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24<sup>th</sup> June 2022

# **Landworkers' Alliance Cymru**

## **Response to the Inquiry into Community Assets:**

### **Senedd Local Government and Housing Committee**

Dear Senedd Local Government & Housing Committee,

Thank you for this opportunity to contribute to your inquiry into community assets. The Landworkers' Alliance (LWA) is a grassroots union of farmers, growers, foresters and land-based workers with a mission to improve the livelihoods of our members and create a better food system for everyone. We have over 2000 members across the UK and LWA Cymru represents over 250 members in Wales. Our members are workers, trainees and small business owners, who practice, or are seeking opportunities to work in, agroecological farming and sustainable forestry. Their markets are largely local, using short supply chains, keeping money in local rural communities.

Given the nature of our membership, the focus of our response is on community owned farms and land. We appreciate that the inquiry is primarily focussed on buildings; however, we believe it is important to extend this to land, including land without buildings on it.

Together with [Shared Assets](#) we are working on a project exploring the opportunities and barriers for communities accessing land for community farms in Wales. This is part of a broader Welsh Government funded project, Resilient Green Spaces<sup>1</sup>, managed by Social Farms and Gardens.

We wish to back up the extensive response from Social Farms & Gardens as well as that of Shared Assets. Below we reiterate some of the key arguments with additional points of our own.

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<sup>1</sup> Resilient Green Spaces is a £1.27m partnership project being led by Social Farms & Gardens to pilot alternative re-localised food systems using communities and their green spaces as the driving force for change across Wales until June 2023. This project is funded through the Welsh Government Rural Communities - Rural Development Programme 2014-2020, which is funded by the Welsh Government and the European Union.

## **Q1: Whether the current statutory and policy framework empowers communities in Wales to develop community assets**

No, we do not believe that the current statutory and policy framework supports communities in acquiring and developing community assets. Indeed, community groups often find themselves struggling to navigate layers of obstruction and bureaucracy when seeking to take over an asset of community value. This is due to both policies that specifically relate to asset transfers and other policies that, whilst not directly related, nonetheless affect them.

Key points that hold back communities include:

1. **The prioritisation of best financial return.** A key policy barrier is the way in which Section 123 of the Local Government Act 1972 is applied. Under this, local authorities that sell off assets are required to get best market value for them, unless they get specific consent (initially of the secretary of state and subsequently the Senedd). However, under, the General Disposal Consent (Wales) 2003 local authorities no longer need to seek consent for disposing of assets below market value, provided the discount does not exceed £2million, if it would contribute to the promotion or improvement of economic, social and environmental wellbeing of all or a part of an area or all or any people in the area.

We are aware of instances where community groups have sought to acquire assets put up for sale by public bodies and told that they can only do so if they offer the highest offer. This suggests that there is either a lack of understanding or an unwillingness to apply the General Disposal Consent (Wales) 2003.

Proper application of the General Disposal Consent (Wales) 2003, could significantly improve communities' ability to acquire, manage and develop assets of community value that would otherwise become private property. This is not just because it could reduce the amount of money a community group needs to raise, it would also give them a higher level of certainty and predictability with respect to a sale, making fundraising easier. This is because it would enable the local authority and community group to agree to both the sale and a price early on in the process, rather than leaving the community group in constant uncertainty over whether a higher bidder will step in.

We appreciate that many local authorities may fear legal action if they do not get best financial return even with the existence of the General Disposal Consent (Wales) 2003. Whilst best financial return can be objectively measured, expected social, environmental and broader economic benefits are down to judgement. Legal reviews<sup>2</sup> have concluded that the purpose of the General Disposal Consent is to give Local Authorities more autonomy meaning that they should not fear legal action; however, we would urge the Committee to review whether Local Authorities would need further assurance and if so,

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<sup>2</sup> See <https://www.lgcplus.com/archive/features-law-12-23-01-2003/> and [https://www.landmarkchambers.co.uk/wp-content/uploads/2018/07/THE\\_DUTY\\_TO\\_GET\\_THE\\_BEST\\_PRICE\\_ON\\_THE\\_SALE\\_OF\\_LAND.pdf](https://www.landmarkchambers.co.uk/wp-content/uploads/2018/07/THE_DUTY_TO_GET_THE_BEST_PRICE_ON_THE_SALE_OF_LAND.pdf) whilst both of these refer to the General Disposal Consent (England) 2003, the findings also apply in Wales.

whether updated legislation is needed. The law should support local authorities in prioritising community social and environmental benefits.

