is put up for sale. It is worth noting that owners of property placed on the register may appeal against its listing and can claim compensation if they can demonstrate its value has been reduced.

When a listed asset is put up for sale a moratorium period is applied to allow the interested party time to put a bid together if they are interested; which can be a maximum of six months. The community has no right to buy the asset, just to bid for it, which means that the local community bid may not be successful and the owner can, at the end of the moratorium, sell to whoever they like at whatever price.

There are certain types of assets, however, to which this right to bid does not apply, which could also have ramifications to the balance of Estate/

village life. One such example is when the disposal of an asset is as a 'going concern', such as a village pub. Unfortunately, after the legislation became effective it soon became noted that owners of pubs that had been listed as ACVs were selling them as a 'going concern' to other owners who used the then current permitted development rights to convert them to residential properties. This loophole allowed pub owners to sell the property avoiding the moratorium period and/or bidding process.

This loophole was subsequently closed under the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2015 which provides that any property listed as an ACV would have to apply for planning permission to change its use class.

With regards to the field that was subject to two nominations, thankfully the evidence put forward was deemed insufficient. Although it is a much loved 'green space' in the village, the field remains just that, but it highlights the fact that such small pieces of land may not be so innocuous after all.

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