2. **Asset disposal and tax laws for Welsh Government:** The General Disposal Consent (Wales) 2003 does not apply to land and assets owned by Welsh Government (WG) itself and we understand from discussions with Ystadau Cymru, that WG is obligated to seek best financial return. Furthermore, if Welsh Government leases out land, the rent charged does not affect the amount WG is taxed by the UK Treasury. WG owned land is taxed according to its capital value, not the actual rent charged, meaning it could lose out significantly if it rented land out below market value.
3. **The lack of consistency across local authorities** with respect to Community Asset Transfer (CAT) policies, with many lacking public facing policies or clear support mechanisms. This leads to a situation where the success or failure of a community acquiring assets is very much dependent on the capacity and views of individuals within the council, whom they are able to contact. It can also mean a lack of transparency over how decisions are made with respect to asset transfers.
4. **The lack of any CAT policy from other public** bodies such many health boards, NRW and Welsh Government itself.
5. **Disproportionate requirements on both local authorities and community groups** Currently, there is insufficient flexibility to reduce the admin burden on both sides where assets are of limited value or tenure length is short. For example community groups are often still required to submit full business plans for low value assets on short tenancies. Similarly, in conversations with local authority employees seeking to champion more community ownership and management of council property, they have expressed frustration with the admin burden on their part. For example, regardless of value, any sale or lease above 7 years must be advertised in the local paper, which incurs a cost and time delay.
6. **Inappropriate planning policies:** where land is sold or transferred without buildings or infrastructure, development will usually be needed in order to make the farm fit for purpose. In many instances such development will require planning consent. The planning system can be very difficult to navigate, particularly for volunteers who may be working for the community organisation alongside paid work. Whilst farms with more than 5 hectares benefit from permitted development rights, this will not apply to smaller farms, which will often be all that community groups are able to secure. We and others have repeatedly called for this 5-hectare limit to be reviewed.

Local authorities that wish to support community land ownership and management should consider this when designing their local development plans.

In addition to the points raised above we wish to echo the points made in Social Farms & Garden's response, particularly with respect to alternatives to ownership.

## **Q2: The extent the Community Asset Transfer scheme promotes and supports effective development of community assets**

Whilst there are some local authorities striving to support communities with respect to asset transfers; we do not believe that overall the CAT scheme has been successful in supporting effective development of community assets.

So far in our discussions with public bodies and community groups or new entrant farmers who have sought to set up community farms, factors that have contributed to success include:

1. Having an internal champion within the public body willing and able to push forward transfers of land for community farms within the relevant organisation.
2. Securing funding for the project.
3. Having experienced farmers involved.

Welsh Government's Social Research & Information Division published a review in 2021<sup>3</sup> of CAT processes and outcomes. This followed on from previous research into the experience of CATs by Town and Community Councils in 2018.

The researchers found that key issues that determined whether the CAT was successful included:

1. Timing: those that gave communities sufficient time, tended to have better results than those that were rushed. Phased approaches to timing also worked well.
2. Communication: good communication channels between local authorities and communities resulted in higher community buy-in and more successful transfers.
3. Flexibility: sufficient flexibility to account for the transferee's individual circumstances and allow both sides to negotiate responsibilities, lead to more successful transfers. An application/approval process proportionate to the opportunity in question also helped.
4. Tenure: the appropriate tenure will vary for different groups. Full ownership of the asset allows the transferee to borrow against it and build up a financial track record; however, this might not be suitable for all community groups and assets, since they also inherit all the liabilities, meaning a lease or licence may be more appropriate.

Key factors that caused communities groups to struggle included:

1. A lack of advice and support for community groups.
2. Insufficient finance and in particular a lack of capital grants, making it difficult for community groups to get funding to take over a project or losing out to commercial buyers.
3. Challenges with staffing and a high volunteer turnover.

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<sup>3</sup> Full Research Report: Coates, J., Nickson, S., Owens, N., and Smith, H. (2021). *Community asset transfer: research with the third sector, local authorities and community and town councils* Cardiff: Welsh Government, GSR report number 33/2021.>  
Available at: <https://gov.wales/community-asset-transfer>

We encourage the Committee to examine the extent to which local authorities have incorporated these findings into their CAT policies and processes.

In the vast majority of example CATs referred to the two Welsh Government research reports referred to above, the main aim was to rescue a community asset and/or service that was at risk of being lost due to Council budget cuts. As yet less research has been done on communities seeking to take over assets that are not a cost to the local authority and the purpose of the transfer is positive community empowerment. In the case of farms and land, there may be examples of where a farm has a cost to maintain for the council, but there are also examples of where land is either income generating or neutral.

**Q3: To explore barriers and challenges faced by communities in taking ownership of public or privately-owned assets, including finance and support services**

Key barriers facing communities taking ownership of assets include:

**Challenge identifying land ownership:** As noted by Shared Assets, it has been a struggle to identify and map the land owned by local authorities. Even finding the relevant member of staff has been a challenge. It can also be a challenge to identify private land ownership.

Whilst DataMapWales is seeking to increase information about land, it is still missing significant information.

**Limited funds:** where communities are forced to compete on the open market, they will always be at risk of being outbid or gazumped by wealthy individuals or well-resourced companies.

**Challenge of quantifying social and environmental benefits:** A challenge for communities wishing to take over land for a community farm, is that they will often be speaking about future community benefits and services, the value of which is much harder to quantify than is the case with maintaining existing services. We are aware that some local authorities such as Rhondda Cynon Taff, are using social benefits metric software in some of their work and we encourage the committee to explore whether this could work across public bodies in relation to asset transfers.

**Limited time capacity and relevant expertise:** Community groups vary enormously in the experience and expertise amongst them, but as they are often run by volunteers with other commitments, they will typically have less time or access to specific expertise than large companies do. There are a number of organisations providing invaluable support and advice for communities in Wales including Social Farms & Gardens, The Community Land Advisory Service Cwmpas, DTA Wales, Tyfu Cymru and the Sustainable Food Places network. It is important that these organisations have the resources they need support communities.

Areas where support is harder to gain include legal and planning advice. The Community Land Advisory Service have supported many LWA Cymru members and provide an excellent service; however, they themselves have limited resources and cannot help all groups that could benefit from their support.

**Q4: To discover what lessons can be learnt from beyond the Welsh border.**

We note the Institute of Welsh Affairs' [findings](#) that Welsh communities have the fewest rights in Britain when it comes to community ownership and community asset transfers. We believe that much can be learnt from policies on CATs and community land ownership and their implementation in both Scotland and (to a lesser extent) England.

We support their recommendations that:

1. Communities be able to register assets of community value and be given first right of refusal where those assets are put up for sale.
2. A Community Asset fund be established, similar to the Scottish Land Fund.
3. A Welsh Government Support Package targeted at deprived communities be established.
4. A social value policy applying to community asset transfers be adopted. We would add an environmental policy to this.
5. Welsh Government and other public bodies support community management where transfers are not possible.

We also encourage the Committee to review the researched referenced in Shared Asset's response, particularly their [report](#) on county farms in England.

We also support the policy recommendations made by Social Farms and Gardens in their response to this question.

We welcome this opportunity to respond to this important and timely inquiry and hope that you will take our contributions onboard. We would be happy to speak to the committee or provide further information. Please contact [holly.tomlinson@landworkersalliance.org.uk](mailto:holly.tomlinson@landworkersalliance.org.uk).

Kind regards,



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